

EAST AYRSHIRE COUNCIL

NORTHERN LOCAL PLANNING COMMITTEE: 18 JUNE 2009

**09/0236/FL: VARIATION OF CONDITION 21 OF PLANNING CONSENT
08/0734/FL TO ALLOW USE OF STANDARD ROAD SIGNS AND BOLLARDS
INSTEAD OF VARIABLE MESSAGE SIGNS
AT GRASSYARDS, A719, WATERSIDE
BY MRS A STEVEN**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The proposal is to alter condition 21 of planning consent 08/0734/FL. Condition 21 relates to the submission of details for two variable message warning signs for the approval of the Planning Authority and thereafter would require the signs to be erected at the site as approved, prior to any construction works commencing on site. This condition was stipulated to provide adequate warning of the junction to road users. The applicant proposes a combination of techniques in lieu of the message warning signs. During construction, standard vinyl warning signs advising of a works access ahead would be placed 50 metres from the site entrance in each direction. In addition to this the applicant proposes a combination of techniques including painted warning signs on the road in both directions, Admiral type bollards either side of the layby similar to all other accesses off the A719 and the provision of brown tourist signs, one at each end of the A719 as well as one opposite the site entrance. These measures would be in place prior to the operation of the fishery.

2. RECOMMENDATION

2.1 It is recommended that the application be refused for the reasons on the attached sheet.

3. CONCLUSIONS

3.1 As indicated in Section 5 of the report, the application is considered to be largely contrary to the development plan. Therefore given the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 the application should be refused unless material considerations indicate otherwise.

3.2 The key material considerations are the consultation responses, the planning history, the supporting statement and the Alteration to the East Ayrshire Local Plan (Finalised Draft with Modifications). The applicant claims that condition 21 will delay construction works commencing due to the long time delay

of ordering and instalment. They further claim that the proposed combination of techniques will provide an equal or better solution than the variable message warning signs. The Roads Division has recommended refusal of this approach given the high speeds on the A719 and the insufficient standard of two of the proposed techniques, namely the 'Works access ahead' sign and the brown tourist signs. The Community Council consider that 'appropriate' signs should be installed.

3.3 Condition 21 of application 08/0734/FL was attached by Committee to reflect the road safety concerns that the proposal had generated notwithstanding Roads Division advice that such signs were not required as well as discussions on alternative techniques including those proposed by this application. Given that Committee considered a range of options to address the road safety issues and ultimately decided on variable message warning signs, it is considered that the combination of standard techniques is of a lesser road safety standard than the variable message warning signs, as indicated by the Roads Division. It should be noted that the applicants have submitted no firm evidence to substantiate their claim that the combination of standard road safety techniques is of equal or greater road safety value. As the Roads Division have advised that the proposal is not of an equal or better road safety standard than the variable message warning signs, it is considered that condition 21 should not be varied and the application therefore refused.

CONTRARY DECISION NOTE

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning and Economic Development then the application will not require to be referred to the Principal Planning Committee as the overall principle of the development is in accordance with the Adopted East Ayrshire Local Plan and approval would not be a significant departure from the development plan.

Alan Neish
Head of Planning and Economic Development

Note: This document combines key sections of the associated report for quick reference and should not in itself be considered as having been the basis for recommendation preparation or decision making by the Planning Authority.

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NORTHERN LOCAL PLANNING COMMITTEE: 18 JUNE 2009

09/0236/FL: VARIATION OF CONDITION 21 OF PLANNING CONSENT 08/0734/FL TO ALLOW USE OF STANDARD ROAD SIGNS AND BOLLARDS INSTEAD OF VARIABLE MESSAGE SIGNS AT GRASSYARDS, A719, WATERSIDE BY MRS A STEVEN

Report by Head of Planning and Economic Development

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination a planning application which is to be considered by the Local Planning Committee under the scheme of delegation, as the Head of Planning and Economic Development considers that a significant issue is raised that merits determination at Committee.

2. APPLICATION DETAILS

2.1 **Site Description:** The site, of some 4.4 ha, is a narrow wedge shaped grazing field, bounded to the west by the A719 road, where a hawthorn hedge forms the majority of the boundary, except for a gap at the northern end. The north of the site is bounded by the Grassyards Lane beside which runs the Grassyards Burn. To the south, east and south east of the site is other farmland on slopes generally rising away from the site. The site is bounded by various hedges and trees some of which are adjacent to but outwith the site. The existing site is 144.3 AOD at the western end and 149 AOD at the eastern end.

