

Public Document Pack

Argyll and Bute Council

Comhairle Earra-Ghàidheal Agus Bhòid

Executive Director: Douglas Hendry



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12 June 2023

NOTICE OF MEETING

A meeting of the **ARGYLL AND BUTE LOCAL REVIEW BODY** will be held **BY MICROSOFT TEAMS** on **MONDAY, 19 JUNE 2023** at **2:00 PM**, which you are requested to attend.

Douglas Hendry
Executive Director

BUSINESS

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST**
3. **CONSIDER NOTICE OF REVIEW REQUEST: LAND NORTH OF SWALLOWTALE, ACHNAGOUL, INVERARAY (REF: 23/0003/LRB)**
 - (a) Further written information from Planning (Pages 3 - 12)
 - (b) Further written information from Transport Scotland (Pages 13 - 16)
 - (c) Comments from Applicant (Pages 17 - 22)
 - (d) Comments from Objector (Pages 23 - 26)

Argyll and Bute Local Review Body

Councillor Amanda Hampsey (Chair) Councillor Graham Hardie
Councillor Andrew Kain

Contact: Fiona McCallum, Committee Services Officer Tel: 01546 604392

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FURTHER INFORMATION

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY
23/0003/LRB**

**REFUSAL OF PLANNING PERMISSION IN
PRINCIPLE FOR ERECTION OF
DWELLINGHOUSE AT LAND NORTH OF
SWALLOWTALE, ACHNAGOUL, INVERARAY**

**PLANNING PERMISSION IN PRINCIPLE
APPLICATION REFERENCE NUMBER
20/01901/PPP**

23rd MAY 2023

ABC Development Management Service:

Response to the request for further information which was requested by the LRB on 10th May 2023

a) Appropriate conditions and reasons to attach to any consent in the event the Members of the LRB were minded to approve the application;

SUGGESTED CONDITIONS AND REASONS RELATIVE TO LOCAL REVIEW BODY REF. 23/0003/LRB

PPP - Standard Time Limit Condition (as prescribed by regulation):

This consent constitutes a Planning Permission in Principle under Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended and as such does not authorise the commencement of development until matters requiring the further consent of the Planning Authority, as specified in Condition 1 (within the list of Additional Conditions below), have been satisfied.

Application(s) for Approval of Matters Specified in Conditions must be made in accordance with the provisions of Regulation 12 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 within the time limits specified below.

Any application for Approval of Matters Specified in Conditions must be submitted to the Planning Authority no later than three years from the date of this permission in principle.

Any elements of the Planning Permission in Principle for which further approval of the Planning Authority has not been sought within the prescribed three year time period will no longer be capable of being implemented within the terms of this permission.

The development to which this planning permission in principle relates must commence no later than five years from the date of this permission, or within the expiration of two years from the final approval of all Approval of Matters Specified in Conditions, whichever is the later. If the development has not commenced within this period, then this planning permission in principle shall lapse.

Reason: To accord with Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended.

Standard Condition on Soil Management During Construction

Where the development involves ground breaking works, soil management should be undertaken in compliance with the established best practice set out in the DEFRA publication "[Construction Code of Practice for the Sustainable Use of Soils on Construction Sites 2009](#)", unless an alternative methodology for sustainable management of soil is submitted to and approved in writing by the Planning Authority.

Reason: In order to ensure that sustainable management of soils and compliance with the requirements of NPF4 Policy 5A.

Additional Conditions

1. PPP – Matters Requiring AMSC Submission

Plans and particulars of the matters specified in conditions 3, 5, 6, 7, 8, 9, and 10 below shall be submitted by way of application(s) for Approval of Matters Specified in Conditions in accordance with the timescales and other limitations in Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended. Thereafter the development shall be completed wholly in accordance with the approved details.

Reason: To accord with Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended.

2. PPP - Approved Details

The development shall be implemented in accordance with the details specified on the application form dated 19/10/2020 supporting information and, the approved drawings listed in the table below.

Plan Title.	Plan Ref. No.	Version	Date Received
Location Plan	0927/300/B		16.12.2020
Site Plan	0927/301/A		09.12.2020

Reason: To accord with Regulation 28 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.

3. PPP – Archaeological Watching Brief

Pursuant to Condition 1 - no development or ground breaking works shall commence until a method statement for an archaeological watching brief has been submitted to and approved by the Planning Authority in consultation with the West of Scotland Archaeology Service.

The method statement shall be prepared by a suitably qualified person and shall provide for the recording, recovery and reporting of items of interest or finds within the application site.

