

**MINUTES of MEETING of ARGYLL AND BUTE LOCAL REVIEW BODY held in the MEMBERS ROOM, KILMORY, LOCHGILPHEAD on TUESDAY, 9 AUGUST 2011**

**Present:** Councillor Roderick McCuish (Chair)  
Councillor Neil Mackay Councillor Bruce Marshall

**Attending:** Iain Jackson, Governance and Law (Adviser)  
Fiona McCallum, Committee Services (Minute Taker)

Having noted that Councillor Marshall had indicated that he was running late, it was agreed to convene and then adjourn the meeting at 9.45 am until Councillor Marshall arrived.

The meeting reconvened at 10.05 am.

**1. CONSIDER NOTICE OF REVIEW: DRUMFORK HOUSE, DRUMFORK ROAD, HELENSBURGH G84 7TS**

The Chair welcomed everyone to the meeting and advised that his first task would be to establish whether or not the LRB felt they had sufficient information before them to reach a decision on the Review.

Councillor Mackay indicated that even although the LRB had received quite a lot of information he felt that it would be beneficial to hold a site inspection in order to establish whether or not there would be an issue of road and pedestrian safety if the driveway access gates were relocated and if visibility for pedestrian's would be compromised due to the position of the fence and realignment of the footpath.

Councillor Mackay also indicated that he would wish to see a copy of the full Area Roads Engineer's report and, referring to the statement within the Planner's reasons for refusal - "This footpath is used by a number of local parents and children taking access to the nearby primary school", he indicated that he would like written clarification from the Transport Manager on whether or not the footpath was designated part of a safe walking route to school.

Councillor Marshall agreed that a site inspection would be beneficial to the LRB.

The Chair confirmed that he also agreed that a site inspection should take place as he was not familiar with the area. The Chair also referred to the various pictures of gates provided by the Applicant and indicated that he would wish written confirmation from the Applicant as to the locations of these gates in order to establish how close they were to Drumfork House. He added that he would also like written clarification from the Planners as to when planning permission for these gates would have been obtained and if this was before or after approval of the Argyll and Bute Local Plan 2009.

Finally, the Chair also indicated that he would wish written confirmation from Roads to as whether or not they would have any objection to the proposed gates opening into the property of Drumfork House rather than opening out on to the footpath.

## **Decision**

The LRB:-

1. Agreed to hold an accompanied site inspection, to which all interested parties would be invited, on Monday 19 September 2011 at 3.00 pm in order to establish whether or not there would be an issue of road and pedestrian safety if the driveway access gates were relocated and if visibility for pedestrians would be compromised due to the position of the fence and realignment of the footpath;
2. To request from Roads a copy of the Area Roads Engineer's report;
3. To request from the Transport Manager written clarification on whether or not the footpath was designated part of a safe walking route to school;
4. To request from the Applicant's Agent written confirmation on the locations of the gates which were photographed and submitted with his supporting documentation in order to establish how close they were to Drumfork House;
5. To request from Planning written confirmation on when planning permission would have been granted for the gates referred to at 4 above and whether or not this would have been before or after approval of the Argyll and Bute Local Plan 2009;
6. To request from Roads written clarification on whether or not they would have any objection to the proposed gates opening into the property of Drumfork House rather than opening out on to the footpath; and
7. To adjourn the meeting and reconvene at the conclusion of the site inspection on Monday 19 September 2011.

### **The Argyll and Bute Local Review Body re-convened on Monday 19 September 2011 at 3.45 pm within the Victoria Halls, Helensburgh**

Present: Councillor Roderick McCuish (Chair)  
Councillor Neil Mackay  
Councillor Bruce Marshall

Attending: Iain Jackson, Governance and Law (Adviser)  
Fiona McCallum, Committee Services (Minute Taker)

The Chair welcomed everyone to the reconvened meeting of the ABLRB

and advised that parties to the Review were not permitted to address the Local Review Body. He advised that the only participants entitled to speak would be the Members of the LRB Panel and Mr Jackson who would provide procedural advice if required.

Having undertaken an accompanied site inspection prior to this meeting (see Appendix A of this Minute) and having received further information in the form of written submissions as requested at the meeting on 9 August 2011, the Chair advised that his first task would be to establish whether or not the LRB felt they had sufficient information before them to reach a decision on the Review. The Board agreed unanimously that they had enough information to make a decision on the Notice of Review request and agreed to proceed to determine the case.

Councillor Marshall advised that the site inspection had been absolutely necessary and seeing it today had been quite illuminating. He referred to the position of the fence and did not believe it would restrict pedestrian forward visibility if it was at a height of 1 metre. He believed the applicant had done the right thing in erecting the fence to prevent children from running out in front of his car as he left the grounds of his house. He also agreed with the statement in the applicant's statement of case that the fence and gates would help define the boundary of this curtilage and that it was important that curtilage was defined. He also agreed with the applicant's grounds for appeal that the provision of gates at the back of the Beechgrove Place footway would act as a visible deterrent to indiscriminate parking.

Councillor Mackay advised that the site inspection had been valuable as it had coincided with the end of the school day. He agreed with some of the points made by Councillor Marshall but disagreed with his statement regarding the height of the fence. At the moment the fence blocked the view of pedestrians and if this were reduced to a height of 1 metre it would not make a big enough difference as he believed children of primary 4 and below would still not be tall enough to see over this height and that this was a very busy route to the school. He referred to the issue of road safety that had been raised with the applicant by the Roads Officer. Councillor Mackay advised that it was his opinion that the proposed relocation of the gates would impinge pedestrian road safety especially for children and that the site was too close in proximity to the school and would be contrary to policy LP TRAN 4 - New and Existing Public Roads and Private Access Regimes which indicates private access provision should be designed in such a manner to allow for continuous improvement and be constructed in such a manner not to cause undue safety issues.

