

MAUCHLINE CONSERVATION AREA – JUSTIFICATION FOR THE REMOVAL OF PERMITTED DEVELOPMENT RIGHTS AND REMOVAL OF DEEMED ADVERTISEMENT CONSENT



INTRODUCTION

The Mauchline Conservation Area was designated in November 1974. The area encompasses the historic heart of Mauchline town centre, containing a variety of architectural styles and landmark buildings which contribute significantly to the amenity of the town. A Conservation Area Appraisal was published in April 2019 to assess the character and appearance of the conservation area.

The Council considers it essential that, in order to protect the character and special qualities of this conservation area and help its enhancement, certain classes of permitted development and deemed advertisement consent are removed, in line with the recommendations of the Appraisal. The Council wishes that the general planning permission granted by Article 3 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 ceases to apply to **classes 7, 8, 31 and 33 of permitted development**, and that the deemed advertisement consent granted by Article 10 of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 ceases to apply to **classes 1(1), 2, 3(6), 4 and 5 of advertisement displayed with deemed consent**. This removal is not intended to prevent development or advertising within the area, but will ensure that they are in keeping with the historical importance of the Conservation Area.

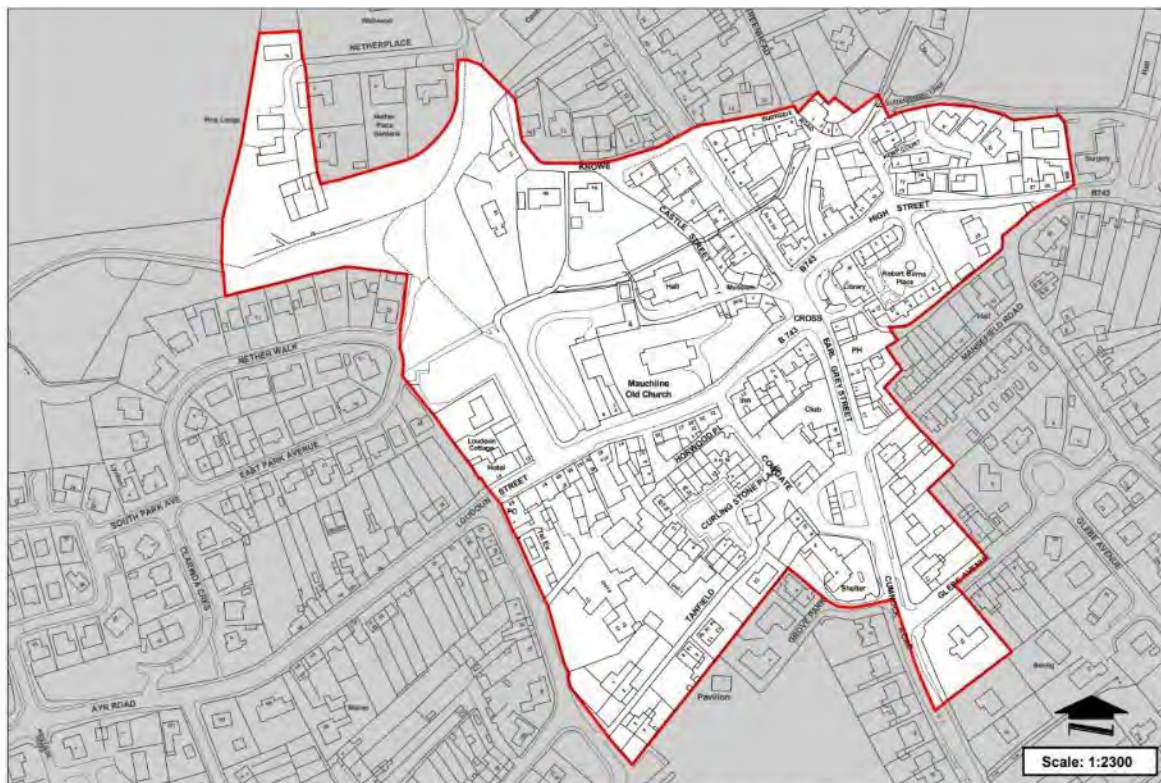
The removal of deemed consent is considered a crucial element of the wider regeneration and conservation programme that is being implemented within the conservation area, the Mauchline Conservation Area Regeneration Scheme (CARS) put in place on 1st April 2020 to provide grant assistance for making repairs and improvements within the conservation area.

