

**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**

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**Reference Number:** 07/00952/OUT  
**Applicants Name:** Sir Robert McAlpine  
**Application Type:** Outline Application  
**Application Description:** 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 (sui generis) with associated land based facilities; hotel (Class 7)(up to 120 beds) with ancillary restaurant/public house; retail units (Class 1 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 and outfall; improvements to existing vehicular access and new vehicular/pedestrian accesses, landscaping, SUDs scheme and car parking.

**Location:** Ardyne Point, Toward

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**SUPPLEMENTARY REPORT NO.1**

**A) INTRODUCTION**

Members will recall that the above planning application was continued at the PPSL Committee meeting of 16 October 2009 in order for additional consideration to be given as to the extent of off-site highway works necessary to support development on the scale proposed. The Head of Roads and Amenity Services has reconsidered the situation in the light of issues raised by Members at the last meeting, and additional suggested works arising from this have been the subject of subsequent discussions and agreement with the applicants. Accordingly, it is necessary to recommend revised heads of agreement for the Section 75 agreement required to accompany any approval of planning permission, and these are set out below.

Additionally, issues were raised at the last meeting about the details of conditions in respect of play space provision and affordable housing. The opportunity has therefore been taken to recommend amended conditions in order to address those matters raised by Members.

**B) ADDITIONAL INFORMATION**

Section 75 requirements

In recommending approval of this application, the report to the last committee included details of off-site measures to be secured by way of a section 75 legal agreement; namely the provision of an adoption standard footway between the site access and Toward school,

and the increase in the extent of the 40mph speed limit in order to capture the junction serving the site.

In consideration of the application, Members raised additional issues concerning the adequacy of the width of the C 10 carriageway, its susceptibility to flooding, and its adequacy to cope with the demands of construction traffic. As the Head of Roads and Amenity Services was not able to reassure Members that the measures recommended in his consultation response had adequately addressed these issues, the application was continued in order to allow an opportunity for the situation to be reassessed. In carrying out this further assessment, the Head of Roads and Amenity Services has concluded as follows:

The original consultation response from Roads indicated a requirement for improvement works between Toward Primary School and the Memorial Hall which led to the recommended requirement for the provision of a footway from Toward Primary School to the site. A minimum desirable road width of 6.0 metres should, however, have been clearly specified. The existing carriageway generally varies in width between 5.2 and 5.6m. At the culvert adjacent to an old Lodge building the width is between 5.6 and 5.7 m. The section in front of Castle Toward Lodge and gates, is on a bend with widths of 5.8m up to 8.0 m in line with the gates and then back down to 5.8m. It would be prudent given the extent of the development proposed, to widen the existing C Class Glen Striven Road to a general carriageway width of 6.0 metres, on the section from the site access to the junction with the A815. Both the improvement of the carriageway to a consistent width and the provision of a footway along the southern side of the road would therefore be beneficial where the topography makes this practical.

This road /footway improvement should be carried out at the developer's expense and should be completed prior to works commencing on site

The SEPA 1 in 200 year flood map indicates that a short section (approximately 500 m of this 2,000 m) may be susceptible to flooding. It should be noted that the primary school and the adjacent Toward Cottage are also shown within the area liable to flood in extreme conditions. Given that this is indicative, it is tidal, the proposed development will not exacerbate the existing situation and any reports of flooding have been confined to the access road within the site, it is considered to be unreasonably onerous to require the developer to deal with this potential problem. The surfacing and footway works proposed will afford the opportunity to improve drainage of the carriageway in order to provide for the proper dispersal of surface water.

In terms of construction impacts, it is anticipated that the existing road structure should be able to carry a reasonable amount of additional traffic. However, if there were to be extraordinary damage, then provided the road had been surveyed prior to the site work commencing, costs may be recoverable through the Roads Scotland Act (1984). Accordingly, an additional condition requiring a photographic survey of the existing road from the A815 to the site prior to site works commencing would be appropriate to address this. This has now been addressed by the addition of a condition (Condition 33) detailed in the recommendation below.

#### Open space condition

At the last meeting, it was advised that a condition addressing open space provision had been inadvertently omitted from the recommended conditions and there was discussion as to what this should include. This has now been addressed by the addition of a condition (Condition 34) detailed in the recommendation below.

### Affordable housing condition

At the last meeting there was discussion as to the adequacy of the recommended affordable housing condition (Condition 6) and the extent to which this might allow the developer to implement a significant proportion of the development without going on to complete the affordable housing requirement specified. Accordingly, in order to address the previously recommended Condition 6, this has been reworded as set out in the recommendation below.