Thereafter the development shall be implemented in accordance with the duly approved details with the suitably qualified person being afforded access at all reasonable times during ground disturbance works.

Reason: In order to protect archaeological resources.

Note to Applicant:

- Regard should be had to the West of Scotland Archaeology Service's consultation comments in respect of the proposed development.

4.* Junction with the A83 (T) Trunk Road

Prior to the construction of any dwellinghouse, visibility splays shall be provided and maintained on each side of the new access to the satisfaction of the local Planning Authority. These splays are triangles of ground bounded on 2 sides by the first 4.5 metres of the centreline of the access driveway (the set

back dimension) and the nearside trunk road carriageway measured 215 metres (the y dimension) in both directions from the intersection of the access with the trunk road. In a vertical plane, nothing shall obscure visibility measured from a driver's eye height of between 1.05 metres and 2.00 metres positioned at the set back dimension to an object height of between 0.26 metres and 1.05 metres anywhere along the y dimension.

Note to Applicant:

- The applicant should be informed that the granting of planning consent does not carry with it the right to carry out works within the trunk road boundary and that permission must be granted by Transport Scotland Roads Directorate . Where any works are required on the trunk road, contact details are provided on Transport Scotland's response to the planning authority which is available on the Council's planning portal.
- Trunk road modification works shall, in all respects, comply with the Design Manual for Roads and Bridges and the Specification for Highway Works published by HMSO. The developer shall issue a certificate to that effect, signed by the design organisation.
- Trunk road modifications shall, in all respects, be designed and constructed to arrangements that comply with the Disability Discrimination Act: Good Practice Guide for Roads published by Transport Scotland. The developer shall provide written confirmation of this, signed by the design organisation.
- The road works which are required due to the above Conditions will require a Road Safety Audit as specified by the Design Manual for Roads and Bridges.
- Any trunk road works will necessitate a Minute of Agreement with the Trunk Roads Authority prior to commencement.

5. PPP - Single Building Access Requirements – Commensurate Improvement of Private Road & Parking Provision**

Pursuant to Condition 1 – no development shall commence until plans and particulars of the means of vehicular access and parking/turning arrangements to serve the development have been submitted to and approved by the Planning Authority. Such details shall incorporate:

- i) The private access between the development and the A83(T) to be widened to 3.25m;
- ii) Provision of inter-visible passing places at maximum spacing of 150m on the private access between the development and the A83(T). Passing places to be constructed as per the Council's Standard Detail drawing ref. SD 08/003 Rev a. (type A);
- iii) Provision of a 1.5m verge on the private access between the development and the A83(T);
- iv) The existing road surface of the private access between the

development and the A83(T) to be regraded and all potholes filled;

- v) Provision of a turning head for a commercial vehicle within the development site;
- vi) The provision of parking and turning in accordance with the requirements of policy LP TRAN 6 and Appendix C of the Argyll and Bute Local Plan 2015.

The approved scheme of works i) – v) shall be completed prior to work starting on site.

The approved parking and turning layout shall be implemented in full prior to the development first being occupied and shall thereafter be maintained clear of obstruction for the parking and manoeuvring of vehicles.

Reason: In the interests of road safety.

6. PPP – Details of New Private Foul Drainage System

Pursuant to Condition 1 – no development shall commence until details of the proposed means of private foul drainage to serve the development have been submitted to and approved by the Planning Authority.

The duly approved scheme shall be implemented in full concurrently with the development that it is intended to serve and shall be operational prior to the occupation of the development.

Reason: To ensure that an adequate means of foul drainage is available to serve the development.

Note to Applicant:

- Private drainage arrangements are also subject to separate regulation by Building Standards and SEPA.

7. PPP – Surface Water Drainage – No detail required for approval

Notwithstanding the provisions of Condition 2, the development shall incorporate a surface water drainage system which is consistent with the principles of Sustainable urban Drainage Systems (SuDS) compliant with the guidance set out in CIRIA's SuDS Manual C753. The requisite surface water drainage shall be operational prior to the development being brought into use and shall be maintained as such thereafter.

Reason: To ensure the provision of an adequate surface water drainage system and to prevent flooding.

