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**KAMES HIGH ROAD**

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**1. SUMMARY**

There has been much discussion over many years as to whether the Kames High Road is a public road or a private road. Until suitable evidence is presented to Roads & Amenity then the road will continue to be considered as private and the responsibility for the maintenance of the road will rest with the residents.

**2. RECOMMENDATIONS**

The Area Committee are asked to note the contents of this Report and request that a further Report be presented to a future Area Committee if further evidence is found that would demonstrate that the Kames High Road should be considered as public.

**3. DETAILS**

A request was received from the Kilfinnan Community Council in 1995 to consider the Kames High Road for adoption as part of the public road network. At that time a visual survey was undertaken to determine the works required and also the costs involved. It was noted that the road suffered from constant repeated flooding and it required a positive drainage system. The existing surface was in poor condition and had poor vertical alignment which further added to the drainage problems. At that stage the estimate for the works was £45,000 located between the cross roads and Rowan Tree.

The Chief Executive in December 2003 confirmed Argyll & Bute Council's Policy to a resident in Tighnabruaich that there was no proposal for any change in the Council's policy for the adoption of private roads in that no contribution would be made.

In August 2004 there was communication with the MSP in relation to this unadopted road when it was confirmed by Argyll & Bute Council that Argyll & Bute District Council may have carried out works as housing authority; Strathclyde Regional Council as the water authority may have carried out works of reinstatement for the mains renewal works carried out in the 1980s but neither works were carried out by Argyll & Bute Council, Strathclyde Regional Council and Argyll County Council as the Roads Authority and in accordance with the relevant legislation.

Correspondence was received from Reverend Mitchell of the West Cowal Manse concerning the condition of the Kames High Road. Our response indicated that we

had confirmed that there had been much correspondence over many years concerning its status and although the road served the Church, the Community Hall and some Council houses it was still defined as a private road in the list of roads as defined in the Roads (Scotland) Act. At that time it was indicated that estimates had been made which would have to be funded by the frontagers which would include the Church, BT, the Community Council, private residents and also Argyll Community Housing Association.

In August 2007 an internal investigation was undertaken to confirm the status of this road especially as one of the former Councillors in the 1950's indicated at that time that he had secured finance to undertake works on this road. The County Council minutes between 1949 and 1960 were searched and no records were found to indicate that this road had been adopted in this period. In the 1970's with the formation of Strathclyde Regional Council and then Argyll & Bute Council in 1996 any formal adoption would have been transferred to the list of public roads. The search indicates that during this period the road had never been put into public ownership.

In the summer of 2008 at a Kilfinnan Community Council meeting the issue of the High Road in Kames was brought to the attention of Councillor McNaughton and Councillor Marshall. At that time it was reconfirmed by the Council that it was considered that Kames High Road is private and it is not the responsibility of Argyll & Bute Council. Also based on Council Policy it was advised that it was not possible to carry out any works on this private road and if we were to do so, this would set a precedent.

At that time Roads & Amenity Services undertook a subsequent redesign of this road based on work carried on June 2005 with the estimate now in the order of £110,000.

In late Autumn 2008 there were a number of meetings held in the village hall in Kames with regard to this matter where it was quite clear that the residents on this road considered that Kames High Road demonstrates the traits of a public road and it was a "mistake" that it had been omitted from the list of public roads. The service can understand the frustrations of the residents and in some respects can understand why this type of road would under normal circumstances be considered a public road and should be included on the list of roads. There is no reasonable explanation why over the many years the road was never placed on the list of roads especially in the Argyll County Council days but now with the Council policy that unless a road is on the list of roads then Argyll & Bute Council will undertake no maintenance and repair work on this section.

Representatives from Kilfinnan Community Council visited the Roads & Amenity Services office in Lochgilphead before Christmas 2008 to review the documentation and although this was not an exhaustive search no evidence was found which indicated that Kames High Road had ever been adopted in the past.

There are many letters between Argyll & Bute Council and residents within the Kames High Road area confirming the view of Argyll & Bute Council as Roads Authority that this road is not on the list of public roads.

There has been correspondence in the past indicating that the Council used to maintain this road mainly because it has public street lighting some road markings and it is also the main access to the church, police houses, Community Hall, telephone exchange and many houses.

At that time the response indicated that the Council may have carried out works in the past but this was not under the jurisdiction of the roads authority.

As a Service we stand by our current position. In order for the road to be adopted, evidence has to be found that would indicate that the road has been considered as public in the past. At the public meetings last year there was a request made to the Community Council who were to take this matter up with the community to request that they search their paperwork to establish whether their title deeds or other documentation may contain some evidence that the road is public.

Until some evidence is provided then it must be considered that this road in Kames is private and the maintenance of the road rests with the residents and not with Argyll & Bute Council.

#### **4. IMPLICATIONS**

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| 4.1 | Policy                       | The current Council Policy is that the responsibility for private roads rests with the residents and that no finance should be made available to improve these roads. |
| 4.2 | Financial                    | None. However if the residents do wish to bring this road up to an adoptable standard then approximately £110,000 will be required.                                   |
| 4.3 | Personnel                    | None  |
| 4.4 | Equalities Impact Assessment | None  |
| 4.5 | Legal                        | Kames High Road is not on the list of public roads and should be considered as a private road.  |

For further information, please contact Stewart Turner, Head of Roads & Amenity Services (01546 604611)

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