

Reference Number: 09/00631/VARCON
Applicants Name: Western Ferries (Clyde) Ltd
Application Type: Removal of Condition
Application Description: Erection of new linkspan; infilling works with rock armour sea wall to create extended Marshalling area; and associated infrastructure works (Removal of Condition 12 of planning permission 05/00200/DET relating to simultaneous use of both links spans) (Retrospective).
Location: Land North Of Ferry Terminal, Marine Parade, Hunters Quay, Dunoon, Argyll.

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Removal of condition 12 of planning permission 05/00220/DET.

(ii) Other specified operations.

- N/A.
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(B) RECOMMENDATION

Having due regard to development plan policy and other material considerations it is recommended that planning permission **be granted** subject to the attached conditions and reasons along with the informatives detailed overleaf.

(C) SUMMARY OF DETERMINING ISSUES AND MATERIAL CONSIDERATIONS

(i) Development Plan Context:

The associated planning permission (ref: 05/00220/DET) was approved consistent with the Development Plan. This application simply relates to a traffic management issue and a condition attached to planning permission 05/00220/DET which prevents the simultaneous use of both linkspans.

The use of both linkspans is considered essential by Western Ferries (Clyde) Ltd to provide an effective service and business operations. There are several scenarios when the use of both linkspans is considered vital for vessel berthing and maintenance, linkspan maintenance, prevailing weather conditions, unforeseen events and extreme periods of high demand. Importantly, the use of both links span reduces noise pollution and can have a positive environmental impact.

The Area Roads Manager has raised no objection to the proposal which is considered to be consistent with policy POL TR 1 of the adopted Cowal Local Plan 1993.

(ii) Representations:

Two letters of representation have been received.

(iii) Consideration of the Need for Non-Statutory or PAN 41 Hearing:

Given the limited number of representations received it is not considered necessary to hold a non-statutory hearing.

(iv) Reasoned Justification for a Departure from the Provisions of the Development Plan.

Not applicable.

(v) Is the Proposal a Schedule 1 or 2 EIA development:

No.

(vi) Does the Council have an interest in the site:

No.

(vii) Need and Reason for Notification to Scottish Ministers.

No.

(viii) Has a sustainability Checklist Been Submitted:

No.

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Reviewing Officer: David Eaglesham, Tel: 01369708608

Date: 28th May 2009
Date: 15th June 2009

Angus J Gilmour
Head of Planning

NOTE: Committee Members, the applicant, agent and any other interested party should note that the consultation responses and letters of representation referred to in Appendix A, have been summarised and that the full consultation response or letter of representations are available on request. It should also be noted that the associated drawings, application forms, consultations, other correspondence and all letters of representations are available for viewing on the Council web site at www.argyll-bute.gov.uk

CONDITIONS AND REASONS RELATIVE TO APPLICATION: 09/00631/VARCON

1. **No additional external lighting shall be installed** until full details of all external lighting to be used within the site has been submitted to and approved in writing by the Planning Authority in consultation with the Area Roads Manager and the Public Protection Service. Such details shall include full details (including supporting structures) of the location, type, design, height, angle of direction and wattage of each light. Unless the prior written consent of the Planning Authority is obtained for variation, all lighting units within the application site shall be operated, positioned and angled to prevent any glare or light spillage outwith the boundaries of the ferry terminal site, having regard to the Institute of Lighting Engineers Guidance.

Reason: *In order to avoid the potential of light pollution infringing on surrounding land uses/properties.*

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 09/00631/VARCON

MATERIAL CONSIDERATIONS AND ADVICE

(i) POLICY OVERVIEW AND MATERIAL ADVICE

Cowal Local Plan 1993

Policy POL TR 1 'Cowal – Clyde Ferry Traffic' seeks to oppose changes or reductions in service on the Cowal-Clyde ferry routes which undermine the economic regeneration of Cowal but importantly will support measures which will result in improved services and facilities on these routes;

Argyll & Bute Local Plan Post Inquiry Modifications 2008

No relevant policies.

(ii) SITE HISTORY

Planning permission 05/00220/DET granted on 17th March 2006 for the erection of new linkspan; infilling works with rock armour sea wall to create extended marshalling area; and associated infrastructure works.

The Area Roads Managers memo dated 21st June 2005 relative to this permission stated:

"In order to control traffic loadings on the junction and immediate road network, the applicant shall not operate the service from anymore than one linkspan at any given time".

This requirement was drafted into condition 12 of planning permission 05/00220/DET, which the applicant now wishes to remove.

