
NORTH AYRSHIRE COUNCIL

17th January 2018

Planning Committee

Locality	Garnock Valley
Reference	17/01206/ALO
Application Registered	22nd November 2017
Decision Due	22nd January 2018
Ward	Kilbirnie And Beith

Recommendation	Approved with no Conditions
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Location	Townend Of Shutterflat Farm Beith Ayrshire KA15 2LW
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Applicant	Mr & Mrs J Lamont
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Proposal	Discharge of Section 75 obligation in respect of planning permission 03/00011/PP for the tipping of inert material and land improvement
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1. Description

This can be ascertained by reference to the attached plans and photographs.

This report relates to an application under the provisions of Section 75A of the Town and Country Planning (Scotland) Act 1997. The application seeks permission to discharge a legal obligation that was entered into under Section 75 of the Town and Country Planning (Scotland) Act 1997 in relation to the tipping of inert waste material for land improvement purposes at a former quarry within the lands of Townend of Shutterflat Farm near Beith (ref. 03/00011/PP).

The 2003 planning application was reported to the Council's Planning Committee at its meeting on 4th May 2004. The Committee agreed to grant planning permission subject to a legal agreement being entered into and to a number of conditions. The heads of terms for the agreement sought to address the following:

- (i) the upgrading, at the applicant's expense, of the single track public road (Coldstream Road), which leads to the site from the B777;
- (ii) the procurement, by the applicant, of an ongoing roads maintenance bond and

(iii) the restoration of the site by the applicant within 5 years of the commencement of the infilling works.

The Section 75 obligation was subsequently signed and registered in January 2007, and planning permission was then granted in February 2007. The Council's records indicate that the use had commenced on or around February 2010. Based on this commencement date, the permission would then have lapsed five years later during the early part of 2015.

The road upgrading works were undertaken during 2008, and consisted of the formation of a series of inter-visible passing places on Coldstream Road in addition to the strengthening and resurfacing of the road. The roads bond provides access to a sum of money for the maintenance of Coldstream Road and Coldstream Bridge by the Council in the event of damage from heavy traffic using the route as a consequence of the development.

During 2011, an application was submitted seeking a reduction in the value of the roads bond (ref. 11/00593/PP). The applicants stated that the infilling operations had been attracting fewer vehicle movements onto Coldstream Road than had originally been anticipated, and hence, a lower level of bond could be justified. Following negotiation, the Planning Committee agreed that a 50% reduction in the value of the bond would be appropriate. The Section 75 obligation was duly amended to reflect this change.

The applicant has since advised that infilling operations have ceased some time ago. Inspections during 2017 have indicated that the land has been restored to a satisfactory condition for the purposes of rough grazing. Although the infilling operations have now been completed, the requirement to service the road bond is ongoing due to the Section 75 obligation.

The site is allocated as countryside in terms of the adopted Local Development Plan, and is within the farm holding of Townend of Shutterflat.

Relevant Planning History

03/00011/PP for Tipping of inert material and land improvement Approved subject to Conditions on 12.02.2007.

Relevant Development Plan Policies

2. Consultations and Representations

There is no requirement for neighbour notification nor other forms of publicity for this category of application.

Consultations

NAC Roads: - No objections

Response: Noted.

Publicity:- Not Advertised

Site Notices:- No Site Notice

3. Analysis

The Section 75 obligation is a title burden on the application site as a consequence of granting planning permission for the tipping of inert waste material in 2007. The purposes of the obligation have now been served. There is not any ongoing requirement for a roads bond on Coldstream Road following the cessation of heavy haulage traffic on the route and the satisfactory restoration of the land at Townend of Shutterflat. However, the passing places which were formed on Coldstream Road will remain permanently, with future maintenance by the Council.

Given the above, it is appropriate that the Section 75 obligation should now be discharged in order to relieve the applicants of the burdens placed on the property title.

Legal Services will require an instruction to progress the formal discharge of the Section 75 Agreement following the decision on this application.

4. Full Recommendation

Approved with no Conditions



Karen Yeomans
Executive Director
Economy & Communities

For further information please contact Mrs Fiona Knighton Planning Officer on 01294 324313.

Appendix 1 – Location Plan

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