

**Request for Review of Refusal of Planning Application
Ref 13/01341/APP
Create new vehicular access on to the A98 at the
Paddock, Arradoul Buckie**

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INTRODUCTION

The argument for requesting a review for this application ref 13/001341/APP is based on an analysis of

- The officers Report of Handling
- The reasons for Refusal
- The Policies upon which they are based
- Visibility at the proposed and existing accesses
- Accident records
- Update of Local Plan

The issues requiring review are set out in of our analyses and our overall conclusions.

Note :- During the winter gales the treed area at the Paddock suffered considerable damage and some trees have been lost. During the clear up operation our client erected a temporary fence for shelter and privacy. This fence can be easily removed to allow the driveway to be constructed

SUMMARY OF REASONS FOR REVIEW

The embargo on new accesses at Arradoul does not appear to be based clear evidence or the Council's latest intentions for the Rural Grouping. The existing access to the Paddock does not have assured visibility while the proposed access appears to meet current Council standards. Accident records appear to show that the latter are concentrated at relatively major junctions (some outside the Rural community) and rarely associated with residential accesses serving individual houses. The creation of one new access with proper visibility serving a single house seems unlikely to materially affect the free flow of traffic

ANALYSIS OF REPORT OF HANDLING -OBSERVATIONS – ASSESSMENT OF PROPOSAL

The above Observations – Assessment of Proposal is contained in Appendix 3

The first line of report of handling refers to a, “*proposed house extension.*” This is we take to be an error and should read proposed new vehicular access.

The Report of Handling assessment does not fully or accurately refer to the relevant details of the argument contained in our supporting statement (Appendix 2 and extract below) which underpin our justification for a departure from the Arradoul Rural Settlement Policy. The detailed argument in our supporting statement was as follows

The Rural Community statement for Arradoul states: -

“The introduction of a 50 mph limit may have improved road safety, but additional access onto the A98 will not be permitted.”

The Local Plan provides no reasoning for this blanket restriction, nor does it make allowance for the possibility that there may be a location where it is possible to achieve the visibility required for an access within a 50mph limit in accordance with the Council’s own Transportation Requirements for Small Developments in the Countryside Nov 2010. We have taken measurements and believe that it is possible to achieve the required visibility at the access point chosen (see visibility splay on attached plan and red marking at site).

We have also obtained accident statistics from the Council which appear to demonstrate that such accidents as there have been in Arradoul over the past 8 years since the imposition of the 50mph limit have been concentrated around specific road junctions at the edge of Arradoul, just beyond it or on the north side of the road and not significantly within the ribbon of residential property (Appendix 3)

The Rural Community statement for Arradoul also states :-

“The wooded area around Arradoul provides visual amenity to the village and proposals which involve felling of trees to provide development sites will not be permitted.”

In this case the route of a new access could be achieved by the removal of scrub, diseased/dead specimens, and one or two trees. The overall visual effect to the surrounding area would be minimal and not detrimental.

Our client is keen to retain and maintain the belt of trees and has employed a forestry consultant to survey the trees in the vicinity of the access line (see letter - Appendix 4 a and b). In general the consultant considers the section of woodland

surveyed and its current state of maintenance to be poor there also being a number of dead trees. He concludes that the removal of several trees could be achieved without harming the amenity value of the tree belt as it currently exists. Our client is happy also to carry out maintenance and reinforce the belt with replacement and additional tree planting.

Our client can confirm that this access would not be for a "development site," but would serve an existing property of some longstanding. He is also happy to confirm that he has no intention of developing the Paddock for further houses. The creation of further development sites would in any event remain firmly under the control of the Planning Authority.

From the above it is therefore evident that the wording of the Local Plan does not necessarily prohibit removal of trees for the provision of an access to an existing house.

If this proposal is considered to be a departure from the Local Plan as worded then it is a minor one which can be justified by the material evidence submitted in terms of accident statistics and the apparent lower standard of the existing access. We would also point out that it is perfectly acceptable for the Council to depart from its local plan provided adequate justification is provided. (ref Annex A of Circular 4/2009: Development Management Procedures – Appendix 5).

(please note references to appendices in the above extract refer to those of the original supporting statement and not those listed for the Request for Review) :-

The officer's assessment claims, "*the agent has been unable to demonstrate that the road network in the area would remain no more hazardous than at present....*"

We refute this.

- We submitted details of an access with visibility to the standard required by the Council for a 50mph road something that no other access in Arradoul has or can physically achieve.
- We have also pointed out that the access currently used and shared by our client does not meet such a standard. For these reasons we suggest that the road network would be safer.
- We noted that the Council has not put forward any statistics or measurements of its own in relation to the hazards existing at our client's current access.