Note to Applicant:

- Further advice on SuDS can be found in SEPA's Standing Advice for Small Scale Development – www.sepa.org.uk

8. PPP – Full Landscaping Scheme

Pursuant to Condition 1 – no development shall commence until a scheme of boundary treatment, surface treatment and landscaping has been submitted to and approved by the Planning Authority. The scheme shall comprise a planting plan and schedule which shall include details of:

- i) Existing and proposed ground levels in relation to an identified fixed datum;
- ii) Existing landscaping features and vegetation to be retained;
- iii) Location design and materials of proposed walls, fences and gates;
- iv) Proposed soft and hard landscaping works including the location, species and size of every tree/shrub to be planted;
- v) A biodiversity statement demonstrating how the proposal will contribute to conservation/restoration/enhancement of biodiversity, and how these benefits will be maintained for the lifetime of the development;
- vi) A programme for the timing, method of implementation, completion and subsequent on-going maintenance.

All of the hard and soft landscaping works shall be carried out in accordance with the approved scheme unless otherwise approved in writing by the Planning Authority.

Any trees/shrubs which within a period of five years from the completion of the approved landscaping scheme fail to become established, die, become seriously diseased, or are removed or damaged shall be replaced in the following planting season with equivalent numbers, sizes and species as those originally required to be planted unless otherwise approved in writing by the Planning Authority.

The biodiversity statement should refer to [Developing with Nature guidance | NatureScot](#) as appropriate.

Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity.

9. **PPP – Tree Survey, Retention and Protection**

Pursuant to Condition 1 – no development shall commence until a scheme for the retention and safeguarding of trees during construction has been submitted to and approved by the Planning Authority. The scheme shall comprise:

- i) A survey of trees on and overhanging the site indicating the location, species, height, canopy spread and condition of each tree;
- ii) An assessment of the amenity and nature conservation value of tree groups and individual trees which shall inform the layout of the development proposed;
- iii) Details of all trees to be removed and the location and canopy spread of trees to be retained as part of the development;
- iv) A programme of measures for the protection of trees during construction works which shall include fencing at least one metre beyond the canopy spread of each tree in accordance with BS 5837:2005 “Trees in Relation to Construction”.

Tree protection measures shall be implemented for the full duration of construction works in accordance with the duly approved scheme. No trees shall be lopped, topped or felled other than in accordance with the details of the approved scheme unless otherwise approved in writing by the Planning Authority.

Reason: In order to retain trees as part of the development in the interests of amenity and nature conservation.

10. **PPP BUILDING SITING, DESIGN & FINISHES – INDIVIDUAL BUILDING**

Pursuant to Condition 1 – no development shall commence until plans and particulars of the site layout, design and external finishes of the development have been submitted to and approved by the Planning Authority. These details shall incorporate:

- i) A statement addressing the Action Checklist for developing design contained within the Argyll and Bute Sustainable Design Guide 2006;
- ii) Local vernacular design;
- iii) Maximum of 1 ½ storeys in design;
- iv) Symmetrically pitched roof angled between 37 and 42 degrees finished in natural slate or good quality artificial slate;
- v) External walls finished in natural stone, timber cladding, or wet dash render or, a combination of these elements;
- vi) Details of finished ground floor levels relative to an identifiable fixed datum located outwith the application site;
- vii) Window openings with a vertical emphasis;

Reason: To accord with Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended, and in order to integrate the proposed dwellinghouse with its surrounds.

11. **PP/PPP – Further investigation of potential for land contaminants from historic use required**

Unless otherwise agreed in writing and in advance by the Planning Authority, no development shall commence until a scheme has been submitted by the Developer (at their expense) to identify and assess potential contamination on site.

No construction work shall commence until the scheme has been submitted to, and approved, by the Planning Authority, and is thereafter implemented in accordance with the scheme so approved.

The scheme shall be undertaken by a competent person or persons in accordance with relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the most up-to-date version(s) of any subsequent revision(s) of, and/or

supplement(s) to, these documents. This scheme should contain details of proposals to investigate and remediate potential contamination to the satisfaction of the Planning Authority, and must include:-

a) A desk study and development of a conceptual site model including (where necessary) a detailed site investigation strategy. The desk study and the scope and method of recommended further investigations shall be agreed with the Council **prior to** addressing parts b, c, and d of this condition. Should the desk study show the need for further assessment this will be undertaken in the following sequence:

b) A detailed investigation of the nature and extent of contamination on site, and assessment of the risks such contamination presents.

c) Development and agreement of a remedial strategy (if required) to treat/remove contamination ensuring the site is made suitable for its proposed use (this shall include a method statement, programme of works, and proposed verification plan).

d) Submission of a verification report for any agreed remedial actions detailing and evidencing the completion of these works.

