



For the attention of the Local Review Board, % Adele Price Williams

Wednesday, 22 April 2020

RE: 20/006/LRB (19/01924/PPP) Plot 2, Land East of Ardteatle Cottage, Dalmally

Dear Sir/Madam,

There are a some points raised in the statement of case from the council and in the comments from the objectors, Mr Sheilds and Ms de Rijk, that my client wishes that I address.

Firstly in the LRB statement of case for Argyll and Bute.

"Improvement works to the existing public road including surfacing with bitumen macadam to a depth of 100mm for a minimum length of 350m and the provision of two passing places"

The surfacing works mentioned here are more properly described as resurfacing works, since a tarmac carriageway exists here already.

"SG LDP TRAN 5 requires that where development proposals will significantly increase vehicular or pedestrian traffic on substandard private or public approach roads, then developments will be required to contribute proportionately to improvements to an agreed section of the public or private road network."

Since my client's planning application (19/01924/PPP) was granted the occupiers of Ardteatle Cottage have been granted planning permission for an extension to add 2 bedrooms to their one bedroom house, (19/02623/PP). We also note that a cabin style ancillary dwelling containing sanitary facilities and sleeping accommodation and advertised as a holiday let has been erected within the curtilage of Ardteatle cottage. The advertisement on AirBnB states that this has a parking place. As this increases the number of bedrooms at Ardteatle Cottage from 1 to 4, SG LDP TRAN 6 states that Ardteatle cottage should have 3 parking spaces (2 for the house proper and one for the ancillary dwelling operated as a letting room). The existing one bedroom Ardteatle cottage would have required 1 parking space. Therefore this is an increase of 2 parking spaces, which is the same number that are required for my client's application which predates both the ancillary dwelling, which has no planning permission or building warrant, and the application for the extension at Ardteatle cottage. This demonstrates that the road was perfectly acceptable for the additional traffic generated by two additional car parking spaces at the time my client made his application.

Further, there are countless examples of minor roads all over Argyll and Bute that support more than two dwellings. For example the Class III road between Torloisk and Dervaig on Mull has much steeper winding turns, and several sections where passing places are more than 350m apart and supports at least 5 dwellings, a cafe / museum, lumber traffic from forestry operations and also carries through traffic between the West coast of Mull and Dervaig.

"The Area Roads Engineer has assessed the proposed development against this policy and has deemed that the specific improvements as specified by part (iii) of condition 4 of planning permission ref 19/01924/PPP are wholly practical and proportionate to the nature and scale of development proposed"

If it is now the council's policy to make every crofter at the end of an unclassified local road pay half as much again as they intend to spend on their whole house towards the cost of maintaining the public highway, this is a major change in policy and it should be mentioned explicitly in the LDP and SGs. However, this would collapse the price of land in many locations as it would make many development sites across Argyll and Bute economically unviable by pushing the cost of building the house well over its resale value. If it is not the council's policy to apply this condition generally, then the application of this condition in this case demonstrates that its application in this instance does not meet the 'fair and reasonable' tests in the planning policy guidance.

With regards to points made by Sonja de Rijk and Steve Shields:

1)

This point on highway conditions has been addressed in the context of planning policy above. Further, the objectors state:

"In summary we would point out that Ardteatle cottage is 200 years old and this road has served this one property for many years. The current infrastructure is designed for this one property and is not fit, safe or capable of taking the traffic from additional development."

It is important to note that this was the main road between Inverary and Tyndrum, It has not been possible to track down the exact date that it was bypassed, but it was shown as the main road in the 1940-43 OS maps and the Dalmally bypass was constructed in 1970 so it must be between these dates. It seems unlikely that any works were carried out to make it narrower since it was bypassed.

2)

It is not common practice to propose extensive modifications to the public highway for the construction of a single family home. If the objectors believe this they should also have made this proposal in their application for planning permission as the developments on their property increase the traffic by the same amount.

It should also be noted that the current applicant has commenced groundbreaking works prior to permission being granted and regardless of subsequent conditions attached this disregard for planning has left us exceptionally worried that the applicant will have the same level of disregard to us in respect of accessing our home.