The officer's assessment claims . "*The proposed new access would introduce turning traffic, including stationary traffic waiting in the road to turn right, at a location on the strategic road network where traffic is currently free flowing. The resulting increased risk of accidents, in particular rear end shunts would not be acceptable*

We contest this as follows.

- We have shown that accidents arising from right turning over the periods we have examined are almost always occurring at larger junctions not at residential accesses
- We understand that the visibility splay we have been required to submit is designed for a “free flowing,” 50mph road therefore there should be little or no hindrance to traffic on the A98. The road through Arradoul is lined by 14 residential accesses which presumably interrupt “ free flow,” regularly.
- Bearing in mind the number of accesses beyond the Lodge in a westerly direction we wonder if the term “free flowing,” properly applies to Arradoul.

The Council’s assertion that the risk of accidents would increase does not appear to be firmly based on measurement or evidence.

ANALYSIS OF REPORT OF HANDLING – PLANNING CONSULTATION RESPONSE FROM TRANSPORTATION MANAGER

The above consultation response is contained in Appendix 4. Our comments below address matters raised by the Transport Manager in the order that they appear in his response

We acknowledge that this section of the A98 is part of the strategic road network however we also point out that unlike most of the network it has a limit of 50mph.

Our argument in regard to Road Traffic Data is discussed elsewhere. However we have now in our comments carried out an analysis of the 3 year period before the introduction of the 50mph limit and the period 2010 – 2012 as suggested by the Transportation Manager. Our conclusions as set out in our consideration of accident records remains unchanged. We have not removed reported accidents from any analysis. On the contrary we have considered them and categorised them in a way that appears to make sense i.e. to demonstrate that concentrations of accidents are largely associated with particular junctions rather than individual residential accesses.

Our analysis suggests that the overall number of accidents material to this case has not increased.

We address the issues of the extent to which traffic is free flowing in Arradoul and the effect of traffic turning right into the access to a single residential property elsewhere in or submission. It is our understanding that the level of visibility that our client can provide is that which is required for a free flowing road with a 50mph limit

The Transportation Manager refers to "*perceived shortcomings of an historical private access.*" The shortcomings we refer to are not *perceived* but measured on site against the Council's own standards. (Appendix 9). Our client's visibility at the existing access cannot be guaranteed to the Council's required standard for access on to a 50mph road because our client has no control over third party land across which the visibility splay travels.

While our client could not prevent the continued use of the existing access by others he could undertake to stop it off from his property (by condition). In so doing he would reduce risk to himself and then reduce it further by using his proposed new access which would have much better visibility (over which he has control). Risk at the existing access would also be reduced by the fact that the traffic related to our client's property would be removed.

The Transport Manager claims that the existing access serves only 5 properties. We suggest that inspection on site shows this to be questionable. To all intents and purposes 6 properties take access to the A98 at the same point. There is no wall along the east boundary of Firthview (Appendix 9)

This strongly suggests that in practice vehicles can easily run over this boundary from either direction. This in turn supports our argument that vehicles parking or manoeuvring out of Firthview present another hazard both for visibility and vehicle movement at the existing access.

Also, an access serving 6 properties should be to the standards set out in Appendix 8 i.e :- *“Moray Council Standards for Road Construction and Para 2.7 - 6 or more individual dwellings should normally be served by a road, which will require construction consent and the submission of a road bond in a residential area.”* It is our understanding that the access is neither adopted nor set out to the standards described.

Despite all the above the Transport Manager considers the existing access to be of *“an acceptable standard,”* while that proposed by our client, (which meets current standards of visibility), is not acceptable to him.

Our client is aware of the road safety issues at Arradoul and has no wish to create a more hazardous situation for himself or others. However he finds the Transport Manager’s preference for the existing access over that proposed somewhat contradictory .

The accident records submitted suggest that rear end shunts take place at relatively major junctions in the locality and rarely at the many residential accesses.

Conclusion

We have not excluded accident records from our analysis

Accidents, material to this case do not appear to have increased

The existing access effectively serves 6 properties and presents some hazards to our client

No mention is made, nor confirmation given, in respect of our most recent amended submission for visibility, submitted during determination of the application.

It is our understanding that the level of visibility that our client can provide is that which is required for a free flowing road within a 50mph limit

Analysis of Reasons for Refusal

The reason for refusal (Appendix 7) states :-

“the proposal would be contrary to the Moray Local Plan policy T2 and the Arradoul rural community statement where the addition of further access (with associated additional turning traffic) would increase the risk of accidents and impede the free flow of traffic.”

