

Reference Number: 08/00751/DET
Applicants Name: RCW Developments, R. Rwakishasha & D Cunningham.
Application Type: Detailed
Application Description: Formation of access road to serve six dwellings incorporating the realignment of existing access road and the formation of a retaining wall (revised layout relative to planning permission 03/01378/DET) (partially retrospective).
Location: Land North West of Haughton House, Eccles Road, Dunoon.

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Formation of access road incorporating the realignment of existing access road and the formation of a retaining wall.

(ii) Other specified operations.

- N/A
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(B) RECOMMENDATION

Having due regard to the Development Plan and all other material considerations, it is recommended that Planning Permission **be granted** subject to the conditions and reasons, along with the informative detailed overleaf.

(C) SUMMARY OF DETERMINING ISSUES AND MATERIAL CONSIDERATIONS

(i) Development Plan Context:

The site is located within the settlement zone of Kirn, a 'small town', as defined by the Development Plan.

Policy STRAT DC 1 of the adopted Structure Plan seeks to resist development within the settlement zone which are considered to be incompatible land uses. This application concerns a vehicular access which is to serve six dwellinghouses within the settlement zone, which is a compatible land use/development.

Furthermore, the adopted Structure Plan, Cowal Local Plan and Post Inquiry Modified Argyll and Bute Local Plan, include specific policies regarding vehicular access provisions and minimum standards. Given the assessment contained within this report, this application is considered consistent with the provisions of policies PROP TRANS 1, POL TR 4, LP ENV 1, LP TRAN 3 and LP TRAN 4.

(ii) Representations:

The department has received a total of 11 letters/emails from 6 individual properties.

In summary, this includes 1 representation in support of this application, 2 representations raising objections and 3 representations raising no objection, in principle, to the proposal.

- (iii) **Consideration of the Need for Non-Statutory or PAN 41 Hearing:**
No,
- (iv) **Reasoned Justification for a Departure from the Provisions of the Development Plan.**
No.
- (v) **Is the Proposal a Schedule 1 or 2 EIA development:**
No.
- (vi) **Does the Council have an interest in the site:**
No.
- (vii) **Need and Reason for Notification to Scottish Ministers.**
N/A
- (viii) **Has a sustainability Checklist Been Submitted:**
No.

**Angus J Gilmour
Head of Planning
28 November 2008**

Author: John Irving, Tel: 01369708621
Reviewing Officer: David Eaglesham, Tel: 01369708608

Date: 26th November 2008
Date: 26th November 2008

NOTE: Committee Members, the applicant, agent and any other interested party should note that the consultation responses and letters of representation referred to in Appendix A, have been summarised and that the full consultation response or letter of representations are available on request. It should also be noted that the associated drawings, application forms, consultations, other correspondence and all letters of representations are available for viewing on the Council web site at www.argyll-bute.gov.uk

CONDITIONS AND REASONS RELATIVE TO APPLICATION: 08/00751/DET

1. Prior to commencement of development, full details of the proposed change to carriageway surface or delineation which clearly differentiates between the adopted road and private access within the development site shall be submitted for the written approval of the Planning Authority in consultation with the Area Roads Manager.

Reason: In the interest of road safety.

2. The access road shall be constructed as per the Council's Development Guidelines. Vehicle accesses to the six dwellinghouses shall be constructed as per Fig 10.16 and at a minimum width of 2.75 metres. Sightlines for these driveways shall be 20 metres from a 2 metre setback at the centre point of the access.

Reason: In the interest of road safety.

3. The required retaining wall shall be constructed on rock for its entire length, unless the prior written consent for variation is obtained in writing from the Planning Authority in consultation with the Area Roads Manager.

Reason: In the interest of ensuring the wall is sufficient to retain the increased height of road.

4. Access to affected properties shall be maintained or a suitable alternative measure put in place during all development works, unless consent for variation is obtained in writing from the Planning Authority in consultation with the Area Roads Manager.

Reason: In the interest of road safety.

INFORMATIVES:

1. Road Opening Permit

The Area Roads Manager has advised that the works will require a Road Opening Permit (Section 56). The applicant is advised to contact the Area Roads Manager's representative (Mr. Paul Farrell on 01369 708613) directly upon this matter.

It will also be necessary to submit a Risk Assessment, Method Statement and Traffic Management Proposals. These will require to be reviewed before work commences on site.