2.2 **Proposed Development:** The proposal is to alter condition 21 of planning consent 08/0734/FL. Condition 21 relates to the submission of details for two variable message warning signs for the approval of the Planning Authority and thereafter would require the signs to be erected at the site as approved, prior to any construction works commencing on site. This condition was stipulated to provide adequate warning of the junction to road users. The applicant proposes a combination of techniques in lieu of the message warning signs. During construction, standard vinyl warning signs advising of a works access ahead would be placed 50 metres from the site entrance in each direction. In addition to this the applicant proposes a combination of techniques including painted

warning signs on the road in both directions, Admiral type bollards either side of the layby similar to all other accesses off the A719 and the provision of brown tourist signs, one at each end of the A719 as well as one opposite the site entrance. These measures would be in place prior to the operation of the fishery.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division has considered the submitted information and has recommended refusal of the application. The Roads Division has advised that the A719 has an identified speed problem and it recommends that the issue of speed is therefore addressed. The Division agrees with the Committee's decision to require electronic signs. All traffic signs require to be in accordance with the Traffic Signs Regulations and General Directions 2002. None of the warning signs permitted show the layout which now exists in the vicinity of the new fishery – a priority route (A719) with two public rural road side roads (the non-priority routes) as a crossroads along with a newly constructed junction, in very close proximity. It is therefore recommended the electronic signs should show the standard national speed limit sign and the message 'slow down' beneath. These would light up with the message to slow down when a vehicle exceeds the speed limit. The cost of the two signs is estimated to be £7000.

The Roads Division make specific comment on the proposed alternative signage, finding that the 'Works access ahead' sign is acceptable during construction but would not be appropriate in the longer term. Furthermore the proposed brown tourist signs can only be used following accreditation by Visit Scotland and this cannot be given in advance of the development being completed. Therefore, as two of the proposed four techniques are not permitted, the variation to condition 21 should be refused.

Noted. Condition 21 requires that electronic signs are put in place to warn road users of the approaching road junction rather than the specific problem of speed. As an appropriate electronic sign cannot be provided specifically warning of the approaching junction, it is considered that the use of a sign for speed will slow drivers down thus providing them with more time to be aware of the approaching junction, in line with the requirements of this condition. The response also indicates that the proposal is of a lesser road safety standard than the electronic signs.

3.2 Moscow and Waterside Community Council has objected to this development on the following grounds:-

3.2.1 Currently the applicant is in breach of condition 21 as work on the site is being carried out and bringing to fruition all our worst fears regarding road safety on this stretch of road.

The Community Council is correct in that works have been ongoing at the site during the period of this application. The Planning Authority, when it became aware that works had commenced, advised the applicant to stop working as this was in breach of condition 21. As the applicant did not stop works a breach of condition notice was served on the applicant on 01 May 2009. The notice required that details of the two variable message signs be submitted by 15 May 2009 and that thereafter the signs should be installed on site as approved by 29 May 2009. To date neither of these requirements has been met.

3.2.2 Due to the work and the signage in place drivers appear to no longer be aware of the Rushaw Road and Grassyards Roads junctions.

This view is not supported by the Roads Division who have no objections to the placement of the standard construction warning signs during the construction period.

3.2.3 This is made considerably worse when the road sweeper is parked on the A719 and completely blocks the vision of drivers leaving Rushaw Road or Grassyards Road.

The road sweeper is operating at the site in connection with condition 16 of planning consent 08/0734/FL. It is the responsibility of the road sweeper operator to ensure that the vehicle does not contravene road safety regulations. It should also be noted that the Police would be the enforcing authority in relation to any vehicle on the public highway. The Roads Division agree that the road sweeper should not be 'parked' on the road however when operating the red and white 'works access ahead' signs should provide adequate cover and information to passing vehicles.

3.2.4 Road safety on this stretch of road always has been of grave concern to the community council members and they feel very strongly that appropriate signs are very necessary.

This is noted and the attachment of condition 21 illustrates that the Council as Planning Authority shared these road safety concerns.

3.2.5 Committee members wish signs to make drivers aware that the crossroads still exists as well as the new entrance into the fishery

The Roads Division has indicated that variable signs cannot show the crossroads and private access, however it notes that signage does exist for the Grassyards junctions and the variable message signs indicating speed limit should slow traffic down.

3.2.6 Painted signs on the road fade very quickly, standard vinyl signs blow down, bollards and tourist signs will distract drivers eyes away from the crossroads.

The Roads Division has not advised that there would be any particular issue with the standard vinyl signs, bollards and painted signs however it has identified that speed is an issue on the A719 which is best addressed through the use of electronic signs rather than the signs proposed by this application.

