

## **EAST AYRSHIRE COUNCIL**

**NORTHERN AREA LOCAL PLANNING COMMITTEE: 21 JANUARY 2005**

### **MOTOR VEHICLE PROHIBITION (CEMETERY ROAD, GALSTON) ORDER 2004**

#### **Report by Head of Planning, Development and Building Standards**

#### **1. PURPOSE OF REPORT**

1.1 The purpose of this report is to advise the Committee on the making, serving and advertising of the Motor Vehicle Prohibition (Cemetery Road, Galston) Order 2004 and to seek the Committee's views on whether the Order should be progressed or alternative measures considered.

#### **2. BACKGROUND**

2.1 On 23 January 2004 the Northern Area Local Planning Committee considered two reports by the Head of Planning and Building Standards regarding planning applications 03/0561/FL and 03/0600/OL for the proposed erection of a dwellinghouse and proposed change of use from agricultural to residential at Plot 1, and for proposed residential development for 3 plots at Plots 2, 3 & 4 respectively at Cemetery Road, Galston. Both reports recommended that the applications be approved to include two obligations on the part of the developer under a Section 75 Agreement. The relevant obligation for the purposes of this report relates to the following, referred to elsewhere in this report as obligation 1:

"The formation of a 2.0 metre wide footway to adoptable standard between the application site and the existing public footpath opposite Barr Street, Galston."

2.2 The Committee reports also detailed comments from the Roads and Transportation Division to the effect that an alternative approach to providing a new footway would be to close Cemetery Road to through traffic by the formation of two turning areas either side of the cemetery. This would require an Order to be promoted and it remained the recommendation to Committee that a Section 75 Agreement be used to secure the obligation above.

2.3 The Committee approved the applications and inserted a condition on both confirming that prior to development on site, Cemetery Road would be closed to through traffic. Subsequently when considering an update report on 19 March 2004, the precise wording of that additional condition was agreed as "no construction shall commence on site until such time as the closure of Cemetery Road to through vehicular traffic at a point agreeable to the Roads Division and to the east of the application site has taken place." It was also

confirmed that because of such a road closure and because of further information received about land ownership in the area, there would be no need for a legal agreement.

### **3. RESULT OF ADVERTISEMENT OF MOTOR VEHICLE PROHIBITION ORDER**

3.1 In accordance with the decisions of the Northern Area Local Planning Committee referred to in Section 2 above, the Executive Director of Development and Property Services made, served and advertised the Motor Vehicle Prohibition (Cemetery Road, Galston) Order 2004 under Section 203 of the Town and Country Planning (Scotland) Act 1997.

3.2 It was decided that the Order should take the form of prohibiting passage of vehicular traffic along that part of Cemetery Road adjacent to the cemetery rather than stopping-up that part of the road, thus allowing maintenance of the road for continued passage of pedestrians, cycles and other non-motorised vehicles.

3.3 The Order was formally advertised on Friday 27 August 2004. Up to and including Friday 24 September 2004, the date of expiry for objections to the Order, three objections had been received. The main issues raised by the objectors were the following:-

(a) the Cemetery Road/Cessnock Road junction is already dangerous for turning traffic, particularly in view of the poor sightlines to the east and the relatively high average speed of traffic approaching from that direction. The increased turning movements from the narrow Cemetery Road which would result from the road closure would increase the potential for accidents at this junction,

(b) Cemetery Road is too narrow to accommodate traffic entering and emerging from Cessnock Road,

(c) there would be no provision for vehicle turning were the Order to be put into effect and vehicles would use residential driveways for turning,

(d) were the Order approved the eastern section of Cemetery Road would become a secluded cul-de-sac which could encourage vandalism and burglary.

3.4 Strathclyde Police commented that the junction of Cemetery Road with Cessnock Road/Sorn Road has very restricted sightlines from Cemetery Road. At present, however, traffic has the option of using the north junction of Cemetery Road onto Barr Street and Glebe Road. The police were of the view that speed of traffic approaching the 30-mph speed limit just east of the Cemetery Road/Sorn Road junction may be of significance. In view of the number of houses affected by the Order the police feel it is not desirable that vehicles requiring access to and from those houses would have no alternative other than to use the aforementioned south junction while it has adverse road

safety features. However, should the sight lines at the junction be improved the concerns of the police would be allayed.