2. Surface Water

The Area Roads Manager has advised that a system of surface water drainage is required to prevent water running onto the road. Failure to address this matter would be contrary to Section 99 of the Roads (Scotland) Act 1984, which states that:

"(i) The owner and occupier of any land, whether or not that land is such as constitutes a structure over or across a road, shall prevent any flow of water, or of filth, dirt or offensive matter from, or any percolation of water through, the land onto the road."

A drainage system including positive surface water drainage measures should be agreed with the Area Roads Manager. The applicant is advised to contact the Area Roads Manager's representative (Mr. Paul Farrell on 01369 708613) directly in this regard.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 08/00751/DET

MATERIAL CONSIDERATIONS AND ADVICE

(i) POLICY OVERVIEW AND MATERIAL ADVICE

Argyll & Bute Structure Plan 2002

Policy STRAT DC 1 '*Development within the Settlement*' development which do not accord with this policy are essentially incompatible with the close configuration of land uses found in settlements.

Policy PROP TRANS 1 – '*Development Control, Transport & Access*' requires access and relevant sections of accesses serving new development to be 'roads' open to the public and to be of appropriate standard for roads construction consent and adoption; unless private way conditions and standards are more appropriate, having regard to the nature and scale and of the and its settlement or countryside location.

Post Inquiry Modified Argyll and Bute Local Plan (November 2008)

Policy LP ENV 1 '*Development Impact on the General Environment*' requires developments to be assessed on the natural, human and built environment. This includes the relationship to the road and public networks, means of access, particularly access for emergency services and parking provision etc.

Policy LP ENV 19 '*Development Setting, Layout & Design*' requires developers to execute the highest standards of layout and design with regards to development setting, layout and density and design. Impact upon existing levels of amenity afforded to surrounding residential properties shall not be unduly compromised by any new development.

Policy LP TRAN 3 '*Special Needs Access Provision*' developments proposals will be expected to make appropriate provision safe separate pedestrian and vehicular traffic... All development shall make suitable provision for service vehicles.

Policy TRAN 4 '*New & Existing, Pubic Roads & Private Access Regimes*' requires developments to be served by a public road (over which the public have right of access) where the number of dwellinghouses exceeds 5. All new public roads must be constructed to a standard specified in the Council's Roads Development Guidance.

Note (i): **The applicable elements of the above Policies have not been objected to or have no unresolved material planning issues and are therefore material planning considerations.**

Note (ii): **The Full Policies are available to view on the Council's Web Site at www.argyll-bute.gov.uk**

(ii) SITE HISTORY

Planning Permission 03/00751/DET granted on 6th September 2004 for the erection of 7 detached dwellinghouses and formation of vehicular access.

Enforcement investigation 06/00079/ENFOCC commenced on 24th April 2006 following concerns that the vehicular access road was not in accordance with planning permission 03/00751/DET. This matter was previously reported to the Area Committee on 3rd October 2006. There is an associated enforcement report elsewhere on this agenda for members' consideration.

Retrospective planning application 06/02161/DET submitted on 13th October 2006 for alterations to the site access was withdrawn on 24th April 2008.

(iii) CONSULTATIONS

Area Roads Manager (memos dated 17th June and 25th November 2008): No objection subject to conditions.

'This development is accessed from UC24 Eccles Road within an urban 30mph speed restriction. Most of the houses have been completed and the access road is required to be constructed as per previously submitted Roads Construction Consent. Only a short section of the new road including the turning area will be adopted, the remainder will remain a private access. The proposed access and facilities will adequately serve the 6 new dwellings and the existing dwelling (Oakingham); providing an access road and turning area which will be adopted.

The road to be constructed as per the Council's Development Guidelines. Accommodation works will be required to the neighbouring properties, this may result in vertical extensions to boundary walls; realignment of internal driveways and vehicular accesses. The revised access to Oakingham is acceptable. These works will need to be agreed with adjacent land owners/occupiers and the local roads authority prior to work commencing on site. (AGREED) Access to existing properties outwith the development must be maintained or suitable alternative measures in place. (AGREED)

A 2m service strip/ footway to be provided and a turning area to be sited at the end of the adoptable section of the carriageway.

A change of road surface or delineation line is required at this location to differentiate between adopted road and private access.

Suitable drainage treatment is required to the eastern side of the road to ensure that surface water drainage effectively drains the site and does not run down the road.

