



Planning Department

Applications cannot be validated until all necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 000006469-001

The online ref number is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the Planning Authority about this application.

Applicant or Agent Details

Are you an applicant, or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Agent Company Name:	<input type="text" value="AE Associates"/>	You must enter a Building Name or Number, or both:*
Agent's Ref. Number:	<input type="text"/>	Building Name:
Agent First Name: *	<input type="text" value="Adele"/>	Building Number:
Agent Last Name: *	<input type="text" value="Ellis"/>	Address 1 (Street): *
Telephone Number: *	<input type="text"/>	Address 2:
Extension Number:	<input type="text"/>	Town/City: *
Mobile Number:	<input type="text"/>	Country: *
Fax Number:	<input type="text"/>	Postcode: *
Email Address: *	<input type="text"/>	

Applicant Details

Applicant's Title: *	<input type="text" value="Mrs"/>	You must enter a Building Name or Number, or both:*
Other Title:	<input type="text"/>	Building Name:
Applicant's First Name: *	<input type="text" value="Gillian"/>	Building Number:
Applicant's Last Name: *	<input type="text" value="Irvine"/>	Address 1 (Street):
Company Name:	<input type="text"/>	Address 2:
Telephone Number:	<input type="text"/>	Town/City:
Extension Number:	<input type="text"/>	Country:
Mobile Number:	<input type="text"/>	Postcode:
Fax Number:	<input type="text"/>	
Email Address:	<input type="text"/>	

Site Address Details

Full postal address of the site (including postcode where available):

Address 1:	11 ELISTOUN DRIVE	Address 5:	
Address 2:		Town/City/Settlement:	TILlicOUNTRY
Address 3:		Post Code:	FK13 6NT
Address 4:			

Please identify/describe the location of the site or sites.

Northing	696784	Easting	292369
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Description of the Proposal

Please provide a description of the proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: * (Max 500 characters)

Erection of House and driveway to the rear - application for the removal of planning conditions 5 and 6 of planning application 05/00366/FULL

Type of Application

What type of application did you submit to the planning authority? *

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? *

- Refusal Notice.
- Grant of permission with Conditions Imposed.
- No decision reached within the prescribed period (two months after validation date) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: *

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time of expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

(Max 500 characters)

Review of refusal notice 09/00282/FULL issued 12 January 2010 due to the written refusal of the owners of the roadway to allow the applicants to upgrade the road as required in the original planning consent. This refusal to allow works to be carried out being a material consideration and subsequently making conditions 5 & 6 impossible to comply with by the applicant.

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made? *

Yes No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review: * (Max 500 characters)

The written refusal to allow works to be carried out was not received before the application was determined. This refusal was subsequently received after the application was refused and a letter of intent to the owners was sent informing them of the intention to carry out the works in order to comply with the conditions imposed on the original planning consent.

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Letter from solicitors informing refusal to allow works to be carried out.
Letter to frontagers informing intention to carry out works.
Refusal notice.
Site plan

Application Details

Please provide details of the application and decision.

What is the application reference number? *

09/00282/FULL

What date was the application submitted to the planning authority? *

01/12/09

Has a decision been made by the planning authority? *

Yes No

What date was the decision issued by the planning authority? *

12/01/10

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

Yes No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

Yes No

Is it possible for the site to be accessed safely and without barriers to entry? *

Yes No

Checklist - Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant? *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and drawings) which are now the subject of this review? *

Yes No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare - Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Adele Ellis

Declaration Date: 26/02/2010

watersrule solicitors

76/78 high street, tillicoultry fk13 6ab

ip 8 alloa

tel 01259 753330 fax 01259 753331

ALSO BY FAX : 01324 623512

Marshall Wilson
LP 13
Falkirk

Our Ref: CD/JS/WALK0039-01 (CD DDial 01259 759876)(JS DDial 01259 759871)
e-mail: craig.dunbar@watersrule.co.uk / julle.stewart@watersrule.co.uk

Your Ref: - BT/MD/IRV 03702

26th January 2010

Dear Sirs,

**Ben Henderson & Others -v- William & Gillian Irvine
Alloa Sheriff Court - A314/08**

We have been forwarded a copy of a letter issued by AE Associates, your clients' planning consultants, issued to the frontagers of the private section of Ellistoun Drive and which is dated 21st January 2010. For ease of reference we attach a copy.

