
NORTH AYRSHIRE COUNCIL

24 May 2023

Planning Committee

Title:	Notice under Sections 207 and 208 of the Town and Country Planning (Scotland) Act 1997: Site to North of Kirn Point, Lochranza, Isle of Arran
Purpose:	To seek approval to promote a Path Diversion Order under sections 207 and 208 of The Town and County Planning (Scotland) Act 1997 to divert the Right of Way SCU123/1.
Recommendation:	That the Committee grants authority to proceed with promoting a Path Diversion Order for Right of Way SCU123/1 which runs through Site to North of Kirn Point, Lochranza, Isle of Arran.

1. Executive Summary

1.1 The approval of the Planning Committee is sought for the promotion of a Path Diversion Order for the Right of Way SCU123/1 which runs through Site to North of Kirn Point, Lochranza for which Planning Permission in Principle 22/00890/PPP was granted by Committee on 25th January 2023 for four residential plots and re-aligned access path.

2. Background

2.1 Planning Permission in Principle 22/00890/PPP was granted by the Planning Committee on 25th January 2023 for the division of an undeveloped site adjoining Newton Shore, Lochranza, Isle of Arran to create four residential house plots and re-aligned access path.

2.2 A recorded unsurfaced Public Right of Way cuts across the site c.45m from its northern edge, from Newton Road at its west side to the rocky hillside at its east side. As part of the development proposal, the developer had indicated that it was planned to re-locate the path some 10 metres further north so that it would run between the indicated Plots 1 and 2 of the development site. The path through the development site would be widened to 1m wide and surfaced with crushed stone.

2.3 The developer, John Thomson Construction Ltd., would carry out the diversion works at their cost and wishes to proceed with this part of the development approved in principle to allow the four plots to be de-lineated and marketed for sale. Further detailed planning applications for the details of the houses would then require to be submitted and approved before any further development work could proceed.

2.4 The Council's Access Officer, as part of the Active Travel and Transport service, was consulted on the application 22/00890/PPP and did not object to the proposed diversion, subject to a Path Diversion Order being made prior to any works.

2.5 Section 208(1) of The Town and Country Planning (Scotland) Act 1997, as amended,

(The Act) provides that an authority may, by order, authorise the stopping up or diversion of any footpath or bridleway if they are satisfied that it is necessary to do so in order to enable a development to be carried out in accordance with a planning permission.

Section 208(2) states that an Order may, if the planning authority are satisfied that it should do so:

- (i) provide for the creation of an alternative path as a replacement for the one stopped up or diverted;
- (ii) preserve the rights of statutory undertakers in respect of their apparatus which is under, in, on, over, along or across the path which is to be diverted; or
- (iii) require any person named in the order to pay or make contributions in respect of the cost of carrying out any such works.

2.6 The process of carrying out a Path Diversion Order involves:

- i. Notice of the proposed order being published in the Edinburgh Gazette and a local newspaper (in this case, the Arran Banner), being served on statutory undertakers and owners/occupiers of the land involved and a Site Notice being displayed at both ends of the Path;
- ii. Allowance of a 28-day period for objections/representations;
- iii. If there are no objections, the authority may confirm the order itself;
- iv. If there are objections, the Order goes to the Scottish Ministers for confirmation and an inquiry may be required; and
- v. Confirmation of the order must be advertised/notified in the same manner as notice of the proposed order

2.7 Should the committee approve the promotion of such an Order, the notification process would be carried out shortly thereafter.

3. Proposals

3.1 It is therefore recommended that the Planning Committee approve the promotion of a Path Diversion Order for the right of Way SCU123/1.

3.2 If no objections are received to the Path Diversion Order, in the interest of expediency, it is recommended that the Order be confirmed under delegated powers by the Chief Planning Officer.

4. Implications/Socio-economic Duty

Financial

4.1 None. Under Section 208 of The Act, the Planning Authority can require any other authority or person specified to make payments, repayments, or contributions to the cost of doing work associated with the Order. In this instance, the developer, John Thomson Construction Ltd. would be expected to pay the costs of the Path Diversion Order. The developer has confirmed the intention to carry out the works.

Human Resources

4.2 None

Legal

4.3 None

Equality/Socio-economic

4.4 None

Climate Change and Carbon

4.5 None

Key Priorities

4.6 The proposed Path Diversion Order would facilitate a development proposal which aligns with the Council Plan Key Priorities of 'Vibrant, welcoming and attractive places'; and 'A sustainable environment'.

Community Wealth Building

4.7 None

5. Consultation

5.1 None

Russell McCutcheon
Executive Director (Place)

For further information please contact **Neil McAteer, Planning Officer** on **01294 324316**.

Background Papers

Appendix 1 – Location Plan

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