A Road Opening Permit will be required for these works and must be applied for with Risk Assessments, Method Statements and Traffic Management Proposals. These will require to be reviewed before work commences on site.

A Road Construction Consent CC/06/07 and Road Bond are in place for this scheme.

A street name plate is to be provided for the development. Style and location to be agreed with the Area Manager.'

This proposal is the result of meetings and discussions

(iv) PUBLICITY AND REPRESENTATIONS

Under Article 9 neighbour notification procedures a total of 11 letters/emails have been received from six individual properties.

Cowal Leisure Ltd, c/o Corrigan Black Solicitors (letter dated 29th April 2008), 20 John Street, Dunoon, PA23 8BN. Peter Wilkinson (letter dated 7th July 2008), Hafton House, Hunters Quay, Dunoon, PA23 8HP. Mr T Dowds (letter dated 12th August 2008), 45 Eccles Road, Hunters Quay, Dunoon, PA23 8LB. Mr J. M Hundley (letters dated 24th April 2008, 8th & 27th September 2008 and 15th November 2008. Tony Monnickendam (copy of email dated 29th July 2008), Oakingham, 18 Eccles Road, Hunters Quay, PA23 8LB. Agents/Engineers on behalf of Renfield House (letters dated 17th July 2008, 29th September 2008 and e-mail dated 24th November 2008), Renfield House, Eccles Road, Dunoon.

Please note that the properties of Renfield House, Oakingham and Haughton House are directly affected by this proposal and the department has kept these parties updated as this application has progressed. These parties now have no objection, in principle, to this proposal.

The points raised are summarised below:

- i. Cowal Leisure Ltd have a right of access granted and enshrined in a Deed of Servitude for pedestrian and vehicular traffic over land owned by Peter Wilkinson, unless a formal agreement can be reached then the existing servitude right of way may interfere with the proposed access road.

Comment: This is a legal/civil matter to be resolved between the developer and affected landowner. This matter does not fall under the jurisdiction of the Planning Authority.

- ii. ATK continue to put my name on the application (Peter Wilkinson) and I wish to make it clear that I have no connection with this development.

Comment: The applicant's agent wrote to the department on 18th September 2008 to request the removal of his name from this application.

- iii. I (Peter Wilkinson) own the piece of ground over which it is proposed to undertake this development. No one concerned with this development has approached me regarding the purchase of this ground.

Comment: Letter received from applicants agent dated 18th September 2008 that Peter Wilkinson has been issued an Article 8 notification, as part landowner of the defined application site.

- iv. I, together with other residents, fully support this application, we now face the possibility that work on the road may not start before the coming winter, should there be any further delay. The thought that some residents face a fourth winter without a proper road surface, street lighting, fills me with dismay and concern in equal measure.

Comment: The current unauthorised and sub-standard access currently serves six detached dwellinghouses.

- v. I have seen the latest drawings (Haughton House) and can confirm that I am satisfied that both it and the assurances given in the accompanying letter guarantee the integrity of my property. I have no further comment or objections to this proposal.

Comment: See assessment below.

- vi. I confirm that we do not object (Oakingham) to the proposals as detailed on the plan, always provided that our access will not adversely be affected and maintained during progress of the works.

Comment: See assessment below.

- vii. We have some queries on the drawing (Acting agents for Renfield House), as to the full extent of the new retaining wall, and the material that the wall is constructed on. We would confirm that as long as retaining wall is constructed on rock (ATK Partnership have confirmed that rock is at shallow depth) and that the length of wall is sufficient to retain increased height of road, we have no further comments to make.

Comment: See assessment below.

APPENDIX B – RELATIVE TO APPLICATION NUMBER: 08/00751/DET

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The site is located within the settlement zone of Kirn, a 'small town', as defined by the Development Plan.

Policy STRAT DC 1 of the adopted Structure Plan seeks to resist developments within the settlement zone which are considered to be incompatible land uses. This application relates to a previous planning permission and concerns the formation of a turning area and level changes to the existing vehicular access, which serve six dwellinghouses within the settlement zone; this is considered to be compatible land use/development proposal.

Furthermore, the adopted Structure Plan, Cowal Local Plan and Post Inquiry Modified Argyll and Bute Local Plan, include specific policies regarding vehicular access provision and minimum standards. This proposal will ensure the gradient, layout, turning provision, surfacing and footpath provision for the current access is constructed to an acceptable standard consistent with development plan policy.