In the second substantive paragraph, it indicates that "Mr & Mrs Irvine have a right of access over the road but are not the legal owners". That, with respect to the planners, is a fundamental element of the Court action presently pending in Alloa Sheriff Court. It is, of course, the position of the frontagers for whom we act that the Irvines neither own the road nor do they have any right of access. It is central to the application that your clients have no legal basis whatsoever for accessing their property from Ellistoun Drive and for your clients, through their planning consultants, to write such a letter to the frontagers (including persons who are not party to the present action) is quite frankly unacceptable to our clients. The whole purpose of the present proceedings, as they are being amended at the moment, is for the Court to be asked to declare whether or not your clients have any rights of access over Ellistoun Drive. It is that very issue which is to be decided. As a result of your most recent amendment, the Court is not yet in a position to make such a decision and is not going to be in a position to make such a decision for several months to come.

The letter, however, indicates that works to commence on the road are going to start, probably, on or about Monday 15th February 2010. We have no idea what will be involved in those works but undoubtedly it will involve, to some degree, the digging out of the road and disruption to the frontagers in Ellistoun Drive. Whatever may be the actual physical impact upon the road, it remains the position of our clients that your clients have no right to access that road nor indeed to instruct any contractors to

www.watersrule.co.uk

directors • steven r. waters, stephen rule
solicitor • craig dunbar

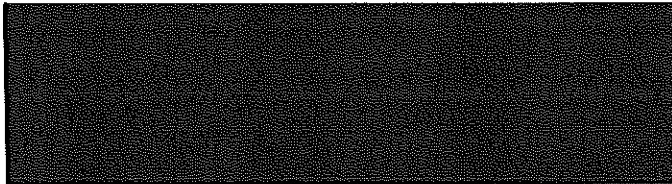
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proceed with operations upon it. As the planner's letter rightly points out, your clients have no basis to interfere with that road as it is not within their ownership.

Unless, we receive by 12 noon on Thursday 28th January 2010 a full unequivocal and irrevocable undertaking that no works will be commenced upon that private section of the road which lies within the ownership of our clients and that no further contractors will be instructed by your clients to pass over that private section of the road for any purpose associated with such works, we will have no option but to make an application to the Court for an interim interdict in terms of Crave 3 there already being a continuing order in terms of our original Crave 2, as amended. You will be aware that our previous application for interim interdict was continued until the Diet of Debate in anticipation that the Debate would take place in October. That did not take place nor did the January Debate. No impact upon the road, however, was foreseen last week when this case called in Court but there is now clearly evidence that there is about to be a major impact upon the road.

Given that the very issue at the centre of this case has yet to be decided, it seems to us that the balance of convenience clearly favours the preservation of the status quo however unusual that might appear. In all the circumstances, therefore, we look forward to receiving the relevant undertaking failing which the inevitable consequences will follow.

Yours faithfully
watersrule



AE ASSOCIATES

SPECIALIST PLANNING CONSULTANCY

21 January 2010

Dear Mr & Mrs Connor

MR & MRS W IRVINE, 11 ELISTOUN DRIVE, TILlicOUNTRY, FK13 6NT

PLANNING APPLICATION FOR THE REMOVAL OF CONDITIONS 5 & 6

As you may be aware the planning application for the removal of the above conditions attached to Mr & Mrs Irvine's original planning consent has been refused by Clackmannanshire Council.

Please be aware that Mr & Mrs Irvine will be appealing against this decision but due to the very poor condition of the road and as a gesture of goodwill to their neighbours, Mr & Mrs Irvine will be instructing a contractor to begin the instigation of the works. Please note that it is anticipated that the works may commence on or around the 15th February 2010 unless any unforeseen circumstances prevent the start of the repairs. As Mr & Mrs Irvine have a right of access over the road but are not the legal owners of this section we require written consent from the frontagers in order for these works to commence. We would therefore be grateful if you could sign and complete the section below and return it to this office in the stamped addressed envelope so that the works can be arranged and commence in a timely manner.

Please note that without the written consent of the frontagers the works cannot commence.

Many thanks in advance for your assistance in this matter.

Yours faithfully



Adele Ellis

AE Associates

For and on behalf of Mr & Mrs Irvine,

**THE TOLL HOUSE
UPPER YETTS O' MUCKHART
CLACKMANNANSHIRE
FK14 7JU**

Tel: 07758 268394

aa.associates@btinternet.com

AE ASSOCIATES
SPECIALIST PLANNING CONSULTANCY

21 January 2010

Name & Address

Dear

MR & MRS W IRVINE, 11 ELISTOUN DRIVE, TILlicOUNTRY, FK13 6NT

PLANNING APPLICATION FOR THE REMOVAL OF CONDITIONS 5 & 6

As you may be aware the planning application for the removal of the above conditions attached to Mr & Mrs Irvine's original planning consent has been refused by Clackmannanshire Council.

