

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 21/01603/PP

Planning Hierarchy: Local Application

Applicant: Ms Polly Dunlop

Proposal: Variation of Condition 7 relative to planning permission reference 20/00267/PP to reduce the conditioned visibility splay from 2.4 x 42 x 1.05m to 2.4 x 17 x 1.05m

Site Address: Land South Of High Oaks, Artaman Road, Rhu, Helensburgh, Argyll And Bute

DECISION ROUTE

Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997

(A) THE APPLICATION

i) Development Requiring Express Planning Permission

Variation of Condition 7 relative to planning permission reference 20/00267/PP to reduce the conditioned visibility splay from 2.4 x 42 x 1.05m to 2.4 x 17 x 1.05m

ii) Other Specified Operations

(B) RECOMMENDATION:

It is recommended that the application is **refused** for the reasons detailed below

(C) HISTORY:

20/00267/PP

Erection of dwellinghouse and formation of vehicular access.
23.04.2020

20/01012/NMA

Non Material Amendment to Planning Permission 20/00267/PP -(Erection of dwellinghouse and formation of vehicular access) - alteration to orientation of dwelling, raising of finished floor level, increase in extent of PV panels on the roof and addition of 2 no. roof lights to the rear elevation.
18.08.2020

(D) CONSULTATIONS:

Roads Helensburgh And Lomond - 29.09.2021 – object on the grounds of road safety.

(E) PUBLICITY:

Advert Type: Listed Building/Conservation Advert

Expiry Date: 07.10.2021

(F) REPRESENTATIONS:

i) Representations received from:

Support

George Freeman Address Not Provided - 15.09.2021

ii) Summary of issues raised:

Expresses support for the application and requests it is supported as a minor departure from the LDP. Reasons being;

- a) No objections from statutory consultees
- b) No objections from the public or neighbouring properties
- c) No objections from the community council
- d) As far as they can tell the proposal is in line with the policies of the current LDP
- e) Comment that the level of traffic on Artarman Rd is minimal as only 7 houses are served by the road
- f) Comment that the traffic existing the development would not be traveling further up Artarman Road thus reducing any risk
- g) Comment that they have conducted a personal traffic survey and one two separate occasions over the period of one hour no traffic was noted on Artarman Road

***Comment;** The Area Roads Manager who is a statutory consultee has in fact objected to the proposals on the grounds of road safety – please see assessment for further information and reasoning on this*

(G) SUPPORTING INFORMATION

- i) Environmental Statement:No**
- ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:No**
- iii) A design or design/access statement:No**
- iv) A report on the impact of the proposed development e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc: **Planning statement containing a traffic survey****

(H) PLANNING OBLIGATIONS: None Required

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- (I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: No**

(J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application

- (i) List of all Development Plan Policy considerations taken into account in assessment of the application.**

Local Development Plan Policies

- LDP STRAT 1 – Sustainable Development

- LDP DM1 – Development within the Development Management Zones
- LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment
- LDP 9 – Development Setting, Layout and Design
- LDP 11 – Improving our Connectivity and Infrastructure

Local Development Plan – Supplementary Guidance Policies

- SG LDP ENV 17 –Development in Conservation Areas and Special Built Environment Areas
- SG LDP Sustainable - Sustainable Siting and Design Principles
- SG LDP TRAN 4 – New and Existing, Public Roads and Private Access Regimes

(ii) List of other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 4/2009:

- Argyll and Bute Sustainable Design Guidance, 2006
- Scottish Planning Policy (SPP), 2014
- Consultation Responses
- Third party representations
- Argyll and Bute proposed Local Development Plan 2 (November 2019) – The unchallenged policies and proposals within pLDP2 may be afforded significant material weighting in the determination of planning applications at this time as the settled and unopposed view of the Council. Elements of the pLDP2 which have been identified as being subject to unresolved objections still require to be subject of Examination by a Scottish Government appointed Reporter and cannot be afforded significant material weighting at this time.

(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: NOEIA

(L) Has the application been subject of statutory pre-application consultation (PAC):

No Pre-application consultation required

(M) Has a sustainability check list been submitted: No

(N) Does the Council have an interest in the site: No

(O) Requirement for hearing (PAN41 or other): No

(P) Assessment and summary of determining issues and material considerations:

Under planning permission 20/00267/PP for the erection of a dwellinghouse, condition 7 was attached requiring a visibility splay in both directions of 2.4 x 42 x 1.05 at the access of the site onto Artaman Road, Rhu. The site is located within the Rhu Conservation Area at; Land South Of High Oaks, Artaman Road, Rhu, Helensburgh, Argyll and Bute.

The applicant indicated difficulties in achieving this visibility splay. As such a visibility splay of 2.4 x 25 x 1.05m was accepted as a minimum requirement. In accordance with Roads Guidance for Developers October 2008 item 3.2: A minor departure was also agreed for the retention of the existing telegraph pole & two trees within the visibility splay. Furthermore, In accordance with Roads Guidance for Developers October 2008 item 4.1: The access should usually be located a minimum of 25 metres away from the nearest adjacent junction.