Essentially the reason for refusal contends that our client’s proposed access will :-
“ increase the risk of accidents and impede the free flow of traffic.”

No measurements or statistics are submitted by the Council in support of this.

The only suggestion as to how this risk may manifest itself is contained in the Transportation Manager’s Consultation response of 4th Nov 2013 (Appendix4) which asserts :-

“The proposed access would introduce turning traffic, including stationary traffic waiting in the road to turn right, at a location in the strategic road network where traffic is currently free flowing.”

Our response to this statement is as follows :-

Our analysis of accident statistics suggests that right turning traffic has only really been a problem in Arradoul at relatively major junctions (ie at Barhill Road Buckpool, Auchentae and Arradoul Mains). Residential accesses of which there are 14 in Arradoul are almost never associated with this problem..

We wonder if it is accurate to describe a 213m stretch of road (ie in front of the Paddock and Arradoul House) as being free flowing bearing in mind that the traffic will be passing the 14 other residential accesses in the community.

However we understand that the proposed junction with its visibility splay is specifically designed for use on a free flowing 50mph road. We also question whether the traffic generated by one more access for a single dwelling would significantly affect the flow of traffic .

We understand that this splay complies with Council Standards (see appendix Appendix 8).

We have submitted drawings of an access with visibility splays and a signed agreement a letter of agreement from an adjoining owner (Appendix 6) to permit clearance of obstacles from the proposed visibility splay. This is also accompanied by photographs of a vehicle on the road at either end of the splay demonstrating its effectiveness (Appendix 5). We requested confirmation from the Council regarding this issue (Appendix 14). We

believe it was perfectly reasonable to request specific confirmation of this part of the application. No confirmation was or has been provided. We are however led to believe, as a result of discussion with the Planning Department, that since the proposed visibility splay is not specified as a reason for refusal it complies. It is therefore our understanding that the latest drawing submitted in respect of the proposed visibility splay does in fact comply with Council Standards (Appendix 8). We request however, that notwithstanding any other concerns the Transportation Manager may have, that he confirms to the Review Board that the visibility splay now meets the required standard for a 50 mph limit.

We also submitted accident statistics in support of our case (Appendix 10) These statistics were supplied by the Transportation Section prior to submission of the application. We analysed them and submitted our analysis along with the application.

It is also now our understanding that the Council has publicly announced its intention to drop the embargo on new accesses to the A98 in its policy for Arradoul in the new Local Plan

Conclusion

The nub of our client's case is that the access he currently uses does not have visibility assured to the standard currently required for safety reasons by the Council (Appendix 8). He is arguably now the only proprietor able to provide a vehicular access to his property which complies with current Council visibility standards. He believes that it is reasonable that he should be allowed a vehicular access to this standard. There does not appear to be any factual evidence to confirm that his proposed access will materially increase the risk of an accident or impede free flow of traffic in Arradoul. Indeed it appears that an access compliant with current standards would be a little safer. It is unclear how one more access of the type proposed will materially affect the risk to road safety or the level of flow on the A98. Indeed a recent Council Statement suggests that the council itself is dropping its embargo on new accesses to the A98 in Arradoul.

ANALYSIS OF POLICIES

The reasons for refusal refer to two policies namely the Arradoul Rural Community statement and policy T2

The Arradoul Rural Community statement is as follows:-

“The site identified in the previous plan has now been developed. Main road access and poor ground conditions for drainage restrict the scope for further development. Opportunities are essentially restricted to replacement of houses on a one to one basis, using an existing septic tank and soakaway, and an existing access. The introduction of a 50mph limit may have improved road safety, but additional accesses onto the A98 will not be permitted.

The wooded area round Arradoul House provides visual amenity to the village and proposals which involve felling of trees to provide development sites will not be permitted.”

We have discussed the Arradoul statement elsewhere in our submission where we argue that

- the embargo on new access is not well founded in relation to this application
- a departure from the plan is legitimate and provided for in legislation
- that road safety will not be compromised by a single residential access with proper visibility
- the access will not serve a development site
- the proposed removal of several trees will not compromise visual amenity (this is already agreed by the planning officer)

Policy T2 states :-

“The Council will require that a suitable and safe road access from the public highway is provided to serve new development and where appropriate any necessary modifications to the existing road network to mitigate the impact of development traffic, and the provision of appropriate facilities for public transport, cycling, and pedestrians. Access proposals that have a significant adverse impact on the surrounding landscape and environment that cannot be mitigated will be refused.

