

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 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No:	07/00952/OUT
Planning Hierarchy:	Major Application
Applicant:	Sir Robert McAlpine
Proposal:	Erection of mixed use development comprising: Partial infill of existing southern basin, improvements to retaining walls and coastal protection measures and associated ground clearance/engineering infrastructure works. Erection of a 220 berth marina (Class 11) with associated land based facilities; hotel (Class 7)(up to 120 beds) with ancillary restaurant/public house; retail units (Class 1 store and craft shop); Class 4 office units (5,500 square metre); improvements to existing fish farm and complementary Class 5 industrial premises; ferry terminal comprising link span crossing and associated car parking/waiting areas; residential development (flats and houses up to 220 units); waste water treatment plant comprising septic tanks and outfall; improvements to existing vehicular access and new vehicular/pedestrian accesses, landscaping, SuDS scheme and car parking.
Site Address:	Ardyne Point , Toward

SUPPLEMENTARY REPORT 2

1. SUMMARY

The purpose of this report is to advise Members of a proposed change to the terms of the section 75 agreement associated with the above proposal and to further clarify the proposed Heads of Terms of the section 75 agreement.

2. ASSESSMENT

Members will recall that it was agreed to approve this application on 21st October 2009 subject to a section 75 agreement requiring the following:

1. Improvements to the C10 Glen Striven Road between the limit of the A815 at Toward and the entrance to the site at the Memorial Hall, in order to secure, as far as topography allows, a minimum overall carriageway width of 6.0 metres. These works to be completed to adoption standard before construction works commence on the application site;
2. The formation of a footway to an adoptable standard between Toward Primary School and the entrance to the site at the Memorial Hall. These works are required to be completed before construction works commence on the application site;

3. Extension of the 40 mph speed restriction to a point beyond the entrance to the development. To be completed before the 50th house is occupied and / or the ferry terminal is operational.

The applicant has requested that the phasing of points 1 and 2 of the section 75 agreement noted above be amended to allow commencement following the development of 20 residential units on the site, or the completion of the ferry terminal whichever is sooner.

The applicant contends that this would be reasonable as these road improvements are only required for the residential / ferry element of the proposal. In addition, the Road Network Manager (email dated 8/7/11) has confirmed that there would be no objections to the adjusted timings for the legal agreement, however, it should be noted that a Roads Construction Consent and Road Bond would be required for the road serving the residential development where it departs from C10 Glenstriven Road toward Ardyne Harbour, this is on the line of the existing concrete access road. Any residential development of more than 5 units requires an access to adoptable standards as per policy LP TRAN 4.

Head of Term number 1 requires the widening of the road to 6 metres “where topography allows”. Since this time, a further survey of this stretch of road has been undertaken in order to clarify where the constraints to the 6 metre width lies. Following this survey a Road Improvement Plan has been produced (see Appendix 1). This identifies the areas where the full 6 metres can be achieved and the section between chainage 560 – 865 where the limited topography permits a 1.2 metre footway with a 5.4 metre wide carriageway. Due to a bridge over a watercourse at chainage 1025 the widening cannot occur, however, the carriageway width at this location is currently already 5.6 – 5.7 metres. This plan has been produced in consultation with the Council’s Roads Officer who considered the proposal to be acceptable. All the proposed works identified could be carried out within the roads boundary.

The applicant has also advised that there is a profusion of Japanese Knotweed between chainage 913 and 1058 and that they would wish the Council to remove this so as not to delay the commencement of road works. In this respect, the Road Network Manager has advised that this would need to be done at the applicant’s expense, as the Roads Authority cyclic maintenance programme would not necessarily be attending to this in the normal course of events, due to other more pressing commitments on the revenue budget.

3. MEMBER REPRESENTATION

Councillor Walsh has made a representation (06.03.12) in respect of the applicant’s request that the terms of the agreement be amended as described above. He has objected to this on the grounds that the request runs counter to the initial reason for making permission subject to a agreement to address road safety considerations in the first place. His view is that the public road requires upgrading before any development that would involve additional vehicular traffic. He cites the following in support of his contention to that effect:

- Location of Primary School, Toward Castle and Toward Memorial Hall;
- Speed limit currently 60mph;
- Road narrow with no passing places;
- No footpaths, narrow and unsafe verges with no protection for cyclists or pedestrians;
- Area known for accidents due to road layout.

To accede to development, including construction traffic, without necessary off-site highway improvements in place would not be in the interests of road safety or in the interests of the local community and should be regarded as contrary to policy.

Comment: The timing of off-site road improvements in connection with proposed phased implementation of development is one to be addressed by the Council's Roads Engineers. They have been provided with a copy of Councillor Walsh's representation and have been asked to comment further. Their response will be the subject of an additional supplementary report prior to the meeting.

4. RECOMMENDATION

Taking account of the above, it is considered that the proposed change to the phasing is acceptable in terms of road safety. The Road Improvement Plan provides further clarity on the road widening, footpath and extension to 40mph limit and this should be used to assist the drafting of the legal agreement. It is therefore recommended that Members agree to the revised Heads of Terms for the section 75 agreement as noted below.

In the event that the section 75 is not concluded the application should be refused for the reason given in point H(ii) of the original Report of Handling dated 31/8/09.

Section 75 Heads of Terms

1. Improvements to the C10 Glen Striven Road between the limit of the A815 at Toward and the entrance to the site at the Memorial Hall, in accordance with the Road Improvement Plan in Appendix 1 of this report. These works to be completed to adoption standard before the completion of the 21st residential unit on site, or the completion of the ferry terminal, whichever is sooner;
2. The formation of a footway to an adoptable standard between Toward Primary School and the entrance to the site at the Memorial Hall as detailed in the Road Improvement Plan in Appendix 1 of this report. These works to be completed to an adoptable standard before the completion of the 21st residential unit on site, or the completion of the ferry terminal, whichever is sooner;
3. Extension of the 40 mph speed restriction to a point beyond the entrance to the development as detailed in the Road Improvement Plan in Appendix 1 of this report. To be completed before the 50th house is occupied and / or the ferry terminal is operational.

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7th March 2012