#### **4. RESPONSE TO OBJECTIONS/REPRESENTATIONS TO THE ORDER**

4.1 It is considered that the issues raised by point 3.3 (g) would be addressed by the Order in that vehicular movements along Cemetery Road would be reduced so as to lessen the likelihood of congestion on the eastern section of the road. This section of the road would effectively become an access for the exclusive use of the residents of this part of Cemetery Road.

4.2 As regards point 3.3 (c) above the Roads and Transportation Division had agreed that turning heads should be provided at either end of that part of Cemetery Road subject to the Order. These turning heads would accommodate vehicular turning movements.

4.3 In respect of point 3.3 (d) above Strathclyde Police have indicated that, in their view, closure would have no discernible impact on criminal activity and/or anti-social behaviour in the eastern part of Cemetery Road.

4.4 The principal issue of objection relating to the Order, however, concerns the traffic sightlines at the Cemetery Road/Cessnock Road junction (see 3.3 (a)). In light of this the Roads and Transportation Division asked the applicant Mr Cochrane to submit a plan showing a junction improvement which would achieve a minimum sightline of 50 metres to the east. Such a scheme would involve easing out the give way line at the above junction to create 'ghost' verges. A plan of the scheme is appended to this report.

4.5 Because of the hedgeline along the south side of Cessnock/Sorn Road and the unwillingness of the relevant landowner to agree to its removal it has not, however, been possible for Mr Cochrane to achieve the minimum desirable sightline distance required by the Roads Division. Also it is not the intention at present for the Roads Division to carry out traffic calming measures specifically at this junction although this remains a future possibility.

4.6 Strathclyde Police have commented that Mr Cochrane's submitted plan appears to only partially address their original concerns expressed in Section 3 above in that, while westward sightlines would be greatly improved, those to the east of the junction would not.

4.7 In view of the deficiencies in the proposed junction improvement scheme as detailed above it is not possible for the applicant to comply with the relevant condition on his two planning consents relating to the required closure of Cemetery Road. It is therefore also not considered appropriate to go back to the objectors with this scheme because it does not meet the terms of their principal objection to the Order.

## **5. PLANNING IMPLICATIONS**

5.1 In view of the issues relating to the Cemetery Road/Cessnock Road junction raised by the Order it is considered that the stopping up of Cemetery Road as proposed will not be feasible as a means of traffic management in relation to planning consents 03/0561/FL and 03/0600/OL referred to in Section 2 above.

5.2 As the above planning consents are conditioned to the effect that closure of Cemetery Road take place before works on the site commence it is noted that the applicant Mr Cochrane could submit a new application for his proposed residential development or alternatively for deletion of the relevant conditions relating to the requirement to stop-up Cemetery Road. Were the latter option taken it would be necessary for a Section 75 Agreement to be effected in terms of obligation 1 as presented for consideration by the Committee on 23 January 2004 and referred to in Section 2 above.

## **6. LEGAL IMPLICATIONS**

6.1 There would be legal implications for the Council were the applicant Mr Cochrane to make planning applications for deletion of the relevant conditions relating to the requirement to stop-up Cemetery Road, as indicated in Section 5 above because it would be necessary for a new Section 75 Agreement to be made in terms of obligation 1 as previously considered by the Committee and described above.

## **7. FINANCIAL IMPLICATIONS**

7.1 While the applicant cannot comply with the terms of the above conditions on planning consent Numbers 03/0561/FL and 03/0600/OL, because they are negative suspensive conditions, the applicant himself is not being specifically requested to carry out the works required by the conditions and therefore no compensation to the applicant from the Council would be forthcoming were the relevant conditions to be deleted from the consents, and potentially replaced by a clause in a legal agreement requiring a footpath similar to that originally recommended to Committee in January 2004.

## **8. RECOMMENDATION**

**8.1 It is recommended that,**

**(i) the Committee note the current position relating to the Motor Vehicle Prohibition (Cemetery Road, Galston) Order 2004 as detailed above, and agree, in principle, that the order not be pursued further.**

**(ii) that the Head of Planning, Development and Building Standards inform the applicant and the objectors to the above Order of the Committee's decision.**