SPP17 details that there will be a presumption against new access onto a trunk road, and that the Scottish Executive will consider the case for such junctions where nationally significant economic growth or regeneration benefits can be demonstrated.”

We have shown elsewhere in our submission how we believe that our client’s proposed access will meet current Council standards. As regards the second paragraph of Policy T2 the A98 was de-trunked some years ago.

Conclusion

In our opinion the Arradoul statement can be satisfied by an appropriate departure on material grounds and T2 can be satisfied for the reasons we have presented in our submission

Consideration of Visibility at the Existing Access

Our client is concerned at the standard of visibility at the existing access which he has to share with several other properties. This access serves 5 properties (effectively 6 in our opinion as explained elsewhere). Current Council policy would require visibility of 4.5m x 160m on to a 50mph road had such an access been proposed now.

According to our measurements on site, visibility at the access falls well below Council Standards. Visibility to current standard to the west could only be attempted by taking a line of visibility over part of the garden and driveway at Firthview. Our client has no control over ground in Firthview and therefore cannot ensure the maintenance of visibility to any recognised standard. We have produced a drawing based on measurements taken at the site to illustrate this. (Appendix 9). Although lack of control land at Firthview presents the most immediate threat to visibility our drawing also shows that the visibility splay overlaps into the gardens of Rose Cottage, Restwood and Pendennes, none of which is controlled by our client.

The hedge at Firthview over which visibility must be taken is 1.2m high i.e. higher than the 1.05m minimum drivers eye line stipulated in current Council Standards (Appendix 8 b). More significantly our client cannot prevent the hedge being allowed to grow higher.

Lack of control over the hedge at Firthview effectively reduces assured current visibility in a westward direction to 39m (Appendix 9). Visibility to the east is limited to 80m by lack of control of land at the Lodge. All of this is well below the Council's required 160m and must surely be a matter of concern.

Strictly speaking the assured visibility to the west reduces to 27m (Appendix 9) instead of the required 160m if one takes the privately owned driveway of Firthview into account. Cars or vans parked in the driveway could bring about this situation.

It therefore appears evident that our client has good reason to be concerned at the degree of visibility (and therefore safety) that he can be assured at the access he must currently use when joining the A98.

On the other hand our client is in the position to physically provide and maintain an access for his house that meets the Council's current standards. Drawings of this visibility splay along with a letter of agreement (Appendix 6) from the owner of Arradoul House permitting him to cut back vegetation over a small part of the splay where the edge of the splay runs along the top of a very low wall were submitted as part of the application (Appendix 13).

We asked the Council for specific confirmation that the splay as finally submitted is acceptable to Transportation. (Appendix 14). No reply to this specific question has been received. This is both disappointing and frustrating as by that time in the determination it

was a straightforward matter to clarify. However as the splay is not mentioned in the reasons for refusal it is our understanding that neither the Planning Department nor the Transportation Section has any objection to the splay as now submitted. Having said this should further adjustment or agreements with third parties be needed we believe these could be provided.

Our client believes that he is quite reasonable in wishing to use an access that complies with current visibility standards rather than be forced to continue using one that would now fall below the Council's standards, if for no other than safety reasons.

Consideration of Accident Records

Prior to the submission of this planning application it was noted that the Local Plan policy for the Rural Community of Arradoul contains the statement :-

“ the introduction of a 50mph limit may have improved road safety ,but additional accesses on to the A98 will not be permitted.”

This is a rather bald statement which obliquely implies there is a road safety issue associated with accesses The policy is not however accompanied by any detailed reasoning regarding accesses or locations that are giving rise to the problem. It is assumed that the policy would have been based on accident records but none accompany the Moray Local Plan 2008

Note :- We note with interest that as a result of its public statement of Feb 4th 2014 on its website the Council now proposes to drop its embargo on accesses on to the A98 at Arradoul.

In order to investigate the justification for the access embargo under the current Local Plan we approached the Council and obtained the accident statistics for 3 years before the imposition of the 50 mph limit in 2001 and 7 years up to 2012. Our initial analysis of these accompanied the application. The purpose of our analysis was an attempt to identify where accidents had been occurring and why.

Note :- The records we received from the Council contained some duplication. Having revisited our analysis during preparation of the Request for Review we discovered that we had overestimated the total number of accidents considered in the period covered by 2. This is corrected in the analysis now submitted as part of the review

Notwithstanding any criticism there may be of our original analysis we believe that it is clear that more than 50% of the accidents recorded for the periods considered took place at the Barhill Road junction (a location which is actually outwith the Rural Community Boundary), at the Auchentae junction and at the Arradoul Mains junction (just inside the boundary at the eastern edge of the community) (see key map in Appendix 11). In other words these accidents were not happening, as one may have suspected, at the ribbon of residential accesses running eastward towards the Paddock or even within the Rural Community boundary.

