

Stirling Council

Agenda Item No. 8

Planning and Regulation
Panel

Date of
Meeting: 1 May 2018

Not Exempt

Application under Section 42 of the Town & Country Planning (Scotland) Act 1997 to remove Conditions 5 and 6 of planning permission 15/00843/FUL at Land To West And South Of Kepphill, Stirling - Mr and Mrs I and F Johnston - 18/00074/FUL

Purpose & Summary

The above application has been referred to the Planning and Regulation Panel by Councillor Alistair Berrill on the grounds of road safety.

This report forms the Report of Handling for the planning application in compliance with the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.

Recommendations

Panel is asked to:

1. refuse for the following reasons:
 - 1.1 Given the existing single width of the Hill of Arnmore farm access, any vehicle accessing the site from the approved dwelling house reference 15/00843/FUL would require to wait on the A811 public road, until the vehicle has egressed from the application site, should another vehicle be travelling along the private access road. Any vehicle waiting on a public road where vehicles are travelling at, or in excess, of 60 miles per hour is detrimental to road safety. The proposed development will increase the number of vehicles using this access and therefore increases the likelihood of an accident. The removal of Condition 5 which seeks access improvements would be detrimental to road safety.
 - 1.2 Condition 6 states the access must be constructed to ensure no surface water or loose material will discharge onto the public road. A smooth running surface is required to avoid vehicles skidding when egressing from the site and to provide a safe access. The removal of Condition 6 is therefore contrary to road safety.

Resource Implications

Not applicable.

Legal & Risk Implications and Mitigation

Not applicable.

1. Background

1.1. N/A.

2. Considerations

The Site

2.1. The application site is located adjacent to the A811, approximately 1 mile to the east of Arnprior.

The Proposal

2.2. The application is to remove Conditions 5 and 6 applied to the previous planning permission for the erection of a dwelling house at Kepphill – reference 15/00843/FUL.

2.3. These conditions are:

2.3.1 **Condition 5: Commencement on Construction of Access:** Prior to any work commencing on construction of the dwelling house, the access improvements shall be implemented in full. For the avoidance of doubt, the required improvements are: Vehicular access: the existing access shall be widened to 5.5 metres with a 6.0 metre radii kerb. The improved access shall continue at 5.5 metres wide for a distance of 10.00 metres from the public road.

Reason: As the access improvements are of significant importance that it is imperative they are undertaken as a matter of priority to maintain road safety in the locality.

2.3.2 **Condition 6: Access Road:** The access road from the junction of the public road shall be constructed to ensure that no surface water or loose material will discharge onto the public road.

Reason: To ensure there is no detriment to the surface of the public road.

2.4. From the covering letter, submitted by the agent acting on behalf of the applicant, it is understood the land required to provide the upgrade falls outwith the applicant's control and permission has not been granted by the land owner for the existing road upgrades to be carried out.

Previous History

2.5. The site is the subject of a previous planning permission in principle for the erection of a one and a half storey dwelling house and improvements to existing access to A811 Garden Ground To West And South Of Kepphill Stirling –reference

11/00452/PPP granted through the Local Review Body, and full planning permission for the erection of a dwelling house and improvements to existing access to A811 Land To West And South of Kepphill Stirling – reference 15/00843/FUL.

Consultations

Arnprior Community Council:

- 2.6. Object on the grounds of road safety. The reasons are:
- 2.6.1 The Council clearly establishes that in Condition 5, access improvements are of significant importance, access improvements are imperative, and access improvements are undertaken as a matter of priority, for access improvements are undertaken to maintain road safety. To maintain road safety the Council imposes Condition 6. Condition 5 and 6 (reference 15/00843/FUL) establishes a link between ‘access improvements’ and ‘maintaining road safety’; to maintain road safety, access improvements are required.
 - 2.6.2 The applicant does not provide material evidence to demonstrate in the application that road safety will be maintained, or be improved, from what has been set out in Condition 5 and 6, as above. That the removal of Condition 5 and 6 would compromise the link, above, established by the Council between ‘access improvements’ and ‘maintaining road safety’, that is that to maintain road safety, access improvements are required. The proposal would have the result that the proposal would be subject to no road safety measures, and, it is the consideration of Arnprior Community Council, that the application should be rejected on the grounds of road safety.
 - 2.6.3 If the Council is minded to set aside Condition 5 and 6 in the context of previous decisions, that is the severe deficiency in visibility distances towards the access of vehicles on the A811, and from the access for vehicles leaving the development, Arnprior Community Council would urge the Council to ensure at least some measure of control of risk and warning for all drivers on the A811 passing or using this junction, by reducing the speed limit such that the visibility distance is closer to current national standards, and by adoption of robust measures in road signage to clearly warn public users of the A811 (travelling west past the access) of the dangerously short sight distance to the junction and the danger of running into emerging or turning slow moving vehicles in the blind spot before them. Further, in this event, Arnprior Community Council would urge that, to minimise the risk to road safety, for the time period of the works, access improvements and construction work, that it is made a condition that, prior to works commencing, a planned access to and from the site be submitted to the Council, for approval. This, with due regard, would also demonstrate consideration of access activities of the neighbouring properties.

