

STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

18/00003/LRB

**REMOVAL OF CONDITION 3 OF AND AMENDMENT OF CONDITION 4 OF
PLANNING PERMISSION 17/01613/PP**

**PROPOSED INDUSTRIAL DEVELOPMENT COMPRISING OF ACCESS ROAD,
LIGHT INDUSTRIAL UNITS (CLASS 4), STORAGE UNITS, STORAGE UNITS,
STORAGE COMPOUNDS AND SITING OF STORAGE CONTAINERS (CLASS 6),
INSTALLATION OF COMMUNAL SEPTIC TANK AND ASSOCIATED FENCING**

27th of March 2018

STATEMENT OF CASE

The Planning Authority is Argyll and Bute Council ('the Council'). The appellants are Mull & Iona Community Trust ("the appellants").

Planning permission 17/01613/PP for a proposed industrial development comprising of access road, light industrial units (Class 4), storage units, storage compounds and siting of storage containers (Class 6), installation of communal septic tank and associated fencing at land west of Landfill Site, Glengorm Road, Glengorm, Isle of Mull ("the appeal site") was granted subject to conditions under delegated powers on 9th January 2018.

Condition numbers 3 and 4 of this grant of planning permission has been appealed and is subject of referral to a Local Review Body.

DESCRIPTION OF SITE

The site is set along the C47 Glengorm Road to the immediate north west of the municipal waste and recycling facility for Tobermory. A Scottish Water Treatment Plan is located to the immediate south east of the waste and recycling facility. The site is a fairly rough area of scrub/bracken which has a slight dip. The site has formerly been allocated for forestry plantation, although the cultivation of forestry was not successful. The north and western ends of the site are bounded by forestry plantation. The site is well separated from residential properties and settlements. The proposal site is viewed in the context of an industrial setting and the site reads as a sensible site for business and industry development.

STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED

Section 25 of the Town and Country Planning (Scotland) Act 1997 provides that where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise. This is the test for this application.

STATEMENT OF CASE

Argyll and Bute Council considers the determining issues in relation to the case are as follows:

- Whether the material considerations asserted by the appellant are sufficient to warrant the removal of condition 3 and the variation of condition 4 of planning permission ref 17/01613/PP which was attached on request of the Roads Engineer in the interests of road safety, and to ensure the timely provision of a service road commensurate to the scale of the overall development.

The Report of Handling (Appendix 1) sets out the Council's full assessment of the application in terms of Development Plan policy and other material considerations. The area roads officers consultation response is attached as Appendix 2.

REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING

It is not considered that any additional information is required in light of the appellant's submission. It is considered that Members have all the information they need to determine the case. Given the above and the fact that the development has no complex or challenging issues, and has not been the subject of any significant public representation, it is not considered that a Hearing is required.

COMMENT ON APPELLANT'S SUBMISSION

Condition 3 states that:

No development shall commence or is hereby authorised until details of the proposed private access and connection with the existing public road have been submitted to and approved by the Planning Authority in consultation with the area roads authority. Such details shall incorporate:

- i) Details of the location of two additional passing places between the A848 and the site entrance in accordance with the Council's Standard Roads specification.
- ii) Details of the widening of the C47 Glengorm Road (widened to 5.5m wide for the first 5m) from the B8073.

Access shall be constructed to at least base course level prior to any work starting on the erection of the buildings which it is intended to serve and the final wearing surface of the access shall be applied concurrently with the change of use of the site.

Reason: In the interests of road safety and to ensure the timely provision of a service road commensurate to the scale of the overall development in accordance with Policy LDP 10 and Supplementary Guidance SG LDP TRAN 4 of the adopted Argyll and Bute Local Development Plan 2015.

The appellant's state that the road at this location is already at the required dimensions and that no further work is required. Planning permission 16/01296/PP for the formation of fenced light industrial park with fenced storage compounds and siting of storage containers was granted on 28th July 2016.

An application for local review was submitted on the 6th October 2016 which requested that condition 3 be deleted. Condition 3 originally stated:

No development shall commence or is hereby authorised until details of the proposed private access and connection with the existing public road have been submitted to and approved by the Planning Authority. Such details shall incorporate:

- i) Details of the location and reconstruction of two existing unsurfaced passing places and details of the location and construction of two additional passing places, all in accordance with the Council's Standard Roads specification.
- ii) Details of the widening of the B8073 road (widened to 5.5m wide for the first 15m before the B882 junction).
- iii) Details of the widening of the C47 Glengorm Road (widened to 5.5m wide for the first 15m) from the B8073.

The Local Review Body (LRB) determined that parts i and ii of this condition be deleted and part iii be amended to read "details of the widening of the C47 Glengorm Road (widened to 5.5m for the first 5m from the B8073). Planning permission was subsequently granted on this basis. This condition was then carried forward to the subsequent planning permission reference 17/01613/PP. If the road is indeed to these dimensions, then no further action is required.

Condition 4 states that:

Notwithstanding the provisions of Condition 1, the new access from the junction with the Glengorm Road serving the site shall be a Road over which the public has a right of access

in terms of the Roads (Scotland) Act 1984 which shall be constructed in consultation with the Council's Roads Engineers.

Reason: In the interests of road safety to ensure the provision of a road commensurate to the scale of development in accordance with Policy LDP 10 and Supplementary Guidance SG LDP TRAN 4 of the adopted Argyll and Bute Local Development Plan 2015.