A relaxation has been permitted with the proposed access being closer than 25m from the existing access to Ingleby Green.

Planning Permission is now sought for the variation of Condition 7 relative to planning permission reference 20/00267/PP to reduce the conditioned visibility splay from 2.4 x 42 x 1.05m to 2.4 x 17 x 1.05m.

The development proposed can only be supported by the Planning Authority on the basis of visibility splays being provided to ensure that the site access can be used without compromising road safety. The provision of the required splays entails the need for controls to extend over third party land and consequently the necessary off-site measures cannot be secured by way of planning conditions. Therefore a legal agreement is required to ensure the clearance and maintenance of the full extent of the required visibility splays in perpetuity. In the absence of a Section 75 Legal Agreement to secure the clearance and maintenance of visibility splays on third party land there would remain a road safety issue at this location arising from deficient visibility for drivers using the site access onto Artarman Road.

In the interests of road safety this application should be refused as the reduction in the visibility splay from 2.4 x 42 x 1.05m to 2.4 x 17 x 1.05m would result in an unacceptable level of risk to the public. This is due to the proposed access being in close proximity to the bend in Artarman Road and therefore, a minimum visibility splay of 2.4 x 25 x 1.05m is required. The access is therefore detrimental to the interests of road safety and is contrary to the provisions of Policy LP TRAN 4 of the 'Argyll and Bute Local Plan', as a satisfactory means of vehicular access cannot be achieved at this point.

Based on the above this proposal is considered to be contrary to policies LDP 11 and SG LDP TRAN 4 of the Argyll and Bute Local Development Plan 2015, and there are no other material considerations of sufficient significance to indicate that it would be appropriate to grant planning permission in this instance as a departure to the Development Plan having regard to s25 of the Act. Therefore, it is deemed that in the interest of Road Safety this application should be refused.

(Q) Is the proposal consistent with the Development Plan: No

(R) Reasons why Planning Permission or a Planning Permission in Principle should be refused:

In the interests of road safety this application should be refused as the reduction in the visibility splay from 2.4 x 42 x 1.05m to 2.4 x 17 x 1.05m would result in an unacceptable level of risk to the public. This is due to the proposed access being in close proximity to the bend in Artarman Road and therefore, a minimum visibility splay of 2.4 x 25 x 1.05m is required. The access is therefore detrimental to the interests of road safety and is contrary to the provisions of Policy LP TRAN 4 of the 'Argyll and Bute Local Plan', as a satisfactory means of vehicular access cannot be achieved at this point.

(S) Reasoned justification for a departure to the provisions of the Development Plan:
Not applicable

(T) Need for notification to Scottish Ministers or Historic Environment Scotland: No

Author of Report: Emma Jane

Date: 01.11.2021

Reviewing Officer:

Howard Young

Dated: 11.11.2021

Fergus Murray
Head of Development and Economic Growth

REASONS FOR REFUSAL RELATIVE TO APPLICATION: 21/01603/PP

1. Policies LDP 11 and SG LDP TRAN 4; LDP 11 require that an appropriate standard of access is delivered to serve new developments. SG LDP TRAN 4 further notes that; Private Access 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.

A new private access will only be accepted if the access is capable of achieving the minimum required visibility splays as considered by the Roads Authority to be appropriate - in this instance a minimum visibility splay of 2.4 x 25 x 1.05m is required due to the proposed access being in close proximity to the bend in Artarman Road.

The minimum required visibility splay cannot be achieved as the provision of the required splays entails the need for controls to extend over third party land and consequently the necessary off-site measures cannot be secured by way of planning conditions. Therefore a legal agreement is required to ensure the clearance and maintenance of the full extent of the required visibility splays in perpetuity. In the absence of a Section 75 Legal Agreement to secure the clearance and maintenance of visibility splays on third party land there would remain a road safety issue at this location arising from deficient visibility for drivers using the site access onto Artarman Road.

Based on the above the proposal to reduce the visibility splay to 2.4 x 17 x 1.05m is contrary to the requirements of Policies LDP 11 and SG LDP TRAN 4 of the 'Argyll and Bute Local Development Plan'.

APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application 21/01603/PP

(A) Has the application required an obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended): No

(B) Has the application been the subject of any “non-material” amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing. Yes

(C) The reason why planning permission has been refused:

In the interests of road safety this application should be refused as the reduction in the visibility splay from 2.4 x 42 x 1.05m to 2.4 x 17 x 1.05m would result in an unacceptable level of risk to the public. This is due to the proposed access being in close proximity to the bend in Artarman Road and therefore, a minimum visibility splay of 2.4 x 25 x 1.05m is required. The access is therefore detrimental to the interests of road safety and is contrary to the provisions of Policy LP TRAN 4 of the ‘Argyll and Bute Local Plan’, as a satisfactory means of vehicular access cannot be achieved at this point.