

DELISTING OF A PUBLIC ROAD AT KILBOWIE

1.0 EXECUTIVE SUMMARY

- 1.1 On 10 December 2014 the Oban, Lorn and the Isles Area Committee agreed to sell the Council's property at Kilbowie, Oban to Carden Studios Limited. Among other conditions the sale was subject to the Purchaser obtaining planning permission for development of the site and this was granted on 11 September 2015.
- 1.2 During the sale of the property at Kilbowie, officers became aware that the road was on the list of adopted roads, although the description on the list for the Kilbowie Housing Scheme Road, Oban including "the branch road extending in a northerly direction to the slipway a distance of 71 yards)" did not make it obvious or clear that this was indeed the case.
- 1.3 In terms of Section 1 of the Roads (Scotland) Act 1984, the Council as Roads Authority requires to keep a list of all roads managed and maintained by them ("adopted roads") and may add roads to that list or delete roads from that list by following the appropriate procedure.
- 1.4 In terms of the Planning Permission for the development, the principal part of the road will serve only two houses with the neck of the road serving also the eight flatted dwelling houses into which the main property is to be converted, together with the property owned by North Lanarkshire Council.
- 1.5 In view of the limited number of properties being served by the main part of the road it seems inappropriate to keep this road on the list of adopted roads, since, given the low level of usage of the road it will be low priority in terms of maintenance and it is likely that the developer will wish to carry out improvements to the road surface and create parking on the road verge for the houses to be constructed on the adjoining land.
- 1.6 The purchaser of the land has indicated that he is in favour of the road being delisted as also is the Head of Roads and Amenity Services. Delisting the road will enable public access to be retained but will remove the requirement for the council to maintain the road. Delisting will also allow a less formal parking arrangement to be put in place to support the development.
- 1.7 In terms of the 1984 Act, the process for delisting is for the Council to advertise its intentions in a local newspaper with an opportunity being given to interested parties

to make representations in relation to the proposal to delist. At present the Council is frontager to the entirety of the road and in respect of the neck of the road is joint frontager along with North Lanarkshire Council. In terms of the relevant legislation, only frontagers have the right to appeal to the Court against a decision to remove the road from the list of adopted roads and the interest of North Lanarkshire Council, being frontagers only to a small part of the road, is such that they would not be in a position to appeal against the decision of the Council should the decision be made to proceed to make the order.

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2.0 INTRODUCTION

- 2.1 The Purpose of this report is to seek instructions in relation to the possible delisting of the road shown shaded red on the plan annexed hereto and forming part of the subjects at Kilbowie, Oban, (“the said road”) which the Oban, Lorn and the Isles Area Committee agreed on 10 December 2014 to sell to Carden Studios Limited.

3.0 RECOMMENDATIONS

- 3.1 To instruct the Director of Customer Services in consultation with the Director of Development and Infrastructure Services to take all necessary steps on behalf of the Council as Roads Authority to delist the said road in accordance with the procedures set out in Section 1, subsections (4) (5) (6) and (7) of the Roads (Scotland) Act 1984.

4.0 DETAILS

- 4.1 On 10 December 2014 the Oban, Lorn and the Isles Area Committee agreed to sell the Council’s property at Kilbowie, Oban to Carden Studios Limited. Among other conditions the sale was subject to the Purchaser obtaining planning permission for development of the subjects and this was granted on 11 September 2015.
- 4.2 In terms of Section 1 of the Roads (Scotland) Act 1984, the Council as Roads Authority requires to keep a list of all roads managed and maintained by them (“adopted roads”) and may add roads to that list or delete roads from that list by following the appropriate procedure.
- 4.3 During the course of the sale of the property at Kilbowie, Oban, officials became aware that the said road was on the list of adopted roads, although the description on the list for the Kilbowie Housing Scheme Road, Oban including “the branch road extending in a northerly direction to the slipway a distance of 71 yards)” did not make it obvious or clear that this was indeed the case. The area of road to be delisted is detailed in the Appendix 1.

- 4.4 In terms of the Planning Permission for the development, the principal part of the said road will serve only two houses with the neck of the road serving also the eight flatted dwelling houses into which the main property is to be converted, together with the property owned by North Lanarkshire Council.
- 4.5 In view of the limited number of properties being served by the main part of the road it seems inappropriate to keep this road on the list of adopted roads, since, given the low level of usage of the road it will be low priority in terms of maintenance and it is likely that the developer will wish to carry out improvements to the road surface and create parking on the road verge for the houses to be constructed on the adjoining land.
- 4.6 The purchaser of the land has indicated that he is in favour of the road being delisted as also is the Head of Roads and Amenity Services.
- 4.7 In terms of the 1984 Act, the process for delisting is for the Council to advertise its intentions in a local newspaper with an opportunity being given to interested parties to make representations in relation to the proposal to delist. At present the Council is frontager to the entirety of the road and in respect of the neck of the road is joint frontager along with North Lanarkshire Council. In terms of the relevant legislation, only frontagers have the right to appeal to the Court against a decision to remove the road from the list of adopted roads and the interest of North Lanarkshire Council, being frontagers only to a small part of the road, is such that they would not be in a position to appeal against the decision of the Council should the decision be made to proceed to make the order.

5.0 CONCLUSION

- 5.1 The Purpose of this report is to see instructions in relation to the possible delisting of the road shown shaded red on the plan annexed hereto and forming part of the subjects at Kilbowie, Oban, ("the said road") which the Oban, Lorn and the Isles Area Committee agreed on 10 December 2014 to sell to Carden Studios Limited.

6.0 IMPLICATIONS

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| 6.1 | Policy | None Known |
| 6.2 | Financial | Cost of advertisements to be met by Facility Services as part of the disposal of the site. Staff costs associated with the delisting to be met from existing budgets |
| 6.3 | Legal | As set out in the report |
| 6.4 | HR | None Known |
| 6.5 | Equalities | None Known |

6.6	Risk	None Known
6.7	Customer Services	As set out in the report

Executive Director of Development and Infrastructure, Pippa Milne

Policy Lead Councillor Ellen Morton

March 2016

For further information contact: Jim Smith, Head of Roads and Amenity Services

APPENDICES

Appendix 1 - Plan detailing the area to be delisted

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