**Alan Neish  
Head of Planning, Development and Building Standards**

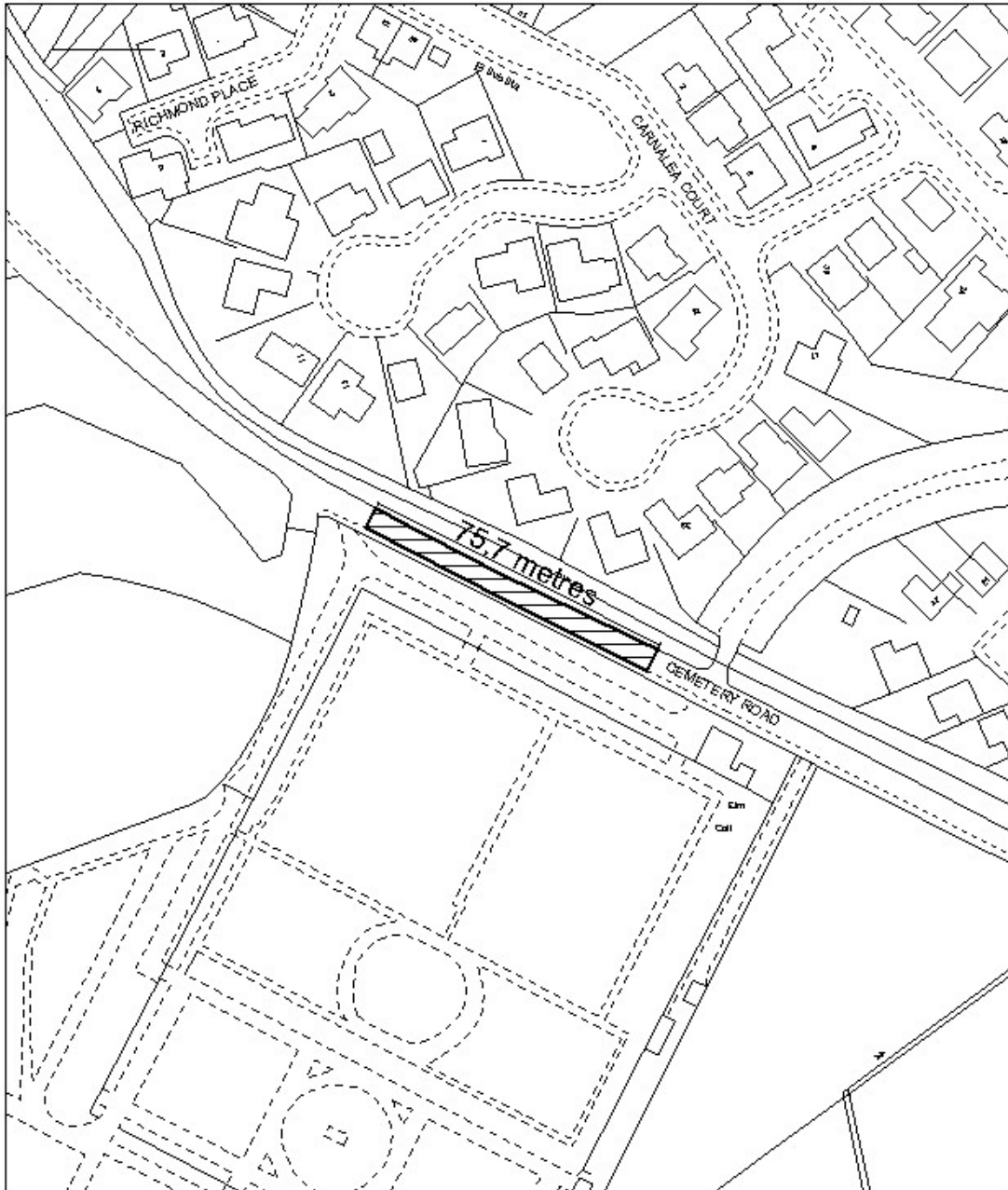
14 January 2005  
(JT/SA/MMM)



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### **LIST OF BACKGROUND PAPERS**