Written confirmation from the Planning Authority, that the scheme has been implemented and completed shall be required by the Developer before any development hereby approved commences. Where remedial measures are required as part of the development construction detail, commencement must be agreed in writing with the Planning Authority.

Reason: To ensure that the potential risks to human health, the water environment, property, and, ecological systems arising from any identified land contamination have been adequately addressed.

Further commentary on matters that the LRB would require to modify/clarify prior to setting conditions on any grant of planning permission:

It is noted that planning application ref. 20/01901/PPP was refused on the basis that officers were unable to identify a competent means of utilising planning conditions to satisfactorily mitigate concerns relating to the suitability of the proposed means of access and the impact of the proposed development upon road safety. This position remains unchanged and whilst it is necessary in responding to the LRB request for further information with some advice on the general requirement and format of conditions to address roads issues within any potential grant of planning permission in principle, officers are not in a position to provide competent wording for those conditions. Explanatory commentary for this position is provided as follows:

Condition 4* Junction with A83(T) Trunk Road

Officers are unable to fully advise the LRB on this particular issue as Transport Scotland have not provided any draft condition for consideration in this matter and advised that planning permission be refused. To provide

assistance to the LRB, officers have provided standard condition wording utilised by Transport Scotland in such matters elsewhere. The drafted condition wording accordingly sets out a requirement for a minimum visibility splay standard of 215m in each direction as the appropriate standard to be applied to a trunk road junction where the national speed limit applies.

The LRB is however advised that a condition worded in this manner would not be competent to apply for two reasons – firstly it is understood that the land required for formation of the extended visibility splay lies outwith the control of the applicant and as such future maintenance of the splay could not be secured even if the applicant were legally able to form the visibility splay; and secondly, Transport Scotland have confirmed that due to the vertical alignment of the A83(T) where there is a brow of a hill there is little opportunity to physically improve the existing visibility to the north which is currently between 120-130m.

In the event that the LRB were minded to grant planning permission subject to conditions then it would be necessary for the members of the LRB to modify the wording of condition 4 in order to identify the visibility splays required (and which were deliverable) and to justify why it is considered appropriate to grant planning permission without the minimum technical standards being attainable. In reaching a view on the terms to be applied to any requirement to improve the access onto the A83(T) members of the LRB are referred to Scottish Government Circular 4/1998 which sets out the six tests that require to be met in applying planning conditions:

- *necessary*
- *relevant to planning*
- *relevant to the development to be permitted*
- *enforceable*
- *precise*
- *reasonable in all other respects.*

It is further noted that this matter would require to be notified to Scottish Ministers prior to a formal determination being reached.

Condition 5 - Commensurate Improvement of Private Road & Parking Provision**

Suggested condition 5 has been set out to incorporate the commensurate improvements identified by the Council's Roads Officers in their latest response to the current LRB. It is however highlighted that the identified requirements of items i) – iv) would involve land that is understood to be outwith the control of the applicant and as such may be undeliverable unless otherwise confirmed by the applicant. This would be a matter for the LRB to consider further prior to reaching their own view on whether the terms of the condition are compliant with the requirements of Circular 4/1998 (see above for detail).

b) Confirmation as to whether or not a condition for signage to be erected on the trunk road would address the road safety issues in respect of vehicles entering and leaving the traffic stream on the A83(T) and waiting to turn right off the A83(T) and, if so, to include that in the list of conditions and reasons requested.

It is the understanding of officers that the provision of warning signage would not be an appropriate form of mitigation that would address road safety issues in this instance, accordingly no such provision has been made in the suggested list of conditions and reasons above.

It is however recognised that this is a matter where Transport Scotland have locus as a statutory consultee and that they have also advised against use of signage as an appropriate form of mitigation in this instance.

McCallum, Fiona

Gerard.McPhillips@transport.g

23 May 2023 15:05

Fiona

I refer to your recent email regarding the above case / planning application and the notification from the Local review Body requesting further information from Transport Scotland, as follows:

To request the following written information from Transport Scotland:-

Confirmation as to whether or not a condition for signage to be erected on the trunk road would address the road safety issues in respect of vehicles entering and leaving the traffic stream on the A83(T) and waiting to turn right off the A83(T) and, if so, confirmation as to whether consent would be given to the erection of this signage on the A83(T).

Transport Scotland would wish to provide the following additional information in response to this request:

Transport Scotland would advise that there are already triangular warning signs, together with "Slow" carriageway markings on the A83(T), in place approaching the existing access from both the east and the west – see images below taken from video footage on 22nd May 2023.