Please be aware that Mr & Mrs Irvine will be appealing against this decision but due to the very poor condition of the road and as a gesture of goodwill to their neighbours, Mr & Mrs Irvine will be instructing a contractor to begin the instigation of the works. Please note that it is anticipated that the works may commence on or around the 15th February 2010 unless any unforeseen circumstances prevent the start of the repairs. As Mr & Mrs Irvine have a right of access over the road but are not the legal owners of this section we require written consent from the frontagers in order for these works to commence. We would therefore be grateful if you could sign and complete the section below and return it to this office in the stamped addressed envelope so that the works can be arranged and commence in a timely manner.

Please note that without the written consent of the frontagers the works cannot commence.

Many thanks in advance for your assistance in this matter.

Yours faithfully

Adele Ellis

AE Associates

For and on behalf of Mr & Mrs Irvine,

THE TOLL HOUSE
UPPER YETTS O' MUCKHART
CLACKMANNANSHIRE
FK14 7JU

Tel: 07758 268394

ae.associates@btinternet.com

NAME:

ADDRESS:

I/We give our consent for Mr & Mrs Irvine of 11 Elistoun Drive to commence the requisite works along the section of Elistoun Drive which is understood to be in private ownership.

Signed

Signed

Comments:

CLACKMANNANSHIRE COUNCIL

TOWN AND COUNTRY PLANNING (SCOTLAND) ACTS

REFUSAL OF PLANNING PERMISSION

Applicant

Mrs Gillian Irvine
11 Ellistoun Drive
Tillicoultry
Clackmannanshire
FK13 6NT

Agent

Adele Ellis
The Toll House
Upper Yetts O'muckhart
Clackmannanshire
FK14 7JU

The Council hereby **REFUSE PLANNING PERMISSION** for the:-

Erection Of House And Driveway - Application for the Removal of Planning Conditions 5 and 6 of Planning Application 05/00366/FULL

11 Ellistoun Drive, Tillicoultry, Clackmannanshire, FK13 6NT,

In accordance with your application and plans Ref. No:- 09/00282/FULL dated 1st December 2009.

For the following reasons:-

1. The application if approved would allow the proposed new house to be occupied without adequate access road arrangements to serve it, and planning permission would not have been granted for the house in the absence of a package of road improvements being in place. The application is therefore contrary to Policy RES 4 of the Clackmannanshire Local Plan 2004 and the related Supplementary Advice Note, SAN 2.

2. The reasons for the conditions are valid and there are no material changes in circumstances to indicate that they should otherwise be removed or in any other way varied.

Dated: 12 January 2010


DEVELOPMENT AND ENVIRONMENTAL SERVICES

Submit a Planning Application online at www.eplanning.scotland.gov.uk

View forms, drawings and comments at www.clacksweb.org.uk/eplanning/

NOTES FOR GUIDANCE

1. Please examine your decision notice carefully. It describes the development to which the decision relates, includes any conditions that must be complied with and explains the reasons for the decision.

2. Please also read the following guidance. It contains important information regarding

- * the duration of the permission
- * rights of review
- * requirements for further notification to the Council; and
- * the publicising of the development.

3. Section 59 Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006 - Planning Permission in Principle:-

(a) In the case of matters specified by conditions, further application(s) for approval must be made to the Council not later than the expiration of 3 years beginning with the date of this permission. Otherwise, the planning permission lapses on that date.

(b) The development to which this permission relates must be begun not later than the expiration of 5 years from the date of this permission or within the expiration of 2 years from the final approval of matters specified whichever is the later. Otherwise, the planning permission lapses on the latter date.

4. Section 58 Town and Country Planning (Scotland) Act as amended by the Planning etc. (Scotland) Act 2006 - Planning Permission: Unless otherwise stated overleaf, the development to which this permission relates must be begun not later than the expiration of 3 years from the date of this permission. Otherwise, the planning permission lapses on that date.

5. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition, in respect of the proposed development, or to grant permission for approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to:-

The Head of Administration and Legal Services
Clackmannanshire Council
Greenfield
Alloa FK10 2AD

6. The Notice of Review form is available to download on the Council website at www.clacksweb.org.uk. Alternatively, send an e-mail with your name and address to development_services@clacks.gov.uk and we will arrange to send a form to you.