The removal of deemed consent will ensure development in the area is not detrimental to the benefits from the CARS, through the protection and enhancement of its historic qualities.

The overarching aim of both the proposed removal of deemed consent and the wider CARS is to enhance the amenity of the Conservation Area, which would improve public perception of the area, increase footfall, encourage new uses into existing vacant buildings and generally create a more attractive and vibrant area. Ultimately, this should be of benefit for both the built environment of the town and also the local economy and existing businesses.

LOCATION AND SETTING

Mauchline is a small town in East Ayrshire, 7 miles from Dumfries House, with a population of circa 4,000/4,500 people, strategically situated where the A76 Kilmarnock to Dumfries road crosses the road Edinburgh to Ayr (see location plan below). For such a small town it is steeped in history with many category “A” and “B” listed buildings, historic landmarks, cobbled streets, vennels and general historic character forming the town’s historic core.



This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on the behalf of the Controller of Her Majesty's Stationery Office (c) Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. East Ayrshire Council. 100023409.

HISTORIC BACKGROUND

Twelfth to Sixteenth Century

Mauchline first appears securely in the historical records early in the reign of William 1, (1165 -1214), when a grant was made of the lands of Mauchline by Walter Fitzalan, (Third High Steward of Scotland), to Melrose Abbey for the purposes of erecting a grange, (otherwise known as a medieval monastic farm).

Circa 1450, Abbot Hunter built a Tower House to act as a civil residence from which to manage the Mauchline Farm Estate. This building is still standing and is known as Mauchline Castle.

This would have been the principal residence at the time and the village of Mauchline would have developed around the administrative headquarters that managed the Abbey's Ayrshire lands.

In 1510, Mauchline was erected a burgh of barony with the privileges of holding a weekly market and there is evidence this brought several trades to the town e.g. a saddler, smith, potter, stone mason and many innkeepers.

At the time of the Reformation the lands of Mauchline, were transferred to Hugh Crawford who later became the Earl of Loudoun. His descendants held the lands for several centuries thereafter.

The Seventeenth Century

By the seventeenth century the principal residence of the town was no longer Mauchline Castle but the adjacent Netherplace House, (now disappeared), owned by the Campbells.

The area was a stronghold for the Covenanters in the seventeenth century, the Minister signing the National Covenant in 1648 which led, shortly thereafter, to the Battle of Mauchline Moor between Covenanting and Royalist forces.

1685 witnessed the hanging of 5 Covenanters for whom a commemorative stone was erected and later replaced by an obelisk close to the school.

The Eighteenth Century

In 1707, the burgh was made a Burgh of Regality in favour of the Earl of Loudoun and around the same time Poosie Nansie's Inn was established, later to be the scene of Burn's Jolly Beggars, an important surviving building today within the Mauchline Conservation Area.

In 1776, the Black Bull Coaching Inn was opened, a local leather industry thrived at Tanfield Lane and developing industries were wide ranging.

In 1784, Robert Burns and his brother Gilbert leased and moved into Mossgiel Farm where he was to remain for four years, getting married to a Mauchline lass, writing many of his famous songs and poems and publishing the Kilmarnock Edition, before moving with wife and children to Dumfries.

Nineteenth and Early Twentieth Century

The current Parish Church and graveyard was built in 1829. The graveyard surrounding the church being the final resting place for many of Burn's contemporaries.

The manufacture of wooden boxes (Mauchline Ware) was the most notable industry there being three such sites. Curling Stones manufacture, which remains today as an important industry within Mauchline had moved from the Haugh to the Victoria Works at Tanfield. Ballochmyle Quarry was producing copies amounts of Red Sandstone, and shipping it around the country vis the new Railway, Coal Mining was underway at the local Mauchline Colliery and the village had its own gas works.

A healthy Tourism Industry established in the nineteenth and Twentieth century based on Mauchline Ware and the Burns connection with people flocking to Mauchline in their thousands to visit the place where Robert Burns had written so many of his famous poems.

Present Day

The historic core of the Mauchline Conservation Area is largely based around Mauchline Cross, with several other narrow lanes leading off the four main roads, most notably the Cowgate and Castle Street. The cobbled lanes around the Old Church, Abbot Hunters Tower and Burns House Museum are the heart of the Conservation Area. Other notable character areas are the grounds of the former Netherplace House, today a largely wooded area; a row of detached sandstone villas on Earl Grey Street; a traditional industrial area between Loudoun Street and Tanfield, and the north-eastern portion of the town accommodating traditional villas and terraced cottages.