Photo 1: A83(T) east of the existing access - from video footage taken on 22nd May 2023 – see here: [A83 - Google Maps](#)



Photo 2: A83(T) west of the existing access - from video footage taken on 22nd May 2023 – see here: [A83 - Google Maps](#)

Transport Scotland's main concern regarding this access is associated with traffic movements approaching the access from the east where the A83(T) mainline is over the brow of a hill. This means the access is not visible to mainline traffic until quite late – see Photo 1 above and also here looking east from the access back towards the brow of the hill: [A83 - Google Maps](#) As a result of the vertical alignment of the A83(T), the stopping sight distance / visibility on the approach to the access is restricted to between 120m and 130m, and the visibility to the left when exiting the access is around the same, whereas the desirable minimum standard for this type of trunk road is 215m.

On the basis that there are already existing traffic signs and carriageway markings in place along the A83(T) on both the east and westbound approaches to the access which are aimed at alerting drivers to the presence of the access and the possibility of traffic entering or leaving the trunk road, it would not be appropriate to include a Condition requesting these or additional signage / markings.

In considering the planning application Transport Scotland has already taken cognisance of the existing traffic signs and carriageway markings in place along the A83(T). However, despite these being in place, Transport Scotland remains of the opinion that the additional traffic associated with the planning application has the potential to impact on the safe and efficient operation of the A83(T). Transport Scotland would therefore continue to recommend that the application be refused.

I trust this this additional information addresses the request of the LRB and helps to set out Transport Scotland's ongoing position with regards to this planning application.

Regards.

Gerard

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Dear Fiona,

Response to Request for Further Written Information - Notice of Review - Reference 23/0003/LRB

Having had the opportunity to study the responses received thus far, on behalf of the applicant, I would like to make our final submission to present to the Review Body.

Transport Scotland's Gerard McPhilip detailed response regarding existing signage presents a useful commentary on what is already in place but does not explore improvements that could be made. Being proactive, I would suggest that additional written "JUNCTION AHEAD" wording could be added to the existing signage and possibly even rumble strips applied to the road surface to make drivers more aware.. Furthermore, illuminating flashing "SLOW" signs could be installed, possibly at the applicant's expense, which would further assist drivers to the presence of an already statistically safe junction. These are used to great effect in the Highlands and have proven to be a great benefit to motorists (a great improvement on "SLOW" road markings which wear over time).

It was quite telling that Mr McPhilip's final paragraph, giving the reasons for refusal, omitted the elephants in the room - Transport Scotland's previous approvals for the use of this junction for timber extractions and borrow pit works:

"In considering the planning application Transport Scotland has already taken cognisance of the existing traffic signs and carriageway markings in place along the A83(T). However, despite these being in place, Transport Scotland remains of the opinion that the additional traffic associated with the planning application has the potential to impact on the safe and efficient operation of the A83(T). Transport Scotland would therefore continue to recommend that the application be refused."

Transport Scotland believe that an additional dwelling house on a Brownfield Site in an area zoned for Housing would cause a greater impact on the safe and efficient operation of the A83 than Forestry and Borrow Pit workings with their associated heavy vehicle movements. To the applicant and myself, there appears to be a disconnect somewhere. With this in mind, let us present the facts that require to be taken into account which are backed up by the document provided in support by Millard Consulting who are experienced Transport Consultants - their original document is attached for reference.

1. This is an existing junction serving 5 residential properties and not a new access to serve a single dwelling
2. There have been no accidents reported at this junction
3. Transport Scotland have approved the use of this junction for slower moving vehicles for timber extraction and borrow pit extractions
4. The development is in an area zoned for housing and is a Brownfield Development
5. The site forms part of a small holding. The applicant would be well within his rights to

keep livestock all year round on the site which could require several daily visits for checks, feeding, lambing etc. etc. This would create additional vehicle use over the junction which would not require the input of Transport Scotland.

With the greatest respect to Transport Scotland, the applicant and myself feel they have simply got this one wrong and are refusing to take the facts presented to them into consideration. This is why we find ourselves in the current situation and require the support of the Review Body to overturn the delegated refusal. Transport Scotland have already indicated that the Case Officer could have approved the application against their recommendation. Given the difficult position this would have put the past 3 Case Officers into, we ask the Review Body apply common sense and recommend approval for this application and send it to the Scottish Ministers for final approval.