3.2.7 Members are also concerned that other conditions are being breached: work is starting at 7am and not 8am and straw bales are only stacked so far along the burn leaving an approximately 2 metre high heap of earth at the unprotected side of the burn.

While the breach of condition notice had not legally taken effect, the developer continued to work on the proposal and the Planning Authority had received complaints that related to these issues. In all cases enforcement officers have investigated the complaints and contacted the applicant who undertook to resolve any issues. The Planning Authority has monitored the site on an ongoing basis to ensure compliance with the breach of condition notice.

4. REPRESENTATIONS

4.1 The proposal has generated one letter of objection from the Moscow and Waterside Community Council, a consultee, details of which are addressed at section 3 above.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

5.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of this application the development plan comprises the Approved Ayrshire Joint Structure Plan (AJSP) and the Adopted East Ayrshire Local Plan (EALP).

5.2 Policy IND6 of the East Ayrshire Local Plan requires all proposals for new industrial or business development on land not specifically identified for such purposes on the Local Plan maps and changes of use of existing premises to industrial or business use to be justified against a set of eight separate criteria, one of which is relevant to this application:-

(v) transportation and infrastructure implications;

Condition 21 of planning consent 08/0734/FL was attached as an additional condition by the Planning Committee to make drivers on the A719 aware of the approaching junction. This was done on the basis that Committee members have local knowledge of this junction and considered that additional road safety measures were required to ensure that road safety was maintained. The Committee took the decision to attach this condition following discussion of the other road safety options available such as the one proposed in this application. The Committee chose to pursue the variable message warning sign option in preference to other options because they considered that this was the most appropriate road safety measure. It is considered that the combination of standard techniques would not achieve the same road safety value, as indicated by the Roads Division. This therefore suggests that the proposal would be contrary to this policy as there would be unacceptable transportation and infrastructure implications by allowing a lesser road safety technique to take the place of the variable message warning signs.

5.3 Policy IND10 of the East Ayrshire Local Plan states that industrial and business development outwith settlement boundaries will be acceptable to the Council only where the proposal relates to one of five stated types of development. The policy also requires all proposals for industrial and business developments in the countryside to be justified against a set of six criteria, one of which is pertinent to this application:-

(iii) transportation implications:

Condition 21 of planning consent 08/0734/FL was attached as an additional condition by the Planning Committee to make drivers on the A719 aware of the approaching junction. This was done on the basis that Committee members have local knowledge of this junction and considered that additional road safety measures were required to ensure that road safety was maintained. The Committee took the decision to attach this condition following discussion of the other road safety options available such as the one proposed in this

application. The Committee chose to pursue the variable message warning sign option in preference to other options because they considered that this was the most appropriate road safety measure. It is considered that the combination of standard techniques would not achieve the same road safety value, as indicated by the Roads Division. This therefore suggests that the proposal would be contrary to this policy as there would be unacceptable transportation and infrastructure implications by allowing a lesser road safety technique to take the place of the variable message warning signs.

5.4 Policy TLR6 of the East Ayrshire Local Plan presumes in favour of the recreational and sporting use of land in the countryside subject to a set of three criteria being met, one of which is pertinent to this application:-

- (iii) the proposal complies fully with all other relevant Local Plan Policies and meets all pertinent development promotion criteria relating to infrastructure, services, access, siting, design, landscaping, car parking etc.

It is considered that the proposal does not fully comply with policies IND6 and IND10 as detailed above. Condition 21 of planning consent 08/0734/FL was attached as an additional condition by the Planning Committee to make drivers on the A719 aware of the approaching junction. This was done on the basis that Committee members have local knowledge of this junction and considered that additional road safety measures were required to ensure that road safety was maintained. The Committee took the decision to attach this condition following discussion of the other road safety options available such as the one proposed in this application. The Committee chose to pursue the variable message warning sign option in preference to other options because they considered that this was the most appropriate road safety measure. It is considered that the combination of standard techniques would not achieve the same road safety value, as indicated by the Roads Division. This therefore suggests that the proposal would be contrary to this policy as there would be unacceptable transportation and infrastructure implications by allowing a lesser road safety technique to take the place of the variable message warning signs.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultation responses, supporting statement, the impact on

the amenity of the area, the planning history and the Alteration to the East Ayrshire Local Plan (Finalised Draft with Modifications).