The character of the Conservation Area is largely defined by the range of building styles and materials, from 18th Century rendered buildings to 20th Century red sandstone residences. The town's link to Robert Burns is intrinsic to its identity, and the Conservation Area encompasses several such connections such as the Poosie Nansies pub, the kirkyard of the Old Church where several Burns family members and friends were laid to rest, Burns' friend Gavin Hamilton's house, and the Bleaching Green where Burns met his future wife Jean Armour.

POLICY BACKGROUND

East Ayrshire Council recognises the value conservation areas have in creating successful places, and aims to protect and enhance their character. In order to achieve this, the ***East Ayrshire Local Development Plan*** (EALDP) adopted in 2017 places a strong emphasis on the preservation and enhancement of conservation areas. This coalesces in the following policies:

Policy OP1 (ix) requires that development protects and enhances built heritage designations.

Policy ENV1 (Listed Buildings) recognises the important value of listed buildings in enhancing the quality of East Ayrshire's environment, stating the Council's support of the retention and preservation of buildings within conservation areas, and the adaption and re-use of these buildings to meet modern requirements where it can be achieved in a manner sensitive to the character of the building.

Policy ENV3 (Conservation Areas) asserts that development or demolition within a conservation area or affecting its setting shall preserve and enhance its character and be consistent with any relevant conservation area appraisal or management plan. In accordance with this policy, any development should be sympathetic to the area in layout, size, scale, design, siting, material and colour, and should seek to enhance the architectural qualities of the area.

The relevant role preservation and enhancement of conservation areas plays in the EALDP has been furthered with the publication of several Supplementary Guidance documents to complement the Plan.

The most notable of these with respect to conservation areas is the ***Listed Buildings and Buildings within Conservation Areas Design Guidance*** (adopted April 2018). This document provides advice against which development within conservation areas will be assessed. In conjunction with this, the ***Householder Development Guidance*** (adopted April 2018) provides advice on common types of householder development.

In addition to this guidance, the ***Shop Front Design Guidance*** (adopted July 2017) ensures that this particular type of development is in keeping with the character and appearance of its setting, which is of capital importance in a conservation area.

Lastly, the **Supplementary Guidance on Display of Advertisements** (adopted July 2017) encourages high quality design in advertisements, and in particular within conservation areas.

As well as this corpus of Statutory Guidance, the **Mauchline Conservation Area Appraisal** was adopted in April 2019 as Non-Statutory Planning Guidance. The Appraisal evaluates the character and appearance of the study area, provides a framework for the positive management of change in the conservation area serving as a material consideration in the determination of planning applications, and identifies potential actions for its improvement.

Despite the increased control the conservation area designation provides, there is still a limited range of permitted development rights within conservation areas, exempting a number of development classes from the requirement to seek planning consent. Similarly, there are categories of advertisement that have deemed consent from the planning authority. However, these permitted developments and advertisements with deemed consent still have an impact on the character and appearance of the conservation areas.

Indeed, the Conservation Area Appraisal identifies key aspects that contribute to the area's significance. A number of these aspects would benefit from enhanced protection, since permitted development rights could have an undesired impact on the outlined key features. Furthermore, the Appraisal identifies a series of negative aspects, several of which could be mitigated if permitted development rights and deemed advertisement consent were brought under planning control.

This would allow the aforementioned guidance to be applicable to developments and advertisements that nowadays are not required to seek approval, and as such fall outwith the Council's control. This is all the more relevant in the context of the CARS that is being implemented in the area; as considerable effort is expected to go through the scheme into repairs and enhancements of the built environment, it is fundamental that it is met with equally high quality development at all scales.

The adequacy of an Article 4 direction for removal of Permitted Development Rights and a removal of Deemed Advertisement Consent can be demonstrated by the success of other similar actions that have been implemented in East Ayrshire in the past (see [Table 1](#)).

Table 1: Article 4 directions in effect in East Ayrshire (PD: Permitted Development classes removed; DC: Deemed Advertisement Consent classes removed).

1/2012	Cumnock Conservation Area	PD: 3B, 6C-6F, 7, 8, 31, 33. DC: 1(i), 2(i,ii,iii), 3(vi), 4(i,ii), 5.
1/2007	John Finnie St and Bank St Outstanding Conservation Area	PD: 7, 8, 31, 33. DC: 1(i), 2(i,ii,iii), 3(vi), 4(i,ii), 5.
1/2005	Newmilns Outstanding CA	PD: 1, 3, 6, 7, 31, 33.