Kind Regards,

Duncan Macleman BSc (Hons) Dip. Arch

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05 February 2021

FAO Ian McArthur

Email only: ianmacarthurtiree@gmail.com

Structures
Infrastructure
Flood Risk
Environmental
Hydrology
Transportation

Dear Ian,

Planning Application 20/01901/PPP For Demolition of outbuilding and erection of a dwellinghouse located Land North of Swallowtail, Inverary, Argyll and Bute.

Having been instructed to review and report on both Transport Scotland and the highway authority's statutory consultee responses to the above planning application we report as follows:

Current Application

The land is located north of Swallowtail, Achnagoul and it is proposed to replace an existing stone byre with a new dwellinghouse. The site is accessed via a private track which currently serves five other properties and additional employment uses. The track connects onto the A83 trunk road via a "T" junction. The track is in reasonable good condition and has been well used by residents, farmers and the forestry commission over many years. Although the track is suitable for the current level of use it should be noted that it is not constructed to an adoptable standard. The A83 in comparison to most other trunk roads is not as heavily trafficked. In the vicinity of the site the National Speed Limit applies. Forward visibility on the A83 is impaired due to the vertical and horizontal alignments not complying with standards. Visibility at the junction between the track and the A 83 is also restricted due to the trunk road alignment. A planning response has been provided from the Council's Road Department, dated 7th January 2021, which recommended refusal on the grounds that **"the existing private access already serves five dwellings. Argyll and Bute Council's Local Plan clearly states that that developments of more than five dwellings should be served by a road constructed to an adoptable standard. Any further development will require a road to an adoptable standard"**.

In considering the comments from the Roads Department we will evidence later that the existing track serves supplementary development where planning has been approved which exceeds the level of daily vehicular trips generated by the five dwellings. We shall also demonstrate that the applicant, as part of his planning proposals, will not intensify the use of this track by vehicles but could in fact offer reduced levels of trips and therefore reduce the impact on the track. We will also comment on the fact that the applicant, whilst not increasing the residual impact on the track, is still willing to fund improvements to all other parties who have access to the track which should be greatly welcomed by the Council.

Transport Scotland (TS) have also provided a response to the planning department with a recommendation to refuse the planning application. The reasons for refusal cited in their response dated 27th January 2021 are as follows:

- The proposed development would result in an intensification of waiting and right turning manoeuvres from the trunk road at a location where forward visibility for approaching westbound traffic on the trunk road is substandard thus creating interference with the safety and free flow of the traffic on the trunk road;

- The proposed development would result in an intensification of waiting and right turning manoeuvres from the trunk road at a location where forward visibility for approaching westbound traffic on the trunk road is sub-standard thus creating interference with the safety and free flow of the traffic on the trunk road.

In respect to Transport Scotland's first reason for refusal we will demonstrate that there is indeed potential that the planning application will not increase vehicle numbers but may actually reduce trips based on a current consented use. We do agree with Transport Scotland however that visibility is restricted at this location. With regards to the second reason for refusal we will demonstrate that the planning proposals have the potential to improve safety to the benefit of all road users and could reduce the level of slower right turning vehicles from the general network.

Previous Planning Consent

Planning application, reference 09/00745/DET, was submitted on the same site for the erection of a new dwellinghouse and office building. This application was refused and when appealed the decision remained in favour of the Council. The reasons cited were essentially the same as those stated by Transport Scotland and the Roads Department during the current application.

Millard Consulting's Comments

As part of the planning consultation process both Transport Scotland and the Roads Department have not appeared to consider the proposals in any depth. The current application does not include an office building which significantly reduces potential impact arising from the earlier 09/00745/DET application. Most importantly there does exist a byre on the site and as such this, under historic use, would have had consent for agricultural use.

In our considered opinion there is nothing impeding the applicant from continuing to use from this plot for agricultural purposes. The level of daily trips rates arising from one dwellinghouse has the potential to generate an average 2 – 2.5 daily two-way trips onto the adjacent highway network. As current use on the application site has no restrictions on the level of vehicular use then there is potential for similar or increased daily trips which could exceed those for a solitary dwelling. As part of the proposals the existing byre will be demolished thereby removing the requirement for agricultural access. Agricultural use is predominately associated with larger slower moving vehicles in comparison to the private car.

The potential for reduced vehicular movements should be welcomed by both Transport Scotland and the Roads Department however no comment has been made in respect to the current site use. We therefore do not agree with both authorities' comments that intensification will arise as a consequence of the development proposals. We would contend that there is potential for reduced intensification based on the fact that the current permitted site use will be removed if planning is granted and therefore there will be less impact on the existing highway network and safety would actually improve.