Enforcement complaint 08/00123/ENFBOCC received on 18th April 2008 regarding the suspected breach of condition 12 planning permission 05/00220/DET; see associated report elsewhere on this agenda.

(iii) CONSULTATIONS

Area Roads Manager (memo dated 11th May 2009): No objection.

Dunoon Community Council (letter dated 25th May 2009): Objection.

'The approach to this terminal consists of two blind corners which give rise to vehicles approaching the entrance to the marshalling area being unable to see oncoming traffic from either direction.

The noise already disturbing the neighbouring properties will be increased, at present from 5am to midnight.

Congestion in this area not only effect Hunters Quay but will effect Kirn and Dunoon.

We also cannot see how the use of another linkspan is going to benefit the local economy.'

Hunters Quay Community Council (letter dated 5th June 2009): Objection

'The community council oppose in the strongest possible terms the removal of condition 12 of planning permission 05/00200/DET... Those present felt that this would be an entirely unsafe, retrograde and wholly foolish action that would adversely affect the entire Hunters Quay Community with probable increased traffic flow, noise and pollution and further degrade our community to visitors and residents alike.'

(iv) PUBLICITY AND REPRESENTATIONS

Under Article 9 neighbour notification procedures, two letters of representation have been received from the following; Fulton McInnes (letter dated 25th May 2009), The Quarterdeck, 265 Marine Parade, Hunters Quay, Dunoon, PA23 8HN and Neil Kay (letter dated 28th May 2009), Holyrood, Innellan, Argyll, PA23 7SP.

The points raised are summarised below:

- i. There has been no change to the current or possible modus operandi since planning permission was first granted. This condition should still apply and retrospective permission should not be granted to remove this condition.

Comment: *See assessment below.*

- ii. Both linkspans cannot be used simultaneously and therefore there would be no need to remove condition 22 and it should remain and be strongly enforced.

Comment: *See assessment below.*

- iii. From observations over the last year, with the exception of Cowal Games etc., rarely are the ferries full or many vehicles waiting for the next ferry for more than 20 minutes, all from the same linkspan without any problems.

Comment: *See assessment below.*

- iv. Residents of Hunters Quay are awakened by Western Ferries starting their engines, prior to the weekday 06:10am sailing and subsequently disrupted regularly every 20 minutes throughout the day by noise of ship engines, loading ramps clanging, vehicles movement of the ramp, the tannoy beep and safety message etc. until the last ferry unloads at approx. 12:15am and this would only increase if both link spans were used simultaneously.

Comment: *See assessment below.*

- v. Pollution from the exhausts fill front gardens with fumes with certain wind directions and would only increase if both link spans were used simultaneously.

Comment: *See assessment below.*

- vi. The new linkspan provides a foot passenger passageway fenced from vehicle traffic which continues with a pedestrian only pathway to the road. The original linkspan does not have this facility.

Comment: See assessment below.

- vii. If both linkspans were to be used simultaneously this could double traffic volumes trying to exit and enter simultaneously to and from the main road in both directions. The local residents could not handle any increase in traffic that simultaneous linkspan operations could produce.

Comment: See assessment below.

- viii. Residents of Hunters Quay cannot use their front gardens for recreational purposes due to the unbearable noise and fumes from Western Ferries operations.

Comment: See assessment below.

- ix. Currently, if both linkspans were used “simultaneously” only the new one could load while the other unloads.

Comment: See assessment below.

- x. The loading or unloading of both boats at the same time would be dangerous without continuous marshalling that would increase loading times and surely negate any advantage to be in theory gained by using both linkspans simultaneously.

Comment: See assessment below.

- xi. If Western Ferries require a second operational linkspan would it not make more sense that they use, buy or hire the Dunoon unused linkspan rather than further pollute the residents of Hunters Quay.

Comment: This is not a material planning consideration in the determination of this application.

- xii. The rubber buffering that Western Ferries claimed in their original correspondence would eliminate the docking, unloading, undocking, noise has had little effect and at times the new link span is noisier than the old one was.

Comment: See assessment below.

- xiii. The approach road to the terminal consists of two blind corners which create road safety issues. Congestion in this area not only affects Hunters Quay but Kilmarnock and Dunoon.

Comment: See assessment below.

- xiv. We cannot see how the use of both linkspans is going to benefit the local economy.

Comment: See assessment below.

(v) **APPLICANTS SUPPORTING INFORMATION**

Summary of applicant's operational statement and supporting information detailed below:

Vessel Berthing & Maintenance

The original linkspan is used for overnight berthing, which means the first and last sailings use the original linkspan as opposed to repositioning to/from the new linkspan. The weekly maintenance programme is sustained by taking one vessel out of service for a few hours three days per week. Before and after the vessel will berth unloads and upload from the original linkspan.