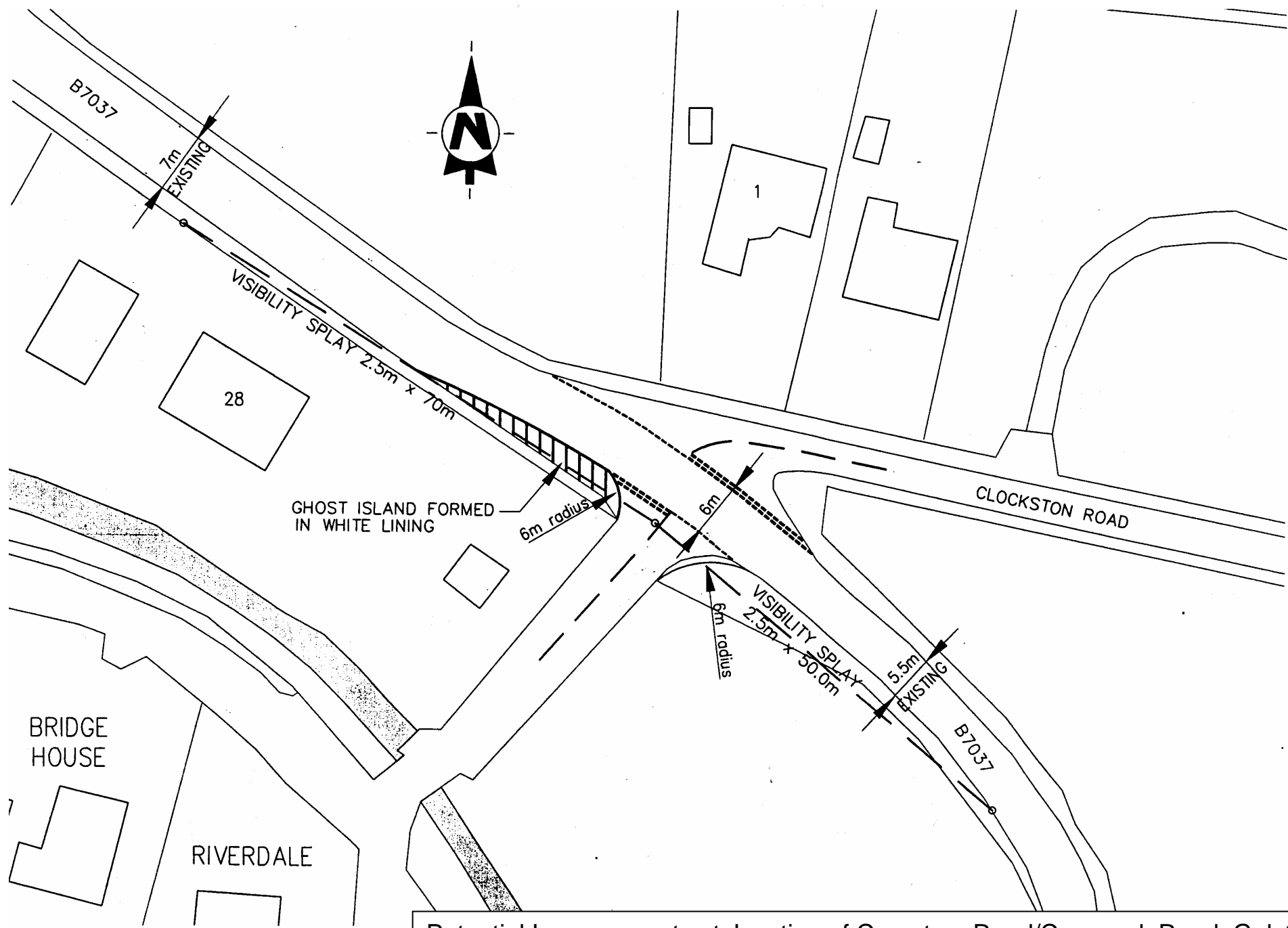
1. Motor Vehicle Prohibition (Cemetery Road, Galston) Order 2004.
2. Planning consent 03/0561/FL for proposed erection of dwellinghouse and proposed change of use from agricultural to residential at Plot 1, Cemetery Road, Galston, dated 19 March 2004.
3. Planning Consent 03/0600/OL for proposed residential development for 3 plots at Plots 2, 3 and 4 Cemetery Road, Galston dated 19 March 2004.

Motor Vehicle Prohibition (Cemetery Road, Galston)



<p>Title/Location <b>Motor Vehicle Prohibition (Cemetery Road, Galston) Order 2004</b></p>	<p>East Ayrshire Council Planning, Development &amp; Building Standards Division 6 Croft Street Kilmarnock KA1 1JE Tel: (01563) 576790 Fax: (01563) 576774 E-Mail: <a href="mailto:Planning@east-ayrshire.gov.uk">Planning@east-ayrshire.gov.uk</a> <b>SCALE: 1:1250</b>      <b>Date: 12/01/2005</b></p> 
<p>SITE  <b>Area to be Stopped Up</b> <span style="border: 1px solid black; padding: 2px;">SU/18</span></p>	

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Potential Improvements at Junction of Cemetery Road/Cessnock Road, Galston