### **C) RECOMMENDATION**

It is recommended that:

- a) subject to the prior conclusion of a Section 75 Agreement in respect of off-site road improvements as set out in the revised Heads of Agreement detailed below, planning permission be granted subject to the conditions and reasons listed in the original report, with the amended wording of condition 6 as set out below, and the addition of condition 33 and 34 also as set out below.
- b) Members resolve that in recognition of the nature and scale of the development proposed by this application, the purposes and objectives of Local Plan 'Area for Action' AFA 2/3 and 'Potential Development Area' PDA 2/43 will have been satisfied in full by the approval of this development, and that any subsequent planning applications within the remaining land subject to these designations, should be determined with reference to the policies applicable to the underlying development control zones, rather than in terms of the PDA and AFA designations.

### Heads of Section 75 agreement

The landowner/developer is to enter into a legal agreement with the Council under section 75 of the Town and Country Planning (Scotland) Act 1997 to secure the following:

- 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;
- The formation of footway to an adoptable standard between Toward Primary School and the entrance to the site at the Memorial Hall, These works to be completed before construction works commence on the application site;
- Extension of the 40 mph speed restriction to a point beyond the entrance to the development. To be completed before the 50<sup>th</sup> house is occupied and / or the ferry terminal is operational.

### Amended condition 6

6. No development shall commence until a scheme for affordable housing (as defined below) has been submitted to and approved in writing by the Council as Planning Authority. The scheme shall:
- a) Provide that a minimum of 25% of the approved dwellings are affordable homes;
  - b) Define those properties to be used as affordable homes;
  - c) Ensure that provision of affordable homes is implemented progressively with the remainder of the development. In this respect, following the completion of the mainstream houses in each identified phase referred to under condition no. 4 above, no work shall commence on the following phase until the 25% affordable dwellings required under the previous phase have been completed;
  - d) Establish the arrangements to ensure the affordability of the affordable homes for both initial and subsequent occupiers (including any discount rate applicable in terms of (ii) below);

For the purposes of this condition 'affordable homes' are defined as being either:

- i) Social housing (rented or shared ownership or shared equity) managed by a registered social landlord (a body registered under part 3 chapter 1 of the Housing (Scotland) Act 2001, or any equivalent provision in the event of the revocation and re-enactment thereof, with or without modification);
- ii) Discounted low cost sale housing (subject to a burden under the Title Conditions (Scotland) Act 2003), or any equivalent provision in the event of the revocation and re-enactment thereof, with or without modification).
- iii) Housing for sale or rent without subsidy, which is designed to be affordable and to meet the housing needs of the majority of those households identified as in housing need in the Local Housing Strategy or Housing Market Study i.e. one or two person households on average income, with conditions attached to their missives to prevent further extension, thereby helping to ensure that they are likely to remain affordable to subsequent purchasers.

The development shall be implemented and occupied thereafter in perpetuity in accordance with the duly approved scheme for affordable housing.

*Reason: To ensure that this development will provide housing to low income groups not adequately supplied by the market in accordance with the provisions of Policy LP HOU 2.*

#### Additional condition 33

33. Prior to works starting on site a landscaping plan shall be submitted and approved in writing by the Planning Authority. This shall include full details of all the open space proposed, including children's play areas, a 'kick-about' area and footpath access to the north of the site. The play areas shall be provided in accordance with Policy LP HOU 4 as follows:

A minimum of 12 sq m per dwelling of casual play space; and  
A minimum of 6 sq m per dwelling of equipped children's play space including provision for under 5 year olds.

These details shall be devised in accordance with the Design Statement produced by Turley Associates dated April 2009 and Policy LP HOU 4 of the Argyll and Bute Local Plan and shall include details of any play equipment to be installed, a programme for implementation relative to the remainder of the development and provision for the ongoing maintenance of such play space; either by the developer maintaining and

providing public liability insurance for the play space area / equipment directly, or through a contractual / factoring arrangement entered into by the new property owners, has been submitted to and agreed in writing by the Planning Authority.

*Reason: To ensure an acceptable level of open space is provided in accordance with the terms of Policy LP HOU 4 and that an acceptable is in place for the ongoing maintenance of these areas.*

Additional condition 34

34. No development shall be commenced until a photographic survey of the C 10 Glenstriven Road from the limit of the A 815 at Toward to the entrance to the application site has been carried out and has been submitted to the Council's roads engineers, and confirmation has been obtained in writing that such survey details as may be submitted are adequate for the purposes of documenting the condition of the road prior to construction works commencing.

*Reason: In order to secure a record of the condition of the road prior to abnormal use by construction traffic so as to form a documented basis upon which any extraordinary damage occasioned by construction traffic associated with the development hereby permitted may be assessed.*

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