

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:	21/01943/PP
Planning Hierarchy:	Local Application
Applicant:	Mr Paul Rodger
Proposal:	Demolition of detached dwellinghouse, erection of 3 detached dwellinghouses and formation of vehicular access
Site Address:	Peat Knowe, Back Road, Clynder, Helensburgh, Argyll and Bute G84 0QF

SUPPLEMENTARY REPORT NO. 2

1.0 INTRODUCTION

The attention of Members is drawn to the main Report of Handling dated 8th June 2022 that is currently before them for consideration in respect of the above application and the Supplementary Report No.1 dated 3rd August 2022, on the main agenda.

At the PPSL meeting on 22nd June, The Council agreed to continue consideration of this application at their next available meeting in August 2022 and instructed Officers to request that the Applicant provide by the end of July 2022, an engineering report on the ground engineering works required to ensure stability of the sloping ground to prevent any slippage or flooding onto neighbouring properties.

At the time of the preparation of the Supplementary Report no.1 the requested Civil Engineering Report had not been received, nor had the agent contacted Officers to agree an extended timescale for preparation and submission of the Report. As advised within that Supplementary Report no.1, Officers contacted the agent requesting an up-date to Members by means of a Supplementary Report. The agent has since provided up-dates on progress summarised below.

In addition, further representations have been submitted in relation to the proposed development subsequent to the June meeting of the PPSL and the preparation of the Supplementary Report no.1 to the August meeting.

The purpose of the Supplementary Report is to up-date Members with regard to the following:

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- 1) The applicants progress and intended deadlines for the submission of a Civil Engineering Report pursuant to consideration of this item by members at the June PPSL meeting; and,
- 2) Further representations received subsequent to the June PPSL meeting.

2.0 SUMMARY OF DEVELOPMENTS

Up-date by the planning agent with regard to the requested Civil Engineering Report

08.08.2022 – The agent confirmed that his client has instructed an engineer to prepare and submit the further information requested by the PPSL Committee, however he advised that a full site investigation is required to confirm the stability of the ground, and that due to the scale of this work the final report wasn't quite ready. He confirmed that a desktop study and a soil investigation study has been carried out by Cowal Design. The Report in respect of these interim investigations is awaited.

The agent has assured Officers that the preparation of the Civil Engineering Report (to address the issues raised by the PPSL Committee at the June meeting) is being progressed as quickly as possible and will be submitted before the deadline of 26/8/22 at the latest (in order to allow the proposed development to be fully considered by Members at the September PPSL Committee.)

12.08.2022: - Pursuant to the above, the agent advised that the applicant is still awaiting the full soil investigation report from his civil/structural engineering consultant, Cowal Design, but in the interim has provided an email from his structural engineer with regard to the stability of the site. This e-mail is reproduced in full below: -

“In relation to the above site we can confirm that we have reviewed the proposals, the site topographical survey and have recently had ground investigation works carried out on the site to establish the underlying ground conditions and confirm that on the basis of these conditions with sandy clay across the site overlying shallow bedrock the site is stable and suitable for the proposals.

We will update when the Ground Investigation Report is received, and when the Civil Engineers have designed the proposed retaining wall layout”.

Further representations received

The main report to PPSL Committee at the June meeting advised that a total of 20 no. representations had been received, ‘broken down’ as follows: -

Support	1
Objections	17
Representation	2

Since the June meeting of the PPSL, a further representation has been submitted by a Local Member, Cllr. Mark Irvine, on behalf of local residents who have raised further issues of concern. These issues are summarised below: -

11.07.2022 Cllr Mark Irvine –

- **Sightlines**

It is submitted that the applicant has carried out site clearance works and modifications to the site (including cutting back a hedge on adjoin land without permission), as well as seeking to purchase adjacent land, prior to submission of the application in order to try to meet Roads Authority guidelines in relation to access design and sightlines for an access to serve 3 no. dwellinghouses.

Comment: - The consultation response by the Roads Authority advises that there are no highways objections to the proposed development subject to a suspensive planning condition requiring formation of the access with the required visibility splays.

However, planning officers will investigate whether the land required for the visibility splays are within the applicant's ownership/control, or if not whether there is an agreement that would allow for the visibility splays to be provided and maintained where they overlap land not owned by the applicant. Officers will clarify this issue when the application is reported to the PPSL Committee following receipt and consideration of the Civil Engineering report.