Supplementary Comments

During the 09/00745/DET application it was stated by Transport Scotland that the approved use of the track for forestry commission purposes was due to the fact that vehicles do tend to be higher and as such visibility standards are significantly better than those experienced by private car drivers. We have to make comment that visibility splay standards are regulated on the basis that all vehicles are classified as the same no matter the height of the vehicles. Visibility for forestry commission use do not meet Transport Scotland standards nor any relaxation or departure from standard and we are sure this is a point Transport Scotland would agree with. Employees associated with forestry commission work also have a tendency to access the site by van / car so not all movements are HVG related. We believe that the comments made by Transport Scotland during the earlier application and subsequent appeal were incorrect and not justified as larger vehicles tend to be slower moving and statistics quite clearly demonstrate that they do tend to have a higher rate of right turning accidents as a consequence of this. This fact was never raised by Transport Scotland and therefore comparison between residential and forestry is considered to have been misrepresented.

More importantly a more recent application, ref 19/01422/MIN was approved and Transport Scotland did not advise against the granting of permission in this instance. The application was applied for

consent for extraction of minerals from an existing borrow pit. Transport Scotland obviously had no concerns over intensification nor road safety. We find this to be unacceptable on the basis that such use will have a significantly greater intensification in comparison to one dwelling. Vehicles will also be slower turning in comparison to the private car. Having previously refused the earlier application 09/00745/DET on grounds of intensified use and road safety Transport Scotland have totally disregarded such concerns when providing comment on the 19/01422/MIN application which would have had a more significant impact. A response from the Roads Department on the 19/01422/MIN application raised no concerns on either intensified use nor roads standards or adoption requirements.

Conclusions

In conclusion we would argue that the current proposals have the potential to reduce vehicular use from the current site and also as a consequence of this could improve road safety. We would also strongly state that the most recently approved application in 2019 has significantly greater impact on the highway network than that arising from one dwelling and as such Transport Scotland has not been consistent with their comments.

Regarding the adoption of the track we would conclude that it serves not only five dwellings but other land uses such as mineral extraction and forestry commission. As such the Council should have asked for it to have been made up to adoptable standards prior to this application. The applicant is looking to replace a byre with a house which has the potential to reduce trip generation and yet at the same time offer improvements by providing lay-by's to the mutual benefit of all users of the track. We would question therefore the Council's stance that it should be brought up to adoptable standard when traffic movements could actually reduce based on the consented use of the site.

Finally the Roads Department's comments to planning imply that in accordance with the Council's Local Plan Policy the track should be brought up to adoptable standard as it will serve more than five dwellings. This however is not specifically the case. The extract attached from the LDP supplementary guidance confirms there are exceptions to this. In the circumstance where further development utilises an existing private access or private road it is the Council's policy that this will only be accepted if the access is capable of commensurate improvements considered by the Roads Authority to be appropriate to the scale and nature of the new development. The Council have previously found it acceptable to approve access to other land use applications without the need for adoption and we would encourage the Roads Department to consider the fact that the current consented use of the site will be removed as part of the application and that lay-by's will be constructed to the mutual benefit of others. We consider this to be commensurate with the proposals under consideration.

We challenge responses to planning by both Transport Scotland and the Roads Department based on the above grounds and would move the Council to approve the application on the basis of a reduction in intensification, consequential improvements to road safety and based on a more recently approved application having significantly greater impact than proposals arising from one dwelling.

Yours faithfully,

A solid black rectangular box used to redact the signature of Ken Pirie.

Ken Pirie
Managing Director

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From: [Mark Knowles](#)
To: [McCallum, Fiona](#)
Subject: RE: Response to Request for Further Written Information - Notice of Review - Reference 23/0003/LRB
(Planning Ref: <20/01901/PPP> - Land North of Swallowtale, Achnagoul, Inveraray [OFFICIAL])
Date: 11 June 2023 16:32:03

Hi Fiona,

Thank you for the update regarding Planning Application for 20/01901/PPP Swallowtale Review.

We would like to make some observations concerning this.