Notification of Intention of Development

7. Once it has been decided on the date to start work on the development to which this permission relates, the developer must inform the Council of that date as soon as is practicable and certainly before starting work. This is termed Notification of Intention of Development (NID). Failure to give such notice to the Council constitutes a breach of planning control. The notification must include:-

- (i) The date on which the development is likely to commence.

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- (ii) The full name and address of the person intending to carry out the development.
- (iii) The full name and address of the landowner if they are a different person.
- (iv) The full name and contact address/details of the site agent or other person appointed to oversee the development.
- (v) The reference number and date of issue of the planning permission.

Notification of Completion of Development

8. Once the development to which this permission relates has been completed, the applicant or developer must, as soon as practicable, notify the Council accordingly. This is termed Notification of Completion of Development (NCD). If the development is carried out in phases, the notification must be issued to the Council as soon as practicable after each phase.

Display of Notice while Development is carried out

9. If this permission relates to a national, major or bad neighbour development (such as a public house or hot food takeaway), the applicant or developer must, for the duration of the development, display one or more signs. The sign(s) must be displayed in a prominent place at or in the vicinity of the site, and be readily visible to the public. Failure to display the sign(s)/notice while carrying out the development constitutes a breach of planning control. The information to be displayed must include:
 - (i) The location of the development.
 - (ii) Any conditions attached to the planning permission.
 - (iii) The name and address of the developer.
 - (iv) The date on which planning permission was granted.
 - (v) The planning authority reference number.
 - (vi) A description of the development.
 - (vii) A note of the Council's contact details for enquiries relating to the development, which is development_services@clacks.gov.uk or Development Services, Clackmannanshire Council, Killinraggs, Greenside Street, Alloa, FK10 2EB.
10. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.
11. It should be understood that this permission does not carry with it any necessary consent or approval to the proposed development under other statutory enactments. In particular, it does not constitute approval under the Building (Scotland) Acts, The Water Environment (Controlled Activities) (Scotland) Regulations or Roads (Scotland) Acts in respect of street works.

Submit a Planning Application online at www.eplanning.scotland.gov.uk

View forms, drawings and comments at www.clacksweb.org.uk/eplanning/

Clackmannanshire Council
Planning Register

APPLICATION NUMBER: 09/00282/FULL

Case Officer: Grant Baxter
Applicant

Mrs Gillian Irvine
11 Ellstoun Drive
Tillicoultry
Clackmannanshire
FK13 6NT

Agent

Adele Ellis
The Toll House
Upper Yetts O'muckhart
Clackmannanshire
FK14 7JU

Proposal: Erection Of House And Driveway - Application for the Removal of
Planning Conditions 5 and 6 of Planning Application 05/00366/FULL

Location: 11 Ellstoun Drive, Tillicoultry, Clackmannanshire, FK13 6NT,

Type of Application: Full Planning Application
Dated: 12 January 2010

Decision: REFUSED

1. The application if approved would allow the proposed new house to be occupied without adequate access road arrangements to serve it, and planning permission would not have been granted for the house in the absence of a package of road improvements being in place. The application is therefore contrary to Policy RES 4 of the Clackmannanshire Local Plan 2004 and the related Supplementary Advice Note, SAN 2.
2. The reasons for the conditions are valid and there are no material changes in circumstances to indicate that they should otherwise be removed or in any other way varied.

Submit a Planning Application online at www.eplanning.scotland.gov.uk

View forms, drawings and comments at www.clacksweb.org.uk/eplanning/

Application for the Removal of Planning Conditions 5 and 6 of
 Planning Application 05/00366/FULL at 30 Eithnean Drive,
 Tullaghan, Castlemaine, FEIG CNT - 0940282/FULL

- SITE LOCATION - 05/00366/FULL
- LAND OWNED BY CLIENTS
- SECTION OF ROAD REFERRED TO FOR REMOVAL OF CONDITIONS 5 & 6

SCALE 1:1250



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Proposal Details

Proposal Name

Review of refusal of application
09/00282/FULL

Proposal Description

To review the decision to refuse the
above application for the removal of
conditions 5 and 6.

Address

11 ELISTOUN DRIVE,
TILlicOUNTRY, FK13 6NT
Clackmannanshire Council

Local Authority

Application Status

Form	complete
Main Details	complete
Checklist	complete
Declaration	complete
Supporting Documentation	complete
Email Notification	complete
Payment Method	Incomplete

Attachment Details

Elistoun Drive	Attached
Elistoun Drive Amended	Attached
Notice of Review	System
Notice of Review	System
refusal notice	Attached
scotapp	System
watersrule	Attached