Boundaries

- Concerns have been expressed that the site boundaries have been 'stretched' by the felling of trees that were not within the property boundaries.

Comment:- The planning authority does not have a remit to arbitrate on land ownership disputes, however, it does have a duty to ensure that the application submission is competent in relation to the Town and Country Planning (Scotland) Act 1997 – section 35, and the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 – Reg. 15 in relation to the land ownership certification submitted as part of the application forms. On the basis of legislative/regulatory procedure only, planning officers undertake to request confirmation of the certification on the application forms that no person, other than the applicant, was an owner of any part of the application site (edged red) at the period 21 days prior to the submission of the application. The response will be reported back to the PPSL at the first opportunity.

- **Drainage**

It is implied that the small watercourse that forms the southern boundary of the application site (as shown on the application drawings) has been damaged and become blocked as a result of the applicant's activities. It is suggested that any permission that the planning authority is minded to approve be subject to a planning condition requiring restoration/repair of this watercourse and connected to an adequate drain to avoid potential flooding to neighbouring properties.

Comment: - The Main Report recommends that planning permission be subject to a suspensive planning condition requiring submission and approval of full details of a surface water drainage system (compliant with the principles of SuDS and the CIRIA's

Manual) prior to commencement of any further works on site. It is expected that such details shall identify any existing blockages of the watercourse and propose remedial works, and any other measures required to demonstrate that the proposed drainage system has adequate capacity to accommodate additional surface water run-off without resulting in flooding elsewhere.

Public Access/Footpath

- A submitted extract from Scotland's Land Information Service (LIS) suggests that there is a strip of land/footpath that is not within the property ownership. It is further submitted by local residents that a cast iron kissing gate has been removed from a position adjacent to the burn as part of the site clearance, and that this suggests that there had been some kind of pedestrian footpath along the strip of land between the burn and the hedge (cleared) that demarcated the southern boundary of "Peat Knowe", that at one time led up to "Cromrach".

Comment: - The consultation response from 'Scotways' advises that right of way SD13, as recorded in the National Catalogue of Rights of Way (CROW), crosses or is close to the application site. As set out in the main report to the June meeting of the PPSL Committee, it is considered that any potential impact on the recorded Right of Way SD13 can be satisfactorily mitigated by planning condition.

The route of the potential footpath along the southern edge of the site (subject of this representation) is not recorded on the 'CROW Map'.

'Scotways' additionally point out that there may also be "Unrecorded Rights of Way" subject to meeting specified criteria; or subject to "General Rights of Access" created by the Land Reform (Scotland) Act 2003. Planning Officers will investigate this issue in discussion with the Council's Access Manager and advise Members further at the next available meeting.

Tree Preservation Orders and Tree Felling

- It is submitted that a local resident made a request to the planning authority regarding a Tree Preservation Order (TPO) at this site on July 26th 2021. Now that the trees have been felled there is no evidence left to prove or disprove that any of the trees would have been subject to a TPO.

Comment: - It is confirmed that the trees felled on/or adjacent to the site were not subject to a Tree Preservation Order.

Traffic and Access

- It is submitted that the local public/private road network is unsuitable to accommodate the type of HGV construction traffic required without causing major disruption and damage. It is suggested that any permission that the planning authority is minded to approve be subject to a planning condition requiring on-site provision for unloading of parked construction vehicles and on-site storage of materials.

Comment: - The consultation response from the Roads Authority indicates that the local public road network has been considered to have capacity in principle to accommodate any additional traffic movements generated by the propose development, and that notwithstanding the width, horizontal alignment, gradients and lack of footways, that the standard of the access regime is not an over-riding constraint to the proposal in relation to the nature of traffic movements generated during the construction phase. However, any planning permission that is approved may be subject to a planning condition requiring the submission and approval of an Access Management Plan for consideration by the planning authority in consultation with the Roads Authority prior to the commencement of any further works on site. Any such condition will form part of a later report to PPSL.

3.0 RECOMMENDATION

It is recommended that consideration of this planning application be continued to the September PPSL Committee to allow the applicant the extended opportunity to prepare and submit the Civil Engineering Report requested.

Planning officers undertake to carry out any further investigations required in response to concerns expressed by local residents and to report back to the next available PPSL Committee.

Author of Report: Norman Shewan

Date: 15th August 2022

Reviewing Officer: Howard Young

Date: 16th August 2022

Fergus Murray
Head of Development and Economic Growth