The proposal is considered to be consistent with Policies STRAT DC 1 & PROP TRANS 1 of the approved Structure Plan, POL TR 4 of the Cowal Local Plan and policies LP ENV 1, LP TRAN 3 and LP TRAN 4 of the Post Inquiry Modified Argyll and Bute Local Plan.

B. Location, Nature and Design of Proposed Development

This application essentially seeks to improve and regularise the existing, unauthorised access arrangement, which is contrary to the road layout approved under the original planning permission 03/01378/DET. Owing to changes in ground levels and the construction of the six dwellinghouses in situ, it is not possible to construct the access in accordance with the original planning permission. Furthermore, the existing access arrangement is not considered to be acceptable, essentially owing to its excessive gradient and unacceptable layout.

This application seeks to raise the lower section of the access road to improve its overall gradient. This will require improvement works outwith the originally defined application site of planning permission 03/01378/DET. It is proposed to increase the height of the lower section of the road by approximately 1 metre. This will encroach upon the access arrangement for both Haughton House and Oakingham, which are neighbouring properties to the site. Furthermore, the increase in road level at the end of Eccles Road will affect the outlook from bedroom windows located on the rear elevation of Renfield House, which are currently below the existing road level.

Impact upon Haughton House

The owner of this property has raised no objection to this proposal. The development will not compromise existing levels of amenity afforded to this property providing access is maintained during development works.

Impact upon Oakingham

The owner of this property has raised no objection to this proposal. The development will not compromise existing levels of amenity afforded to this property providing access is maintained during development works.

Impact upon Renfield House

The rear elevation of Renfield House is close to Eccles Road at a nearest distance of less than one metre. The ground floor of Renfield House sits below the existing level of Eccles

Road and bedroom windows to the rear of Renfield House enjoy relatively limited outlook, given the close proximity of Eccles Road and existing retaining wall. The building up of the road level at the northern end of Eccles Road to accommodate this development will increase the level of the road adjacent to the rear elevation of Renfield House, and could diminish existing levels of outlook and amenity afforded to its residents.

The agent acting for the Renfield House has raised no objection to this proposal and it is considered that while the level of the road will increase, the existing level of the footway, which is between the road and Renfield House will remain as existing along with the height of the existing retaining wall. This should ensure existing levels of amenity and outlook are not compromised.

The proposal is considered to be consistent with the provisions of policy LP ENV 19 of the Post Inquiry Modified Argyll and Bute Local Plan..

C. Road Network, Parking and Associated Transport Matters

The Area Roads Manager has raised no objection to this proposal subject to compliance with a number of conditions to be attached to the grant of planning permission. The undertaking of these works will ensure a section of this access road which serves six dwellings is constructed to an adoptable standard and this will greatly enhance access provision to these properties.

Give the road level changes required to the northern end of Eccles Road the existing access arrangement to both Haughton House and Oakingham will be affected.

Impact upon Haughton House

Haughton House site upon ground above Eccles Road and currently boasts a private driveway onto the public road. At this junction it is proposed to increase the level of Eccles Road by one metre and this will require level changes to Haughton Houses driveway and alteration to the stone boundary wall. The owner of this property has raised no objections to this proposal which will ultimately improve the gradient of this driveway and improve accessibility to Haughton House.

Impact upon Oakingham

Oakingham is served from the existing access to this site and it is proposed to maintain this access arrangement but to seek enhancement through the use of kerb stone and surface dressing. The owner of this property has raised no objection to this development subject to access being maintained during the progress of works.

The proposal is considered to be consistent with PROP TRANS 1 of the adopted Structure Plan, POL TR 4 of the Cowal Local Plan and policies LP ENV 1, LP TRAN 3 and LP TRAN 4 of the Post Inquiry Modified Argyll and Bute Local Plan..

D. Infrastructure

Electricity, gas and water mains are buried under Eccles Road and the existing access which serves the six dwellinghouses. This proposal does not affect these services.

CONCLUSION

The proposals will ensure the existing sub standard access is constructed to a standard that is acceptable to the Roads Authority and consistent with development plan policy. While the proposal does affect access and existing levels of amenity to neighbouring dwellinghouses, these properties have been fully consulted during the processing of this application and have raised no objection to the same. Indeed, it is considered that the properties of Haughton House and Oakingham will benefit through improvement to their existing access arrangements.