Councillor Marshall advised that the fence in question would be taken to half height if the planning application were to be approved and if not approved the whole fence would be removed to the position of the gates 6 metres back from the back of the Beechgrove Place footway and be of a height that would be hazardous. He believed that any car coming through the gates would still be moving forward towards the footway.

Councillor Mackay advised that he would have been comfortable if it had

been possible for the fence to remain and be tapered down from the position of the gates to the pathway.

Councillor McCuish agreed that the site inspection had been invaluable and raised his concerns that the applicant had been given professional advice for many months but went ahead regardless and erected the fence. He stated that the safety of the children was paramount. He also agreed that leaving the fence at a height of 1 metres would still pose a problem and be hazardous and referred to the comments made by the Council's Road Safety Officer in this respect. Referring to the further written information provided by the Roads Officer, he agreed with the statement made by the Roads Officer in his observations on the planning application that "the proposed relocation of the gates and fence impinge on pedestrian forward sightline visibility, reduce the width of the existing surfaced public footpath and create a conflict with vehicular traffic at the corner within Beechgrove Place". Councillor McCuish advised that he 100% shared the applicant's frustrations about people parking their cars in front of his driveway and blocking his exit but he needed to be mindful of the professional opinion of the Road Safety Officer and referred to her correspondence with the Roads Officer on 16 June 2011 which was included in the Roads Officers further written submissions to the LRB.

Councillor Marshall advised that he would be concerned if there was no fence at all as this would allow children to run out into the path of vehicles leaving the grounds of Drumfork House.

Councillor Mackay referred to tapering of the fence and that this was something that had been introduced at other locations. He believe that leaving the fence at a height of 1 metres would exclude some children from seeing over the fence.

Councillor Marshall advised that for the reasons he previous stated he would like to uphold the appeal and approve the planning permission for the repositioning of the gates and erection of the fence.

Mr Jackson advised that if the LRB were minded to uphold the appeal and approve the planning permission then they would need to have a competent motion and apply conditions and reasons to the consent and that they would not be in a position to do this today. He advised that they would need to request from the Planners appropriate conditions to attach to the consent and reconvene on another day to consider these conditions before determining the appeal. He advised that if the LRB were to dismiss the appeal they would be able to make this decision today.

Councillor Mackay proposed that the LRB should uphold the position of the planners.

Councillor McCuish advised that he supported Councillor Mackay's proposals for the reason of road safety.

## **Decision**

Agreed to dismiss the appeal and uphold the Planner's decision to refuse

the planning permission for the reasons detailed below:-

The proposal to re-locate the driveway access gates adjacent to the heel of the footway is not acceptable in the interest of road and pedestrian safety. This road is within a 30 mph speed limit with the location of the existing driveway on the outside of a 90 degree bend. Therefore, in order to allow the driveway gates to be opened to allow vehicle entry into the property this would create a hazard by obstructing the passage of other vehicles during this process. The proposal would therefore be contrary to the provisions of Policy LPTRAN 4 – New and Existing Public Roads and Private Access Regimes which indicates private access provision should be designed in such a manner to allow for continuous improvement and be constructed in such a manner not to cause undue safety issues. In addition, the position of the fence and the realignment of the footpath will restrict pedestrian forward visibility, create a less user friendly right of way and introduce a conflict with vehicular traffic at the corner of Beechgrove Place. This footpath is used by a number of local parents and children taking access to the nearby primary school. As such, the proposal would also be contrary to the provisions of Policy LPTRAN 1 – Public Access and Rights of Way which indicates that development proposals shall safeguard public rights of way, core paths and important public access routes.

Appendix A

## **ARGYLL AND BUTE LOCAL REVIEW BODY**

### **NOTE OF MEETING OF SITE INSPECTION RE CASE 11/0004/LRB DRUMFORK HOUSE, DRUMFORK ROAD, HELENSBURGH – MONDAY 19 SEPTEMBER 2011**

In attendance: Councillor Roderick McCuish, Argyll & Bute LRB  
(Chair)

Councillor Neil Mackay, Argyll & Bute LRB  
Councillor Bruce Marshall, Argyll & Bute LRB  
Iain Jackson, Governance and Law (Adviser)  
Fiona McCallum, Committee Services (Minute Taker)  
Howard Young, Planning Authority  
Campbell Divertie, Roads Authority  
Michael Hyde, Applicant's Agent  
Mr K O'Neill, Applicant

The Argyll and Bute LRB (ABLRB) agreed on 9 August 2011 to conduct a site inspection in order to establish whether or not there would be an issue of road and pedestrian safety if the driveway access gates were relocated and if visibility for pedestrians would be compromised due to the position of the fence and realignment of the footpath.

The ABLRB convened on 19 September 2011 at Drumfork House, Drumfork Road, Helensburgh at 3.00 pm.

Councillor McCuish welcomed all parties to the site inspection and

introductions were made.

Mr Jackson advised the participants on the procedure that would be followed. He advised that there would be no debate at this meeting and also no opportunity for parties to state their case.

From the inspection the ABLRB noted:-

1. the repositioning of the lamppost and the original entrance to the property which had been widened slightly;
2. the proposed relocation of the gates at the back of the Beechgrove Place footway;
3. the location six metres back from the back of the Beechgrove Place footway for which planning permission had been granted for the positioning of the gates;
4. the proposed design of the gates would be open metal and no more than 1 metre in height;
5. the pathway used by parents and children to walk to the school;
6. the previous location of hedging;
7. the erection of the fence which did not have planning permission and noted the proposed height of this fence if planning permission were granted;
8. that the driveway was regularly blocked by cars 3 times per day on school days; and
9. other measures which could be put in place to deter parking in front of the driveway.