A borehole was made to carry out a test to ascertain whether a suitable water supply could be found on site. This was a test done with the full knowledge of the planning officer so that a location for the private water supply could be shown within the red site line. It had to be done as planning permission can not be granted if there is no viable water supply. In no sense has 'ground breaking' for the commencement of development been started on the site.

3)

The objectors are confused about the difference between a planning obligation and a planning condition. Planning obligations are agreed through a section 75 agreement and the intention to require such an onerous agreement as is proposed here should have been notified before the application was granted, not applied in a condition. Further, reasonable is the key word here. For a major development in a city centre location a developer might be asked to provide a proportion of affordable housing or to contribute towards the cost of infrastructure, but these costs are never anywhere near as high as an additional 50% of the resale value of the property that has been constructed.

Regardless of the current state of the road the applicant is missing the point that the current infrastructure is only fit for access to one property alone. The infrastructure requires improvement because of this development.

We note that in their objection the occupiers of Ardteatle cottage state that the road is only suitable for a one car property, yet they cannot believe this is a true statement as they have since applied for permission to build an extension which adds two bedrooms to their house. Even before they have built their proposed extension they need access to their property for a minimum of 3 cars for themselves, the guests that stay in their cabin and for deliveries / other visitors. They could also have potentially up to 5 cars should they wish to operate their house as a bed and breakfast.

4)

"The developer has not included the £150,000 purchase price of the land (which we understand has still not been completed) so by the developers own calculations this is an increase of 26% over the proposed development cost of £350,000 and not the 150% of £200k as claimed by the developer..."

We stated approximately 150% as the costs are approximate. I note that the sentence in our previous statement is grammatically ambiguous but 150% of £200k is obviously meant as £300k in the context of the figures provided. For clarity the point we are making is that this condition is asking for a cost increase of between £80,000 and £100,000 on a £150,000 to £200,000 project. This is based on a rate of between £40-60 / m² given to me by a QS as being typical of prices from Breedons or DK Laferty. The objectors calculations are based on conjecture, as the the price of the land subject to the application is not a matter of public record at this point so the figures derived from this assumed property value have no basis in fact. The permission in question is for a small development plot within a much larger parcel of land, the land as a whole might be worth the amount they are suggesting, but the plot that is subject to the application in question is not. Further, as the land purchase was conditional on the planning application being granted, my client is now obliged to buy the land and so the cost of the land is a now 'sunk cost' and as such it is not relevant.

"Any developer should have taken into consideration that the current infrastructure is not fit for more than the existing property of Ardteatle Cottage and budgeted accordingly"

It was not reasonable to have anticipated the large infrastructure costs as the planning policy guidelines quoted by the objectors in their comments state that my client should have been invited to enter into a section 75 agreement prior to the grant of planning permission not through a condition attached to the application.

"The applicant has incorrectly stated that the application under review is just a renewal of previously lapsed application..."

No-where in the Notice of Review statement submitted on behalf of my client is it stated that this is a renewal of a previous application, this sentence should be ignored. There was a recently expired previous planning permission on the same site as this for 2 dwellings. This did not have a condition attached requiring extensive road maintenance and improvement works. This was mentioned as it demonstrates that the council have treated this particular application unfairly compared to the previous application on the same land.

Conclusion

We suggest that statements that have been made about the unsuitability of the road for carrying additional traffic are hyperbole.

We ask why it is fair for the occupiers of Ardtype Cottage to develop their land such as to increase traffic threefold on the public highway at no cost to themselves, while the whole burden for improvements and maintenance is placed on my client for a similar increase in traffic.

We ask why has this planning permission been singled out for special treatment compared to many other sites in Argyll and Bute.

We further ask councillors to consider if it is now the council's policy to request such onerous conditions on all planning permissions in remote locations across the county. If so, it might be wise to make this change explicit in planning policy documents, such that it can be properly scrutinised by the public as it will affect many in the farming and crofting communities who might be shocked to learn of these additional costs when their planning permission notice arrives.

A reasonable condition would be to resurface the full width of the existing carriageway for 20m at the proposed road entry. The entry detail shown in SD08/004a could also be extended from 20 to 25m to allow extra room for traffic to pass. With the condition to apply before the house is occupied.

Yours Faithfully,

Will Thorne, (ARB) on behalf of Dan Taylor