This is in line with the requirements of Supplementary Guidance SG LDP TRAN 4. For clarity, the applicable Supplementary guidance is reproduced in full below with my comments in red italic. Supplementary Guidance SG LDP TRAN 4 – New and Existing, Public Roads and Private Access Regimes states that:

- (A) Developments shall be served by a public road (over which the public have right of access and maintainable at public expense);

Except in the following circumstances:-

- (1) a new private access may be considered appropriate if:

- (i) The new private access forms an individual private driveway serving a single user development, which does not, in the view of the planning authority, generate unacceptable levels of pedestrian or vehicular traffic in terms of the access regime provided; or
- (ii) The private access serves a housing development not exceeding 5 dwelling houses; or
- (iii) The private access serves no more than 20 units in a housing court development;

OR

- (2) further development that utilises an existing private access or private road² will only be accepted if:-

- (i) the access is capable of commensurate improvements considered by the Roads Authority to be appropriate to the scale and nature of the proposed new development and that takes into account the current access issues (informed by an assessment of usage); AND the applicant can;
- (ii) Secure ownership of the private road or access to allow for commensurate improvements to be made to the satisfaction of the Planning Authority; OR,
- (iii) Demonstrate that an appropriate agreement has been concluded with the existing owner to allow for commensurate improvements to be made to the satisfaction of the Planning Authority.

As the development does not fall within categories i, ii, or iii, then the road serving the development should be a public road over which the public have right of access and which is maintainable at public expense.

Part 2 of the SG is not applicable as the development does not solely utilise an existing private road as it involves the construction of a new access road into the development site.

- (A) The construction standards to be applied are as follows:-

1. Public Roads:

- (i) shall be constructed to a standard as specified in the Council's Roads Development Guide⁴. This takes account of Designing Streets to create a strong

sense of place related to the development's location i.e. in a settlement, in a rural or remote rural situation, or in a Conservation Area. All roads submitted for adoption as a public road should form a continuous system with the existing public roads.

- (ii) in areas with a predominant system of single track roads with passing places, housing development of between 6 and 10 dwelling units may be accepted served by the *Variable Standard of Adoption* introduced in the Council's Road Development Guide, in recognition of differing needs within more rural areas.
- (iii) which connect to or impact significantly on a Trunk Road⁵ will require consultation with Transport Scotland.

As noted above the SG allows for a variation on the standards of adoption (such as footways, lighting etc.) and Condition 4 states that the standard of such works is to be agreed in consultation with the area roads engineer.

In this case it is understood that the roads engineer requires a 6m wide access road with a 2m wide footpath on one site and a 2m verge on the other. Street lighting is not required. This is a reduction of the standard requirements for adoptable roads having regard to the circumstances of the site.

1.Private Access

- (i) shall be constructed to incorporate minimum standards to function safely and effectively as set out in the Council's Road Development Guide, in particular in relation to adequate visibility splays, access gradients, geometry, passing places, boundary definition, turning capacities, integrated provision for waste management and recycling.
- (ii) It must be demonstrated to the Planning Authority that consideration has been given by the applicant in the design process to the potential need to make future improvements to the access up to and including an adoptable standard.
- (iii) which connect to or impact significantly on a Trunk Road will require consultation with Transport Scotland.

This is not applicable as the area roads officer requires the road to be a public road in accordance with the SG. There is a distinction between public roads, private roads and private accesses as described in the notes section of the SG below.

It should be noted that a public road is a road on the Local Roads Authority's list of public roads. This includes any new road (including any associated footway or verge) constructed in accordance with a Road Construction Consent, with public access and maintainable by the Local Roads Authority. All roads submitted for adoption as a public road should form a continuous system with the existing public roads. The Roads (Scotland) Act 1984 requires Road Construction Consent for new private roads, which means they now require to be built to an adoptable standard. This is described in the notes section of the SG below:

Notes

1. Public Road - roads on the Local Roads Authority's list of public roads. This includes any new road (including any associated footway or verge) constructed in accordance with a Road Construction Consent, with public access and maintainable by the Local Roads Authority. All roads submitted for adoption as a public road should form a continuous system with the existing public roads.
2. Private Roads – The public have the right of passage over a private road. Responsibility for the maintenance of a private road rests with the owner(s). However, the Roads Authority may, by notice to the frontagers, of an existing private road,

require them to make the road up to, and maintain it at, such reasonable standard as may be specified in the notice. The Roads (Scotland) Act 1984 requires Road Construction Consent for new private roads, which means they now require to be built to an adoptable standard.

3. Private access - private accesses are controlled (maintained) by the owner(s) and there is no public right of passage. These do not require a Road Construction Consent as there is no right of public access. The Roads Authority cannot make a notice to require a private access to be made up or maintained.
4. The Council's Roads Development Guide is being reviewed in light of the emergence of the SCOTS National Roads Development Guide (NRDG). Local variations to the NRDG are currently being prepared, which will include a variable standard for adoption for developments of 6-10 dwelling units (inclusive) in areas with a predominant system of single track roads with passing places, where the Roads Authority consider the variable standard is appropriate. Both the NRDG and the emerging Argyll and Bute Local Roads Development Guide seek to support the Scottish Government policy [Designing Streets](#).
5. Trunk Road – a strategic road which is managed and maintained by Transport Scotland, on behalf of the Scottish Ministers.

CONCLUSION

Section 25 of the Town and Country Planning Act 1997 requires that all decisions be made in accordance with the development plan unless material considerations indicate otherwise.

Taking all of the above into consideration, it is considered that the proposed development has been appropriately assessed against the provisions of Policy LDP 11 and Supplementary Guidance SG LDP TRAN 4 as part of the Area Roads officer's assessment.

It is recommended that the site be inspected to verify if the requirements of condition 3 have been met. If this is found to be the case then no further action is required by the appellant. In terms of condition 4, it is considered that this condition is appropriate and that the appellant's engage directly with the area roads officer to agree a mutually acceptable technical solution in consultation with the planning authority.

Taking account of the above, it is respectfully requested that the application for review be dismissed.