Roads Development Control:

- 2.7. Object on grounds of road safety. Conditions 5 and 6, along with another requested condition for improved visibility sightlines of 2.5 metres by 215 metres, were requested to ensure the access onto the A811 is of sufficient standard to cater for the vehicle movements, both existing and proposed, through the junction. It is considered that removal of Conditions 5 and 6, would have a detrimental impact on the safety of the junction, should the development proceed.

Representations

- 2.8. Two objections have been received from adjacent neighbours on the grounds of road safety which are summarised as follows:
- 2.8.1 The application to remove Conditions 5 and 6 causes us considerable concern on grounds of safety. Approval, in principle for a dwelling house at land to the rear of Kepphill, was granted for this development in 2012 following consideration by the Local Appeal Body. The application had originally been refused on road safety grounds as the access to the development failed to meet national highway splay standards by a very large margin. Only 110 metres was possible instead of the national standard of 215 metres. The Appeal Body imposed the improved access conditions as a means of making the access less unsafe.
- 2.8.2 When full planning permission was granted in 2016 the Conditions were clearly set out and confirmed those previously established by the Appeal Body. Since that time there has been no change in the road arrangements or geometry. Contrary to the application submission, this section of the road is considered as high risk and extreme caution requires to be exercised when entering and leaving the driveway to the adjacent property at Kepphill. The erection of a new dwelling house with access from the farm access road will greatly increase traffic on a daily basis on the farm lane and the failure to make the improvements would very significantly increase the risk to all road users of the A811.
- 2.8.3 The risk presented by the removal of the two conditions is acknowledged in the submission as it is suggested that the Council might wish to impose a new condition that a sign be erected, and maintained in perpetuity, to give advance warning of a concealed entrance. The very fact that the application acknowledges the risk created by the removal of the two conditions serves to underline the above road safety concerns.
- 2.8.4 The application does not advance any objective justification for the removal of the Conditions other than that the developers have so far failed to secure the land necessary to complete the improvements to the access. Indeed, in supporting application letter acknowledges that the access improvements "would have been beneficial from a highway perspective" and goes on to state that the developers' failure to undertake the works required by Conditions 5 and 6 will cause the planning permission to lapse. This does not constitute grounds for removing the Conditions.
- 2.8.5 In granting the development full planning permission, with Conditions attached, the Planning Authority has shown substantial flexibility. The Conditions are required to mitigate the present and continuing risk to all road users of the A811. Their removal, as proposed, would be a perverse and irrational decision that would lead to greatly increased risk.
- 2.8.6 The application does not take into account the farm business, which uses the adjacent farm track to access the farm at Hill of Annmore, as the farm access is in regular use by the farmer.

Local Development Plan Policy

- 2.9. Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) indicates that in making any determination under the Planning Acts, regard is to be had to the Development Plan. The determination shall be made in accordance with the Plan unless material considerations indicate otherwise. The following

provisions of the Development Plan are considered relevant to the consideration of this application.

- 2.10. Local Development Plan Policy for Housing in the countryside – Policy 2.10 and the related Supplementary Guidance SG10, and Policy 1.1 Site Planning.

Other Planning Policy

- 2.11. Not applicable.

Assessment

- 2.12. As there is an extant full planning permission for the siting and design of a dwelling house on the site with conditions to regulate road safety, and the application is to remove conditions relating to access geometry and surface finish, the determining issue is whether the removal of the Conditions would result in a material reduction in road safety of the approved access to the site for the dwelling house.
- 2.13. Given the existing single width of the Hill of Arnmore farm access, any vehicle accessing the site from the approved dwelling house reference 15/00843/FUL is required to wait on the A811 public road, until the vehicle has egressed from the application site, should another vehicle travelling along the private access road. Any vehicle waiting on a public road where vehicles are travelling at, or in excess, of 60 miles per hour is detrimental to road safety. The proposed development will increase the number of vehicles using this access and therefore increases the likelihood of an accident. The removal of Condition 5 would be detrimental to road safety.
- 2.14. Condition 6 states the access must be constructed to ensure no surface water or loose material will discharge onto the public road. A safe access provides a smooth running surface to avoid vehicles skidding when egressing from the site. The removal of Condition 6 is contrary to road safety.
- 2.15. It is considered that removal of Conditions 5 and 6 would have a detrimental impact on the safety of the approved junction to the approved house reference 15/00843/FUL and warrants refusal.

3. Implications

Equalities Impact

- 3.1 This application was assessed in terms of equality and human rights. Any impact has been identified in the Considerations/Assessment section of this report.