Consultation Responses

6.2 The consultee comments are relevant to the consideration of this application. The Roads Division has recommended refusal of the application as the proposed combination of techniques would achieve a lesser standard of road safety. The Community Council share the position of the Roads Division. In the grant of planning consent 08/0734/FL the Planning Committee saw fit to attach condition 21 in the context of prevailing road safety concerns. These concerns have again been expressed. Therefore, it is considered that continuing weight should be attached to the Community Council concerns that 'appropriate' signs are provided. In this instance the variable message warning signs and the proposed combination of signs would both provide a measure of warning of the junction. However, as indicated by the Roads Division the electronic warning signs as originally required by Committee are only permitted to address the speed issue on the A719 rather than the specific junction warning issue. It is considered that this would provide a degree of warning and safety as drivers would slow when approaching the junction. The other points raised by the Community Council in relation to conditions have been investigated and acted upon by the Planning Authority.

Impact on the Amenity of the Area

6.3 The proposal will have a minimal impact on the amenity of the area in terms of visual impact. In terms of road safety it is considered that the proposal would not offer a safer alternative to the variable message warning signs imposed through condition 21 and therefore would not bring any improved amenity for the surrounding area.

Supporting Statement

6.4 The application is accompanied by a supporting statement highlighting the proposed works and provides a justification as to why these works are required. The justification points to the time delay of up to four months for the process of ordering and installing the required signs which would delay the commencement of construction works which they consider to be unnecessary and would unreasonably delay the commencement of construction works. Furthermore the applicant advises that discussions were undertaken with the Roads Division which suggested that an equal or better solution could be achieved using standard signs and bollards.

Planning History

6.5 Planning application 06/1070/FL for a proposed trout fishery was refused by the Northern Local Planning Committee on 30 March 2007. This was on the basis that “The operation of the proposed trout fishery would have a negative ecological impact on the site and is considered to be detrimental to the amenity of the surrounding area”

6.6 This refusal was subsequently appealed by the applicant and the appeal was dismissed by the Reporter on 10 September 2007.

6.7 Planning application 08/0734/FL for a proposed trout fishery was approved with conditions at Committee on 6 March 2009.

6.8 A Breach of Condition Notice was served on 1 May 2009 concerning condition 21 of planning consent 08/0734/FL.

Alteration to the East Ayrshire Local Plan (Finalised Draft with Modifications)

6.9 For clarity, whilst development proposals will continue to be assessed first and primarily against the Adopted Local Plan, the Council has now given Authority for an appropriate and proportionate degree of weight to be given to the Alteration to the East Ayrshire Local Plan in the determination of planning applications. In this case, minimal weight can be given to Policies IND6 and TOUR6 of the Alteration.

6.10 Policy IND6 states that outwith settlement boundaries, all proposals for new industrial, commercial and business developments which fall within the categories of development detailed in Policy IND6 (ii) to (vi), will require to be justified and will only be supported where:

- (iii) the development has no unacceptable transportation or infrastructure implications;

Condition 21 of planning consent 08/0734/FL was attached as an additional condition by the Planning Committee to make drivers on the A719 aware of the approaching junction. This was done on the basis that Committee members have local knowledge of this junction and considered that additional road safety measures were required to ensure that road safety was maintained. The Committee took the decision to attach this condition following discussion of the other road safety options available such as the one proposed in this application. The Committee chose to pursue the variable message

warning sign option in preference to other options because they considered that this was the most appropriate road safety measure. It is considered that the combination of standard techniques would not achieve the same road safety value, as indicated by the Roads Division. This therefore suggests that the proposal would be contrary to this policy as there would be unacceptable transportation and infrastructure implications by allowing a lesser road safety technique to take the place of the variable message warning signs.

6.11 Policy TOUR6 states that the Council will assess all applications for tourism related commercial leisure developments against the relevant policies as contained in the Retailing and Town Centre section of the Local Plan. Commercial leisure developments specifically geared towards rural tourism may be considered acceptable to the Council where:

- (iv) the proposal can be fully justified in terms of infrastructure, provision of services, access and car parking provision.

Condition 21 of planning consent 08/0734/FL was attached as an additional condition by the Planning Committee to make drivers on the A719 aware of the approaching junction. This was done on the basis that Committee members have local knowledge of this junction and considered that additional road safety measures were required to ensure that road safety was maintained. The Committee took the decision to attach this condition following discussion of the other road safety options available such as the one proposed in this application. The Committee chose to pursue the variable message warning sign option in preference to other options because they considered that this was the most appropriate road safety measure. It is considered that the combination of standard techniques would not achieve the same road safety value, as indicated by the Roads Division. This therefore suggests that the proposal would be contrary to this policy as there would be unacceptable transportation and infrastructure implications by allowing a lesser road safety technique to take the place of the variable message warning signs.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial or legal implications for the Council in determining this application.

