



SCOTTISH EXECUTIVE

Directorate for Planning and Environmental Appeals Appeal Decision Notice

Decision by DGB Duncan, a Reporter appointed by the Scottish Ministers

- Planning Appeal reference: P/PPA/270/466
- Site Address: Land to the west of Station House, Scotscalder Station, Halkirk
- Appeal by David Eason and Christine R Eason against the decision by The Highland Council
- Application 06/00440/OUTCA for outline planning permission dated 2nd August 2006 refused by notice dated 22nd December 2006.
- The development proposed is the erection of two dwelling houses, septic tanks and soakaways and formation of vehicular access
- Date of site visit by Reporter: 9th August 2007

Date of appeal decision: 11th September 2007

Decision

I dismiss the appeal and refuse outline planning permission.

Reasoning

1. The determining issue in this appeal is whether the proposed development would give rise to concerns for traffic and road safety. The proposal conforms to the development plan (local plan Policy PP1).
2. **The council contends** that the proposal does not meet the required visibility splay requirements of 2.5m x 150m in both directions. The Highland Council Road Transport Guidelines for New Development (RGFND) are guidelines that the council has approved as a policy. In practice existing roads and accesses seldom conform to current standards. Scotscalder railway station is in a rural location and is unlikely to generate significant traffic, either commuter or goods. No contrary objective evidence has been supplied by the applicants.
3. The visibility splay to the south was surveyed at 2.5m x 73m. The visibility from the access is severely restricted by the hump backed masonry bridge and the road's vertical alignment. The recommended stopping distances in the Highway Code are intended for emergency braking to avoid collisions. The visibility requirements recommended in RGFND, which is consistent with the Design Manual for Roads & Bridges (Scottish Executive) are intended to allow sufficient visibility to allow motorists to modify their speeds without resorting to emergency braking. The appellants' use of the stopping distance of 73m quoted in the Highway Code is not considered acceptable. It is not considered prudent to permit the increased use of a junction that only achieves 48.7% of the required visibility splay.
4. The use of the site as a goods yard and for 'line side' train loading is not disputed. A traffic survey has not been included in the appellants' submission which would provide evidence of the volume and nature of the traffic using the goods yard. On balance, and given its rural location, it is not considered that the goods yard is

frequently or extensively used.

5. The appellants' submission indicates a forward visibility of 77.5m but fails to illustrate how a 150m visibility splay can be achieved. The claim that visibility is 'adequate for an access at that point' is not accepted as a visibility splay of 2.5m by 150m is required. The two houses would generate two trips per day per house. Thus four vehicles per day could be expected to exit onto the B870. Further development of two houses would substantially increase the volume of traffic regularly using the sub-standard B870 access with a consequential increase in the risk of a road traffic accident.

6. For applications that fail to achieve the relevant standards the degree of failure is noted. For visibility splays this is usually expressed in percentage terms of what is required. 48.7% of the required 150m is achieved due to the road's vertical alignment.

7. The Indicative Speed Value or Design Speed is the 85th percentile speed recorded in a traffic survey. This is higher than the mean speed as it accounts for all types of vehicles, driver's abilities, road surface conditions and weather conditions. The appellants did not provide contrary traffic speed surveys for assessment. The B870 can be comfortably driven at 85kph in this location. Consequently it is considered that 85kph design speed and therefore the 2.5m by 150m visibility splay are reasonable standards. A 30mph limit is not considered appropriate as it does not comply with either Highland Council's Speed Limit Policy or SOID Circular No 1/93. Both documents note that a mandatory speed limit should not be introduced to resolve issues of isolated hazards as they will be difficult to enforce over such small lengths.

8. Two representations were submitted objecting to the proposal because of potential site contamination, utilization of existing rights of way, sub-standard visibility and road safety requirements, inappropriate development in fragile countryside that is not supported by existing housing demand, privacy and unacceptable proximity to the railway line.

9. **The appellants submit** that the council applied the Highland Council Road Transport Guidelines for New Development to the wrong access point. Had they applied the Guidelines to the correct access point they would have concluded that the access is an acceptable access within the Guidelines. It is further submitted that, in its consideration of access at the junction with the B870, if the council had taken all the circumstances into consideration, and applied the Guidelines properly, it would have concluded that the access arrangements are acceptable. It is further submitted that, if the application of the Guidelines as determined by the Roads Department apply, and that they apply in relation to the access point from the B870, then nonetheless the proposed development of two houses represents an improvement on the traffic requirements of that access point, in that the current established use of the proposed development site is a goods yard, resulting in potentially higher volumes of traffic, with such traffic being industrial vehicles, the size of which is restricted only by the physical restrictions of the access road. There has been unauthorised use of the land for offloading from trains and there is potential for exploitation of the established use if the residential use is not supported.

10. The zone of invisibility at the B870 junction is largely in a short local depression, and visibility on the long straight road does recur. Attention is drawn to the stopping distances adopted in the Highway Code - the overall stopping distance for 60mph being 73m. The presence of the station and existing houses is clearly evident on approach, and is indication that an access must exist. The existing access on to the B870 it is suitable for the proposal.

11. Strict application of the standards is not appropriate. The Guidelines state that visibility requirements from an access are dictated by the nature and volume of traffic generated by the development, and by the speed of traffic on the road to which access is being taken. The B870 is a long established rural B class road and when constructed was not designed in accordance with the current guidelines. The appropriate consideration should be the actual speed of traffic at the junction and not the theoretical optimum design speed

under current regulations. The fact that restrictive measures have not already been put in place must mean that there is no real safety hazard and that traffic does not travel at the high speeds used by the Roads Department in calculating the Indicative Speed Value.

12. The appellants suggest that the appeal should not be determined until the outcome of a TECS traffic survey is known. Given the isolated nature of the location, and the consequent low volume of traffic in relative terms (compared to a busy highway), four exits onto the B870 per day is so small as to be almost insignificant in the context of any increased likelihood of a road traffic accident. The four exits per day would not represent an increase in use.

13. I find it entirely appropriate that the highway authority should have regard to road and traffic safety considerations at the junction of the access road and the B870. I accept that the Guidelines adopted by The Highland Council are consistent with The Scottish Executive design manual; and that visibility requirements are intended to allow sufficient visibility to allow motorists to modify their speeds without resorting to emergency braking. I find that the adoption of Highway Code stopping distances would not be appropriate. I also accept, for the reason given, that a mandatory speed limit should not be introduced to resolve issues of isolated hazards.

14. I have had regard to photograph iii) submitted in support of the proposal but formed the view at the site inspection that the visibility 2.5m back from the carriageway edge and up to one metre above carriageway level at the junction would be somewhat more constrained than that illustrated. I find that the visibility standards set by the Guidelines are not met at the appeal site.

15. No information is submitted with regard to the passage of vehicles through the junction occasioned by goods traffic but I can accept that in such a rural location it will be infrequently used; and that the traffic generated by the proposal would represent a significant increase. I am not persuaded that promotion of the goods yard would compromise road safety to the same extent as the proposal. I find no material consideration which leads me to conclude that the provisions of the Guidelines should not be applied.

16. The TECS traffic survey referred to by the appellants, which was expected within two to three weeks of 27th July 2007, has not been forthcoming.

This was the version issued to parties on 11th September 2007.

DGB DUNCAN
Reporter