The use of the original linkspan for berthing and maintenance reduces the need for unnecessary vessel movements thereby minimising operational noise levels.

Linkspan Maintenance

Western Ferries on-going maintenance programme for both linkspans will necessitate occasions where operations are switched from one linkspan to another to accommodate our engineering staff.

Prevailing Weather Conditions

Masters have to react rapidly to changing weather conditions and will always utilise the linkspan that affords the safest berthing option, which could change on a sailing by sailing basis.

Unforeseen Events

Western Ferries will always be subject to a number of imponderables that could necessitate the instantaneous switch from one linkspan to another.

Extreme Periods of Demand

Originally, the reason that condition 12 was considered necessary was 'in the interest of traffic management to prevent congestion in the immediate area and on the highway. Perversely the opposite is the truth, condition 12 could in certain circumstances, create congestion. The most obvious circumstance being the Cowal Games period when demand is high. Western Ferries also experienced extreme demand following the closure of the A83 as a result of the landside at the 'Rest and be Thankful.

If the circumstances dictated, the ability to load one vessel on one linkspan and berth the other will minimise the build up of traffic on the public highway. This has the obvious advantages of easing congestion, improving road safety and reducing the environmental impact of emissions from idling car engines.

It is worth emphasising that the combination of the temporary traffic management system and simultaneous use of both linkspans during last year's Cowal Games significantly improved the flow and traffic and therein reduced the build up of congestion in the vicinity of the ferry terminal.

With regards to the above, the ability to use both linkspans, without restrictions, is not only operationally important to Western Ferries to maintain its service to Dunoon and Cowal but also to the overall benefit of our neighbours. The ability to use both linkspans reduces vessel movements, minimises vessel noise levels and emissions. It also potentially reduces the build up of traffic levels which itself would create congestion, increase noise levels and emissions.

APPENDIX B – RELATIVE TO APPLICATION NUMBER: 09/00631/VARCON

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy.

The associated planning permission (ref: 05/00220/DET) was approved consistent with the Development Plan. This application simply relates to a traffic management issue and a condition attached to planning permission 05/00220/DET which prevents the simultaneous use of both linkspans.

B. Road Network, Parking and Associated Transport Matters.

Condition 12 of planning permission 05/00220/DET states the following:

“At no time shall the new linkspan and the existing linkspan (as indicated on the approved plans) be used simultaneously or on the same operational day for embarking/disembarking of vehicles and/or foot passengers. The existing linkspan shall not be used for the embarking/disembarking of paying vehicles and passengers except in the sole instance of any mechanical failure of the new linkspan, unless the prior consent to vary the use of the two linkspans has been approved in writing by the Planning Authority.”

This application seeks to remove this condition and Western Ferries has outlined their reasons why this condition is not considered necessary and in fact a hindrance to their business operations, see Section V in Appendix A, above.

This condition was originally imposed on the grant of planning permission at the request of the Area Roads Manager. Importantly, the Area Roads Manager has now raised no objection to this application. The original reason for this condition was in the interest of traffic management and to prevent congestion in the immediate area and on the public highway. It is clear from the information given by the applicant there are specific operational benefits in allowing the use of both linkspans. The scenarios where both linkspans maybe in operation, at the same time, are essentially when it is necessary to provide vessel and linkspan maintenance and during periods of high demand. During periods of high demand there is no reason why it is not acceptable to allow the use of both links spans at the same time; permitting one vessel to load up on one linkspan and another vessel to berth on the other linkspan. Once the loading of the vessel was complete, the recently berthed vessel would then begin to discharge traffic.

Over and above the clear operational benefits for the applicant, which can greatly reduce any traffic congestion from queuing vehicles, there is also a clear environmental improvement by reducing the amount of time car engines are left idling and vessels waiting to dock at a single linkspan.

Policy TR1 of the adopted local plan promotes measures that improve ferry services on the Cowal-Clyde ferry routes. It is considered that this application is consistent with this policy.

M. Conclusion.

The removal of condition 12 from planning permission 05/00220/DET will not create any adverse traffic management issues but will in fact allow the applicant to improve

its business operations and ferry service. The use of both linkspans also improves the environmental impact of the ferry service by reducing unnecessary vessel movement between both linkspans and reducing, during busy periods, the length of time car engines are left idling while waiting for the ferry. Given all of the above, the proposal is considered to be acceptable.