Sustainability and Environmental

- 3.2 An Environmental Impact Assessment is not required.

Other Policy Implications

- 3.3 All relevant policies have been set out in section 2.

Consultations

- 3.4 As set out in section 2.

4 Background Papers

4.1 Planning Application file 18/00074/FUL. File can be viewed online at:

<https://pabs.stirling.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P3VJL5PIN3X00>

4.2 List of Determining Plans:

Stirling Council Plan No.	Name	Ref on Plan
01	General	2015_0008/00

5 Appendices

5.1 None.

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Approved by: Brian Roberts
Senior Manager Infrastructure

Signature:

Date:
20 April 2018



Details of Convener(s), Vice Convener(s),
Portfolio Holder and Depute Portfolio Holder
consulted on this report:

N/A

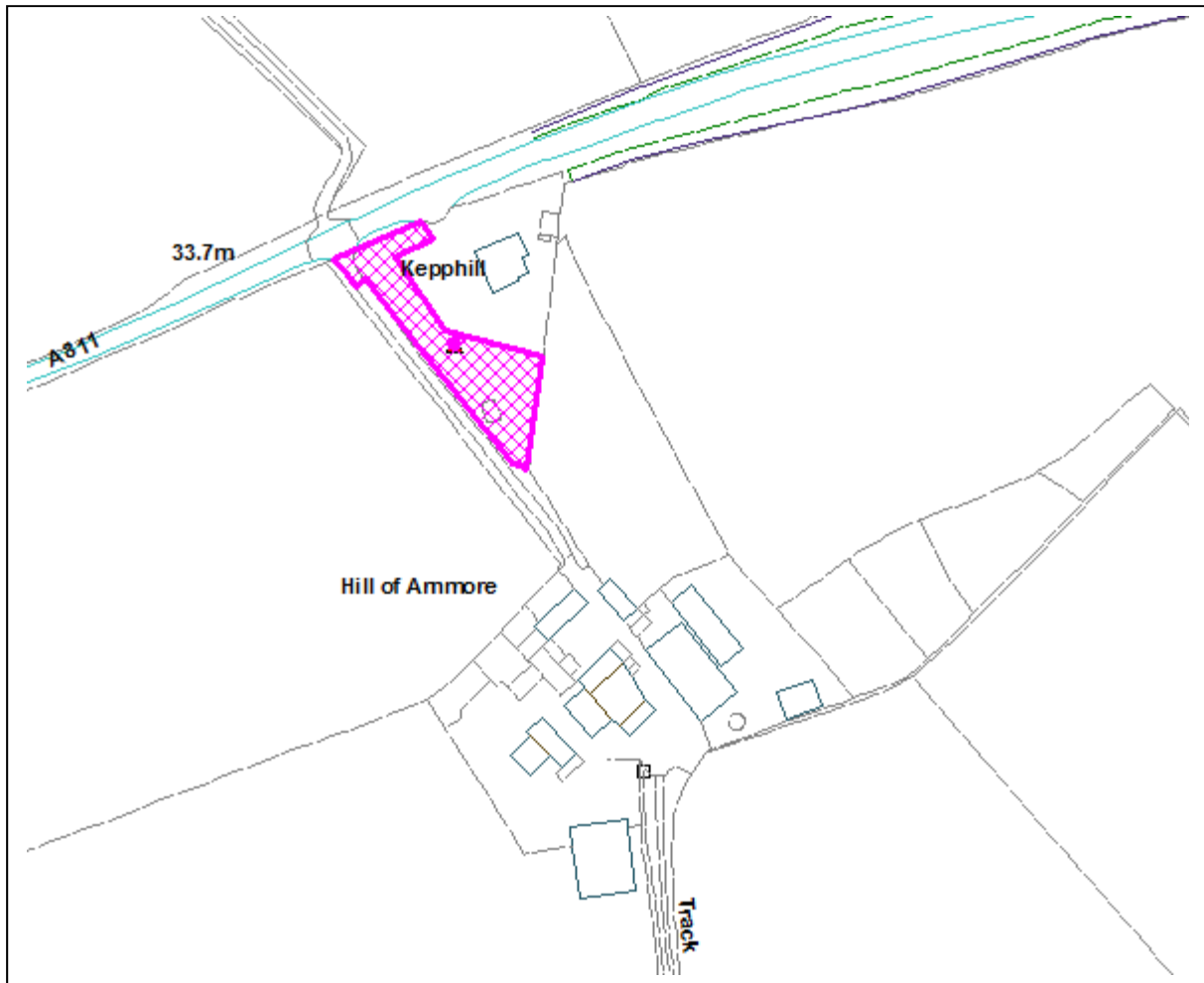
Wards affected: Ward 2 Forth & Endrick

Key Priorities: N/A N/A

Key Priority Considerations: N/A

Stirling Plan Priority Outcomes:
(Local Outcomes Improvement Plan) N/A

Location of Development



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