The classes of Permitted Development and Deemed Advertisement Consent that are proposed for removal are listed in the following section.

CLASSES OF PERMITTED DEVELOPMENT TO BE REMOVED AS PART OF THE ARTICLE 4 DIRECTION FOR MAUCHLINE CONSERVATION AREA

As defined in The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended).

Class 7 – *The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.*

As recognised in the Conservation Area Appraisal, a notable feature of the area is the prominence of traditional sandstone walls, separating private and public spaces and delineating paths and walkways. Railings, pends and gates are also prominent features that help define the character of the area.

It is considered crucial that any erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure are carried out to a high standard to preserve these important features. In addition, the Conservation Area exhibits a number of examples of gates and fences erected under permitted development that are not in keeping with the historic surroundings; this could be corrected through the CARS and as such it is important that improvements remain protected.



Left and centre: good quality boundary wall and railing; right: other means of enclosure of substandard appearance which illustrate their impact on the historic setting and the type of features that may be corrected through the CARS.

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 road¹, where that access is required in connection with development permitted by any class in this Schedule other than classes 3E² or 7.*

Control of this class is aimed at ensuring no inappropriate development takes place on access land into private properties. It is considered by the Council that development of this type has potential to detract from the Conservation Area, where several areas exist in which surfacing is important to the character of the area. In addition, significant effort is to be undertaken into public realm improvements as part of the CARS, accentuating the need for its preservation.

¹ See [ANNEX 1](#) for a map of Trunk and Classified roads in Mauchline.

² Class 3E – “The erection, construction, maintenance, improvement or alteration of any gate, fence, wall or other means of enclosure any part of which would be within or would bound the curtilage of a dwellinghouse.”



A positive example of access land from a private property into an unclassified road which is in keeping with the character of the Conservation Area.

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 Act; 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.*

Control of this class is aimed at maintenance and improvement works within and adjacent to the boundary of a road and the environmental impacts of such works. Significant improvements to the public realm are to be carried out throughout the Conservation Area; therefore, removal of this class of permitted development would ensure more control over the quality of finish to surfacing repairs which should preserve and enhance the quality and character of the Conservation Area.



A road and footway surface which is of high quality and deemed worthy of preservation. Subsequent repair works to the road and its surroundings should remain in keeping with the quality of the existing surfacing. New areas of high quality public realm may appear through the CARS, in such cases these should too be brought under development control.



This patchwork of different materials illustrates what bringing this class of permitted development under planning control aims to avoid where the surface materials are deemed worth of preservation.

Class 33 – *The carrying out, within their own district by a local authority of—*

- (a) works for the erection of dwellings, so long as those works conform to a local plan adopted under section 12 of the Act (as in force immediately before the commencement for all purposes of section 2 of the Planning etc. (Scotland) Act 2006) or a local development plan constituted under section 20 of the 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 under section 12 of the Planning etc. (Scotland) Act (as in force immediately before the commencement for all purposes of section 2 of the Planning etc. (Scotland) Act 2006);
- (c) any development under any enactment the estimated cost of which does not exceed £250,000 other than-
 - (i) development of any of the classes specified in Schedule 2 (bad neighbour development); or
 - (ii) development which constitutes a material change in the use of any buildings or other land.

Erection of dwellinghouses would have a major impact on the area; the Council are of the view that if permitted development rights are being taken away from local residents and businesses, the Council itself should be subject to the same level of scrutiny. This would also make sure that any minor works carried out by the Council are of a standard appropriate for the Conservation Area.

CLASSES OF ADVERTISEMENT TO BE INCLUDED WITHIN THE PROPOSED REMOVAL OF DEEMED ADVERTISEMENT CONSENT

As defined in The Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984.

Class 1.—Functional advertisements of local authorities, community councils, statutory undertakers and public transport undertakers.

- (1) *Advertisements relating to any function or operation of a local authority, community council, statutory undertaker or public transport undertaker which are reasonably required in order to secure the safe or efficient performance of those functions or operations and which cannot be displayed in such a manner under the provisions of these regulations relating to advertisements of any other specified class;*

The Council considers it essential to remove this class, in order to ensure the Council itself adheres to the standards that it requires of private individuals and businesses. Overuse or poor siting of signs and advertisement by public bodies can obscure and distract from the overall qualities of the built environment. Although many of these signs are essential, it is considered that by bringing this use under planning control, it can be ensured that signage clutter is kept to a minimum and are sited appropriately.



