

UPDATE ON RECENT SCOTTISH GOVERNMENT PLANNING APPEAL DECISION

A) INTRODUCTION

This report summarises the outcome of a recent appeal decision by The Planning and Environmental Appeals Division (DPEA) relative to the case set out below.

B) RECOMMENDATION

Members are asked to note the contents of the report.

C) DETAILS OF APPEAL DECISIONS

Planning Authority: Argyll and Bute Council

Planning application ref: 21/02709/PP

Planning appeal ref: PPA-130-2086 (Planning Permission Appeal)

Proposal: Variation Of Condition Numbers 3, 4, 5 And 6 And Removal Of Conditions 7 And 8 Relative To Planning Permission 20/01150/PP (Erection Of Dwellinghouse) Access Arrangements

Location: Rhu Lodge, Ferry Road, Rhu, Helensburgh, G84 8NF

Date of decision: 05 Sept 2023 (Appeal Allowed)

This application was approved by the Council on 22nd March 2023. An appeal was subsequently submitted to the Department of Environmental and Planning Appeals (DPEA). The Reporter assessed the application in accordance with section 25 of the Town and Country Planning Act (as amended) which requires development to be in accordance with the Local Development Plan unless material considerations indicate otherwise.

The Reporters Decision Notice concludes: *“In conclusion, I find that conditions 3, 4, 5, 6, 7 and 8 attached to planning permission 21/02709/PP fail to meet the tests of necessity and reasonableness, as set out Circular 4/1998. The appellant has demonstrated to my satisfaction that it is neither necessary nor reasonable to require Ferry Road to be improved to an adoptable standard given the location, nature and scale of the development proposed; it is a lightly-trafficked private road within a conservation area. There is no evidence to suggest that the council has undertaken an assessment of use to justify the package of improvement measures to Ferry Road that it seeks. In the absence of such, I consider the improvements proposed by the appellant are proportionate and would ensure that Ferry Road continues to function safely and effectively. Furthermore, the appeal site’s location within Rhu Conservation Area requires decision makers to take full account of the area’s special interest and ensure that new development preserves or enhances its character or appearance. The council’s rigid application of standards in its pursuit of infrastructure to serve the proposed dwelling house suggests that it has failed to consider the qualities of the place before the movement of vehicles; contrary to policies set out in Designing Streets and the LDP. Accordingly, I find that conditions 3, 4, 5, 6, 7 and 8 should be varied or removed as described above and as set out in the schedule of conditions attached to this notice below.”*

Full details of the appeal decision can be viewed on the DPEA website:

[Scottish Government - DPEA - Case Details \(scotland.gov.uk\)](https://www.scotland.gov.uk/Topics/Information/Planning/Development-Plan-Examination/Case-Details)

A copy of the Decision Notice is attached at Appendix A.

D) IMPLICATIONS

Policy: None.

Financial: None. Personnel: None

Equal Opportunities: None

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APPENDIX A: DPEA DECISION NOTICE