

Decision

attached to that consent (21/02709/PP). All of the conditions relate to road improvements and access arrangements required to mitigate the effects of the proposed development on the local road network. On 6 April 2023, however,

The principle of development

11. Before addressing the matters in dispute, I agree with the parties that the erection of a dwelling house on the appeal site is acceptable in principle. The site is located within the settlement boundary of Rhu in which the policies of the LDP support in principle small-scale development (5 dwellings or less). The scale of the proposed dwelling, its design and choice of materials are also considered acceptable and in conformity with relevant LDP policies and supplementary guidance.

Condition 3

12. Condition 3 requires the provision of a 3.5 metre wide road, constructed to adoptable standards, between the appeal site and A814 Gareloch Road, including the provision of a passing place (at least 3.5m wide) on the appeal site. The road is to be constructed to adoptable standards, including the provision of a passing place (at least 3.5m wide) on the appeal site.

presented with detailed evidence on this matter, it is reasonable to assume that the costs involved in bringing the road up to an adoptable standard would be significant, given the distance between the appeal site and the A814 junction and the range of measures indicated on drawing 19/20/R8 A. In this regard, Circular 4/1998 cautions against the imposition of conditions which are unduly restrictive and would effectively nullify the benefits of a permission.

24. In summary, for the reasons that I set out above, I consider the requirements of condition 3, as proposed by the council, are unnecessary and unreasonable. Whereas, given the location, nature and scale of the proposed development, those proposed by the appellant incorporate the minimum works necessary to allow Ferry Road to function safely and effectively. Furthermore, I am satisfied that the proposed improvements can be secured by the revised condition suggested by the appellant.

Condition 4

25. The matter in dispute relates to the vision splay measurements at the appeal site's driveway access with Ferry Road. The measurements set out in the condition are based on advice contained in Designing Streets and Roads Guidance for Developers, the latter states; the normal requirement is for an 'x' distance of 2.4 metres; a 'y' distance determined by the speed of traffic on a public road (for example. 25 metres on a public road with a speed limit of 20 mph); a vertical distance of 1.05 metres. The appellant considers that there is scope to reduce the 'x' and 'y' values given the character of Ferry Road, the nature of its use and its location within a conservation area.

26. Taking these matters in turn, Designing Streets (page 34) states that a minimum 'x' value of 2 metres may be considered [appropriate] in some very lightly-trafficked and slow speed situations. To this end, a number of the appellant's drawings show a set-back of 2 metres. Others, however, show a set-back of 2.4 metres. Given the uncertainty, I asked the appellant to confirm his position on this matter. In response, with reference to guidance set out in Designing Streets and the site's location in a conservation area, the appellant strongly considers that an 'x' value of 2 metres is appropriate in this instance. The appellant adds, an 'x' value of 2 metres would also result in less disturbance to existing stone walls and reduce harm to the character and appearance of the conservation area. The council's position is that the 'x' value should remain 2.4 metres.

27. While it is possible to achieve the sightline visibility splays at the driveway access to Ferry Road sought by the council, the appellant correctly states that the measurements quoted in the condition relate to junctions on a public road where the speed limit is 20 mph. Ferry Road is a private road, and the appeal site access is not a junction; it is an existing gated private driveway. Furthermore, Ferry Road is traffic-calmed (speed bumps) and signposted as a 10 mph zone.

28. With regard to the 'y' value, firstly, I note that the 'y' distance has been reduced to 25 metres from 42 metres to correct an error in the drafting of decision notice 20/01150/PP. Secondly, given that it is not possible for vehicles to overtake on Ferry Road, the parties agree that the 25m 'y' value is appropriate.

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conservation area, notably by minimising alterations to the stone boundary wall and avoiding any interference with existing mature trees.

29. In conclusion on this matter, while condition 4 is necessary and reasonable in its intent, I find that it should be varied to take account of a revised visibility splay. I am satisfied that the appellants proposed condition 4 would secure and maintain a visibility splay of 2 x 25 x 1.05 metres, as shown on drawing numbers 22034_006 rev B and 19/20/R10 rev B. Also, I am satisfied that the proposed improvements would address the road safety concerns of the council.