Road signage belongs to the class of advertisement which is required in order to secure the safe performance of a local authority, but has a notable impact on the built environment of the Conservation Area.

Class 2.—Miscellaneous advertisements relating to land on which they are displayed.

- (1) Advertisements for the purpose of identification, direction or warning with respect to the land or building on which they are displayed.
- (2) Advertisements relating to any person, partnership or company separately carrying on a profession, business, or trade at the premises where any such advertisement is displayed.
- (3) Advertisements relating to any institution of a religious, educational, cultural, recreational or medical or similar character, to any hotel, inn or public house, block of flats, club, boarding-house or hostel, situated on the land on which any such advertisement is displayed.

Included within this miscellaneous class are advertisements and signage in place on a business' land, but not actually attached to the building. It is important to bring this under planning control, in order to prevent the proliferation of free standing advertisements and street clutter.



Although individual detached advertisements have a limited impact per se, the cumulative impacts from their proliferation are more significant. Above: free-standing advertisement, the proliferation of which may be problematic.

Class 3.—Certain advertisements of a temporary nature.

- (1) Advertisements on hoardings enclosing, either wholly or in part, land on which building operations are taking or are about to take place and which is designated in any development plan for the time being in force primarily for commercial, industrial or business purposes.

The only form of temporary advertisements the Council considers should be subject to advertisement consent are advertisements on hoardings which screen ongoing building works. This is considered necessary as these hoardings can potentially be on a relatively large scale and can be very intrusive, as well as being in place for a relatively long period of time.



Rear of Opera House site on Strand Street, Kilmarnock, before its rehabilitation. As part of regeneration efforts in the Mauchline Conservation Area, it is possible that as works on buildings progress hoardings need to be erected, potentially over extended periods of time. Any advertisements on hoardings within the Conservation Area should be in keeping with its status so as not to detract from the appearance the CARS aims to enhance.

Class 4.—Advertisements on Business Premises:

- (1) Advertisements displayed on business premises wholly with reference to all or any of the following matters: the business or other activity carried on, the goods sold or services provided, and the name and qualification of the person carrying on such business or activity or manufacturing or supplying such goods or services on those premises.*
- (2) Advertisements displayed on any forecourt of business premises wholly with reference to all or any of the matters specified in paragraph (1) above.*

This class primarily includes the display of advertisements on commercial premises, such as shops, pubs, hot food takeaways and salons. Advertisement on such premises have a significant impact on the appearance and amenity of the Conservation Area. Indeed, the Mauchline Conservation Area Appraisal identifies “many instances of inappropriate modern shopfronts within the conservation area” as one of its key negative factors. Such shopfronts are described as being often “of a scale that does not reflect the original building, whilst materials, signage, colours used and sometimes illumination undermine the original appearance and character of the conservation area”. Conversely, a coordinated, sympathetic approach to shopfront design enhances the appearance of urban areas and contributes positively to the character of a place. East Ayrshire Council published Shopfront Design Guidance in July 2017 in order to ensure that development of shopfronts is kept to a high quality, in keeping with and sympathetic to the character and appearance of the area in which it is proposed. The Council has already been working with local businesses to improve shopfronts, but the CARS will provide a shopfront improvement grant, therefore control under this class is critical to its success. Similarly to that published as part of the Cumnock CARS in 2010, additional local shopfront design guidance might be provided alongside the grants scheme to help achieve the envisioned design quality, improving shopfronts and encouraging

more sympathetic advertisements. In order to pursue this, making appropriate advertisement an essential requirement, the Council considers it important to remove deemed consent for this class of advertisement.



There are many good examples of sympathetic shopfronts throughout the Mauchline Conservation Area, and more are expected to be supported through the CARS.



There remain cases where shopfronts and advertisements on business premises are not in keeping with the character of the Conservation Area, be it by way of bright colours, being overly intrusive due to size and shape, or with designs that contrast with an otherwise largely homogeneous Conservation Area.

Class 5.—Advertisements within Buildings:

Advertisements displayed within any building and not exempted from these regulations by virtue of regulation 3(2)³.