8. CONCLUSIONS

8.1 As indicated in Section 5 of the report, the application is considered to be largely contrary to the development plan. Therefore given the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 the application should be refused unless material considerations indicate otherwise.

8.2 The key material considerations are the consultation responses, the planning history, the supporting statement and the Alteration to the East Ayrshire Local Plan (Finalised Draft with Modifications). The applicant claims that condition 21 will delay construction works commencing due to the long time delay of ordering and instalment. They further claim that the proposed combination of techniques will provide an equal or better solution than the variable message warning signs. The Roads Division has recommended refusal of this approach given the high speeds on the A719 and the insufficient standard of two of the proposed techniques, namely the 'Works access ahead' sign and the brown tourist signs. The Community Council consider that 'appropriate' signs should be installed.

8.3 Condition 21 of application 08/0734/FL was attached by Committee to reflect the road safety concerns that the proposal had generated notwithstanding Roads Division advice that such signs were not required as well as discussions on alternative techniques including those proposed by this application. Given that Committee considered a range of options to address the road safety issues and ultimately decided on variable message warning signs, it is considered that the combination of standard techniques is of a lesser road safety standard than the variable message warning signs, as indicated by the Roads Division. It should be noted that the applicants have submitted no firm evidence to substantiate their claim that the combination of standard road safety techniques is of equal or greater road safety value. As the Roads Division have advised that the proposal is not of an equal or better road safety standard than the variable message warning signs, it is considered that condition 21 should not be varied and the application therefore refused.

9. RECOMMENDATION

9.1 It is recommended that the application be refused for the reasons on the attached sheet.

CONTRARY DECISION NOTE

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning and Economic Development then the application will not be required to be referred to the Principal Planning Committee as the overall principle of the development is in accordance with the Adopted East Ayrshire Local Plan and approval would not be a significant departure from the development plan.

Alan Neish
Head of Planning and Economic Development

FV/DVM

DVM/RH
18 June 2009

LIST OF BACKGROUND PAPERS

1. Application Form, Plans and supporting statement.
2. Statutory Notices and Certificates.
3. Consultation Responses.
4. Planning application 06/1070/FL
5. Planning appeal P/PPA/190/164
6. Planning application 08/0734/FL
7. Breach of Condition Notice

Anyone wishing to inspect the above papers please contact David Wilson Senior Planning Officer (Acting), on 01563 576779.

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 09/0263/FL

Site of Proposal: Grassyards A719, WATRSIDE by Kilmarnock

Nature of Proposal: Variation of condition 21 of planning consent 08/0734/FL to allow use of standard road signs and bollards instead of variable message signs, as detailed in section 4.2 of "supporting statement"

Name & Address of Applicant: Mrs A Steven
5 Glen Crescent
Darvel
East Ayrshire
KA17 0BG

Name & Address of Agent: Bryce Associates Ltd
6 Newton Place
GLASGOW
G3 7PR

DPO's Reference: DW/KW

Reason 1: The proposal is contrary to Policy IND 6 of the Adopted East Ayrshire Local Plan as the combination of road safety signs are of a lesser standard to the variable message warning signs approved under application 08/0734/FL and will result in unacceptable transportation and infrastructure implications through an adverse impact on road safety.

Reason 2: The proposal is contrary to Policy IND 10 of the Adopted East Ayrshire Local Plan as the combination of road safety signs are of a lesser standard to the variable message warning signs approved under application 08/0734/FL and will result in unacceptable transportation implications through an adverse impact on road safety.

Reason 3: The proposal is contrary to Policy TLR 6 of the Adopted East Ayrshire Local Plan as the proposal does not comply with all relevant Local Plan policies and the combination of road safety signs are of a lesser standard to the

variable message warning signs approved under application 08/0734/FL which will result in unacceptable transportation implications through an adverse impact on road safety.



<p>Title/Location Grassyards A719</p> <p> Waterside</p> <p> Application No. 09/0236/FL</p>	<p>East Ayrshire Council</p> <p>Planning & Economic Development Division.</p> <p>6 Croft Street Kilmarnock KA1 1JB</p> <p>Tel: (01563) 576790 Fax: (01563) 576774</p> <p>E-Mail : Planning@east-ayrshire.gov.uk</p>
<p>Key</p> <p> Application Site</p>	<p>Com Date: 28/5/2009 Checked By</p>



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