Condition 5

30. Condition 5 sets out the requirements for the construction of the private access to the appeal site with reference to the council's standards. While the council believes that the condition should remain unchanged and attached to the planning permission, the appellant believes that it is unnecessary.

31. I have assessed the council's standard detail for the creation of a private driveway, as shown on drawing number SD 08/002 rev A, and comments set out in Appendix A to the report of handling, against the appellant's drawings 22034_006 rev B and 19/2-/R10 rev B. Firstly, I note that the drawing relates to the creation of a private driveway onto a public road; Ferry Road is a private road. Secondly, while not directly relevant to the driveway itself, the report of handling makes reference to the width of Ferry Road as being unacceptable. I address this matter in respect of condition 3 above and conclude that it meets, or is capable of meeting, the requirements of national guidance. Thirdly, the appellant's drawing number 19/20/R10 rev B shows the width of the driveway at the point of entry to be in excess of the 4.5 metres minimum requirement; the drawing is produced at 1:200 scale and is easily measured.

32. I am satisfied that the appellant has demonstrated that the relevant requirements of the council's standard detail have been incorporated into the proposed planning permission. I find that the appellant has demonstrated that the relevant requirements of the council's standard detail have been incorporated into the proposed planning permission.

accord with its roads guidance. The condition has been amended from that originally proposed to require details of the driveway gradients to be submitted to the planning authority for its written approval.

35. As I note above, details of the driveway gradients and the lengths over which it would rise are clearly set out on drawing number 19/20/R10 rev B. As such, I agree with the appellant that the condition is unnecessary and should be removed. Nor is it reasonable to require the information to be submitted for further approval when it is other unspecified elements of the proposal which are deemed unsatisfactory. In any event, as I note above, I find the private driveway arrangements with Ferry Road acceptable in all other respects.

Condition 8

36. Condition 8 requires the provision of car parking spaces within the curtilage of a dwelling house to be in accordance with the council's guidance as set out in Policy SG LDP TRAN 6 (vehicle parking provision). The parties agree that the number (three) and dimensions of the parking spaces accord with the guidance. However, as with condition 7, details of parking arrangements are set out on a drawing which, in the view of the council, also includes other unspecified details which do not accord with its roads guidance. As such, it believes that the condition should remain. The condition has been amended from that originally proposed to require details of parking provision to be submitted to the planning authority for its written approval.

37. The parking arrangements are clearly set out on drawing number 19/20/R10 rev B. They accord with the council's roads guidance. As such, and for the same reasons that I set out in paragraph 35 above, I agree that the condition is unnecessary and should be removed.

Other matters

38. In paragraph 6 above, I refer to an incorrect set of drawings that were stamped approved and issued by the council. Given that this appeal is made under Section 42 of the 1997 Act, it is in effect seeking a new planning permission. Given my decision to allow the appeal, a revised schedule of approved drawings is provided in the table that forms part of condition 1, including those relating to the construction of the dwelling house and the landscaping of the site.

39. The Rhu and Shandon Community Council objects to the proposed development. However, as noted by the appellant and confirmed by its representatives at my site inspection, it is the road improvements sought by the council and their effects on the character and appearance of the conservation area that is of concern to the community council. Also, despite some confusion regarding the nature of the application, this view is shared by almost all those that made representations to the council on the application; essentially village residents and visitors to Rhu Point do not wish to see Ferry Road improved to an adoptable standard. I deal with this matter in detail above in relation to condition 3.

Appellant's proposed conditions

40. The appellant suggests that the proposed improvements to Ferry Road, access to the appeal site and parking and turning provision within it can be secured through the imposition of three conditions. I have considered the suggested conditions and agree that they would secure the improvements proposed. Furthermore, with minor amendments they satisfy the tests of Circular 4/1998. With regard to replacement condition 3, for clarity, I have added the title of the drawings referred to. In replacement condition 4, I have

Standard soil management condition

Where the development involves ground breaking works, soil management should be undertaken in compliance with the established best practice set out in the DEFRA publication 'Construction Code of Practice for the Sustainable Use of Soils on Construction Sites 2009', unless an alternative methodology for the sustainable management of soil is submitted to and approved in writing by the planning authority.