1. Rumble Strips - the noise they will create especially at night and coming downhill. This will cause constant noise 24/7 which is of great concern to us but also to the person living opposite the Junction.
2. The signage as suggested is going to make no difference especially on a national speed limit road of the A83 and the speed at which vehicles travel.
3. Forestry harvesting and quarrying is now finished and has been for sometime.
4. We would also bring to your attention that in the last 2 years there have been 2 Accidents on this area of road and in fact the first one was seen from our kitchen window resulting in the police managing the traffic and ambulance arrival. The second being a motor cyclist.
5. We would also like to bring to your attention that there are Bats located here and our neighbours during there renovations had to make provision for them. To date no one has been to carryout any survey. We also have Owl's present at the location.
6. There are the tree's to which the Bats and Owl's need and once again no-one has surveyed the species of tree's and the disturbance it will cause them and other wild life.
7. Once again as we clearly stated previously we would like to bring to your attention of the adopted road as the Applicant does not own this road or the surrounding land, just the Plot.
8. Reference the comment of having cattle, sheep etc... there is a shed at the bottom of the track from the houses which is used and no farming transportation comes up the road.
9. Some of the existing Properties have utility equipment located within their gardens as well as water pipes (ours being the main one for the electricity transformer) , our question is will applicant pay compensation for the work that needs to be carried out by these companies and any damage that is caused while this work is being carried out.

If you require any further information please do not hesitate to contact us.

Kind Regards,
Mr. & Mrs. Knowles.

Sent from [Mail](#) for Windows

From: [Ormonde ADPM](#)

Sent: 08 June 2023 22:18

To: [McCallum, Fiona](#)

Cc: [j](#)

Subject: Response to Request for Further Written Information - Notice of Review - Reference 23/0003/LRB (Planning Ref: <20/01901/PPP> - Land North of Swallowtale, Achnagoul, Inveraray [OFFICIAL])

Dear Fiona,

Response to Request for Further Written Information - Notice of Review - Reference 23/0003/LRB

Having had the opportunity to study the responses received thus far, on behalf of the applicant, I would like to make our final submission to present to the Review Body.

Transport Scotland's Gerard McPhilip detailed response regarding existing signage presents a useful commentary on what is already in place but does not explore improvements that could be made. Being proactive, I would suggest that additional written "JUNCTION AHEAD" wording could be added to the existing signage and possibly even rumble strips applied to the road surface to make drivers more aware.. Furthermore, illuminating flashing "SLOW" signs could be installed, possibly at the applicant's expense, which would further assist drivers to the presence of an already statistically safe junction. These are used to great effect in the Highlands and have proven to be a great benefit to motorists (a great improvement on "SLOW" road markings which wear over time).

It was quite telling that Mr McPhilip's final paragraph, giving the reasons for refusal, omitted the elephants in the room - Transport Scotland's previous approvals for the use of this junction for timber extractions and borrow pit works:

"In considering the planning application Transport Scotland has already taken cognisance of the existing traffic signs and carriageway markings in place along the A83(T). However, despite these being in place, Transport Scotland remains of the opinion that the additional traffic associated with the planning application has the potential to impact on the safe and efficient operation of the A83(T). Transport Scotland would therefore continue to recommend that the application be refused."

Transport Scotland believe that an additional dwelling house on a Brownfield Site in an area zoned for Housing would cause a greater impact on the safe and efficient operation of the A83 than Forestry and Borrow Pit workings with their associated heavy vehicle movements. To the applicant and myself, there appears to be a disconnect somewhere. With this in mind, let us present the facts that require to be taken into account which are backed up by the document

provided in support by Millard Consulting who are experienced Transport Consultants - their original document is attached for reference.

1. This is an existing junction serving 5 residential properties and not a new access to serve a single dwelling
2. There have been no accidents reported at this junction
3. Transport Scotland have approved the use of this junction for slower moving vehicles for timber extraction and borrow pit extractions
4. The development is in an area zoned for housing and is a Brownfield Development
5. The site forms part of a small holding. The applicant would be well within his rights to keep livestock all year round on the site which could require several daily visits for checks, feeding, lambing etc. etc. This would create additional vehicle use over the junction which would not require the input of Transport Scotland.

With the greatest respect to Transport Scotland, the applicant and myself feel they have simply got this one wrong and are refusing to take the facts presented to them into consideration. This is why we find ourselves in the current situation and require the support of the Review Body to overturn the delegated refusal. Transport Scotland have already indicated that the Case Officer could have approved the application against their recommendation. Given the difficult position this would have put the past 3 Case Officers into, we ask the Review Body apply common sense and recommend approval for this application and send it to the Scottish Ministers for final approval.

Kind Regards,

Duncan Macleman BSc (Hons) Dip. Arch

ORMONDE

Architecture • Design • Project Management

10 James Street, Avoch, IV9 8QB

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