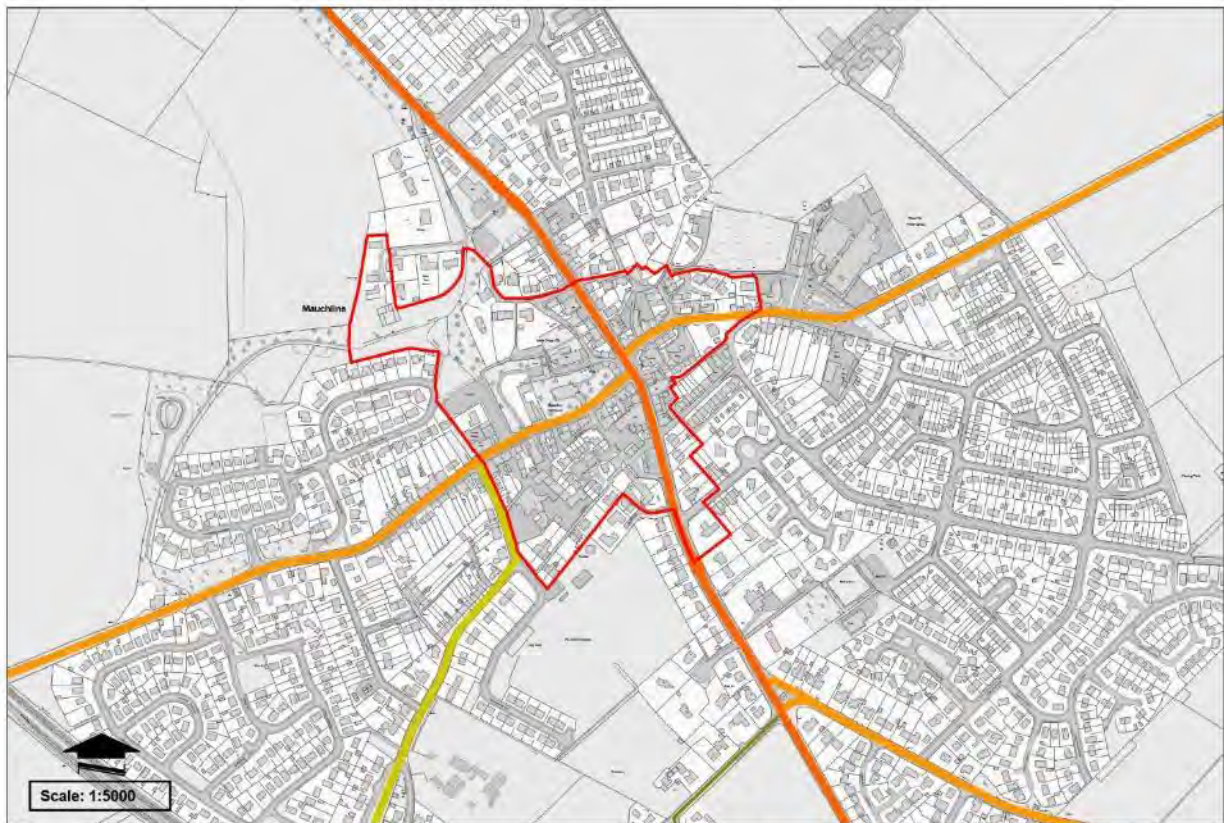
The removal of this class is intended to improve the appearance of retail and other business units through taking tighter control over what can and cannot be displayed in window displays. It is considered by the Council that advertisements inside of buildings can be as detrimental to the amenity and appearance of the Conservation Area as some adverts on the external wall of units. There are several examples within the area of internal advertisements that significantly detract from the appearance of the area.



Advertisements displayed from within business premises on windows may have an equivalent impact to advertisements on the exterior of the business premises.

³ Regulation 3(2): “The display of an advertisement within a building so as to be visible from outside that building shall be subject to these regulations if the advertisement is— (a) an illuminated advertisement; or (b) an advertisement displayed within any building used principally for the display of advertisements; or (c) an advertisement any part of which is within a distance of one metre from any external door, window, or other opening through which the advertisement is visible from outside the building.”

ANNEX 1. TRUNK AND CLASSIFIED ROADS IN MAUCHLINE



This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on the behalf of the Controller of Her Majesty's Stationery Office (c) Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. East Ayrshire Council. 100023409.

Figure 1: Dark orange, A-road (Trunk road); light orange, B-roads; yellow, C-road; green, unclassified road. Red line, Conservation Area.