Additional conditions

- The development shall be implemented in accordance with the details specified in the drawings and reports that form part of applications 20/01150/PP, dated 2 July 2020, and 21/02709/PP, dated 21 December 2021, and listed in the table below, unless the prior written approval of the planning authority is obtained to amend the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

	Drawing number reference and revision	Dated	Title
1.	19/ 20/ R01 rev A	21.03.20	Location plan
2.	19/ 20/ R06 rev A	29.05.20	Site photographs 1, 2 and 3
3.	19/ 20/ R07 rev C	22.06.20	Site photographs 4, 5 and 6
4.	19/ 20/ R08	-	Site photographs 7, 8 and 9
5.	19/ 20/ R09	-	Site photographs 10 and 11
6.	19/ 20/ R02 rev C	22.06.20	Site and roof plan as proposed
7.	19/ 20/ R03 rev A	24.05.20	First floor plan as proposed
8.	19/ 20/ R04 rev B	27.05.20	North and west elevations as proposed
9.	19/ 20/ R05 rev B	27.05.20	South and east elevations as proposed
10.	19/ 20/ 10	-	Cross section X-X as proposed
11.	19/ 20/ 11	-	Proposed landscape and planting layout
12.	4246/1	24.08.18	Topographical survey
13.	-	26.06.20	Tree protection report
14.	-	2020	Design and Access Statement
15.	ECS 22034_006 rev B	04.07.22	Ferry Road proposed improvements
16.	19/ 20/ R2 rev A	01.02.22	Proposed passing places
17.	19/ 20/ R4 rev D	25.01.23	Proposed traffic calming measures
18.	19/ 20/ R5 rev D	25.01.23	Combined traffic calming measures
19.	19/ 20/ R7 rev D	-	Ferry Road proposed improvements
20.	19/ 20/ R9 rev D	25.01.23	Ferry Road extent of resurfacing
21.	19/ 20/ R11	-	Plan of junction with A814
22.	19/ 20/ R12 rev A	23.04.23	Plan of junction with Rosslea Hotel

2. Notwithstanding the effect of condition 1; prior to the commencement of development the developer shall submit written evidence to the planning authority that an agreement with Scottish Water is in place for the connection of the proposed development to the public water supply.
3. Notwithstanding the effect of Condition 1; prior to the first occupation of the dwelling house hereby approved, the following improvement works to the access road are required, the provision of a private access road, between the A814 Gareloch Road and the entrance to the approved dwelling house, incorporating the improvements and traffic calming measures shown on drawing numbers; ECS 22034_006 rev B (Ferry Road – proposed improvements; 19/20/R2 rev A (passing places); 19/20/R4 rev D (traffic calming); 19/20/R5 rev D (traffic calming); 19/20/R7 rev D (Ferry Road improvements); 19/20/R9 rev D (resurfacing); 19/20/R11 (passing place); 19/20/R12 rev A (passing place).
4. Notwithstanding the effect of Condition 1; prior to the first occupation of the dwelling house hereby approved, the access to the dwelling house shall be formed in accordance with the details shown on drawings ECS 22034_006 rev B and 19/20/R10 rev B. Notwithstanding the dimensions shown on each drawing, the access shall incorporate visibility splays measuring 2 x 25 x 1.05 metres, and these shall be maintained in perpetuity, unless otherwise agreed in writing with the planning authority.
5. Notwithstanding the effect of Condition 1; prior to the first occupation of the dwelling house hereby approved, the parking and turning provisions as shown on drawing number 19/20/R10 rev B shall be implemented in full. Thereafter, the approved parking and turning provisions shall be maintained in perpetuity, unless otherwise agreed in writing with the planning authority.
6. Notwithstanding the effect of Condition 1; prior to works commencing on site, samples of the proposed materials to be used for the external walls and roof of the development hereby approved shall be submitted to and approved in writing by the planning authority.