

**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**

---

<b>Reference No:</b>	07/00952/OUT
<b>Planning Hierarchy:</b>	Major Application
<b>Applicant:</b>	Sir Robert McAlpine
<b>Proposal:</b>	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.
<b>Site Address:</b>	Ardyne Point , Toward

---

### **SUPPLEMENTARY REPORT 3**

#### **1. INTRODUCTION**

The purpose of this report is to advise Members of the Roads Officer's response to the representation by Councillor Dick Walsh which is referred to in Supplementary Report No.2. In an email dated 16<sup>th</sup> March 2012, the Traffic and Development Manager has reviewed the initial consultation response and has advised that it would be preferable to have the Road and Footway work undertaken at the same time as the house or ferry terminal construction was taking place as it would act as traffic calming for the fish farm and house construction traffic. He has further advised that he would be happier with a phasing that allowed the road and footway to be completed by the time that the tenth house was completed or prior to the completion of the ferry terminal provided that the road and footway works were carried out in parallel with the other development.

The Traffic and Development Officer has also noted that the Traffic Regulation Order (TRO) to alter the speed limit should be started at the same time as construction commences at this will take 9-12 month to promote. In addition, it is noted that Road Construction Consent (RCC) will be required for the housing site and for the alterations to the road and footway. The issues relating to the TRO and RCC would be communicated to the applicant by means of an informative on the decision notice.

## 2. ASSESSMENT

In light of the Roads Officer's revised response, it is proposed that the recommendation contained in Supplementary Report No.2 be revised to require the works to be in place prior to the completion of the 11<sup>th</sup> unit, or the completion of the ferry terminal, whichever is sooner (rather than the 21<sup>st</sup> unit as originally suggested).

With regard to the road improvements being timed so that they are carried out in parallel with the other development on the site, it is my view that that while there is the potential that this may happen, it is not for the legal agreement to dictate the construction programme to such a degree. The purpose of the agreement should only be to ensure that certain measures are in place by a certain time; i.e. that the road improvements are in place prior to the completion of the 11<sup>th</sup> house or the completion of the ferry terminal, and that the requirements therefore fulfil a clear planning purpose relative to the scale of development being undertaken. To be more prescriptive about the phasing of the construction programme in order to seek to achieve further traffic management benefits would not, in my view, be reasonable as it would not be wholly in accordance with government advice on the use of legal agreements in connection with planning consents.

## 3. RECOMMENDATION

Taking account of the above, it is recommended that Members agree to the Heads of Terms noted below which reflect the latest advice from the Roads Officers.

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 11th 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 11th<sup>t</sup> 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 50<sup>th</sup> house is occupied and / or the ferry terminal is operational.

**Author:** Sandra Davies 01436 658884

**Contact Point:** Richard Kerr 01436 658888

**Angus J Gilmour**  
**Head of Planning & Regulatory Services**

19<sup>th</sup> March 2012