However in response to Transportation Manager’s suggestion in his Consultation Response (Appendix 4) that analysis of the accident statistics,” *should have compared the three year period before the implementation of the 50 mph limit and the most recent three year period after such as 2010 – 2012.*” We now set out a revised analysis as follows :-

Note :- For the purpose of analysis we have labelled individual records (See Appendix 10) with different coloured numbering to aid cross referencing. We have also provided a key map indicating named junctions

Period 1998 - 2000 -There were 4 accidents :-

- Two - (ref (i) and(iii)) - approximately half a mile west of the A98 junction with the unclassified road to Buckpool (3 cars all going ahead E to W)(2 vehicles one going west one waiting to turn right)
- One- (ref (ii)) at the junction with Barhill Road (2 cars involved one turning right) and;
- One – (ref (iv)) at, “A98 Buckie Fochabers road Arradoul.” (one car going ahead)

Period 2010- 12 - There were 6 accidents recorded

- Two at the A98 junction with Barhill Road Buckie; (ref 15) and (ref 16)
- One at – A98 approx 30m west of its junction with the unclassified Arradoul to Buckpool Road (only one car travelling west recorded as being involved) (ref 11)
- One at – A98 westbound at the village of Arradoul (one car only going west)(ref 13)
- One at – A98 at junction with unclassified road to Arradoul Mains (3 cars involved) (ref 12)
- One at – A98 – at junction with unclassified Auchintae Farmroad (2 cars involved one turning right) (ref 14)

Analysis

The A98 junction with Barhill Road to Buckie carries a relatively high volume of traffic. It appears to present its own particular hazards and it actually lies outwith the Arradoul Rural Community Boundary. We therefore consider it reasonable to exclude accidents at this junction from the comparison

With that in mind the comparison then becomes :-

Period 1998 - 2000 - 3 accidents :-

- Two - (ref (i) and(iii)) - approximately half a mile west of the A98 junction with the unclassified road to Buckpool (3 cars all going ahead E to W) (2 cars 1 going east 1 turning right)
- One - (ref (iv)) at, “A98 Buckie Fochabers Road Arradoul.” (one car going ahead)

Period 2010- 12 - 4 accidents

- One at – A98 approx 30m west of its junction with the unclassified Arradoul to Buckpool Road (only one car travelling west recorded as being involved)(ref 11)
- One at – A98 westbound at the village of Arradoul (one car only going west)(ref 13)

- One – A98 at junction with unclassified road to Arradoul Mains (3 cars involved one turning right)(ref 12)
- One – A98 – at junction with unclassified Auchintae Farm road (2 cars involved one turning right) (ref 14)

Comment

Accident (ref 11) above appears to have taken place just outside the Rural Community Boundary, very close to the Buckpool road junction and involved only one car. Accidents (ref 12) and (ref 14) are associated with the Auchintae and Arradoul Mains junctions the former being the location of a concentration of accidents, the latter a junction carrying traffic on to the A98 from at least 11 residential properties and other uses such as farms. These involve relatively major junctions in local terms. We suggest that these can be considered separately from residential accesses or other types of accident

Accident (ref 13) involved only one car and there is no accurate record of precisely where it took place. Bearing in mind this only involved one car and involved no slowing stopping or turning it also seems reasonable to suggest that this accident is not relevant to residential accesses.

Conclusion

On this basis, for similar periods there were 3 accidents immediately prior to the imposition of a 50mph limit, one involving a residential access i.e. ref(iii) and arguably none relevant to this case for the three years 2010 – 2012. This is a significant reduction. Also the latter period does not appear to involve right turning traffic or any of the residential accesses.

The Transportation Manager is concerned at the risks arising from vehicles turning right. If one examines the number of accidents that have occurred in relation to residential accesses or right turns involving these after imposition of the 50 mph limit there do not appear to be any relevant to this case. Also the total number of accidents recorded is low. This suggests that the risk is not high.

Consideration of all Accident Records obtained

Setting aside the Transportation Manager's suggestion for analysis, and in the interests of thoroughness one can also analyse all the accident records we obtained in the following manner and still come to much the same conclusion

Note :- For the purpose of analysis we have labelled individual records (See Appendix 10) with different coloured numbering to aid cross referencing. We have also provided a key map indicating named junctions

Total accident records considered for both periods (i.e. pre and post 50mph limit) = **20**

Total of above records referring to accidents at relatively major junctions = **13** i.e. :-

- Barhill Road = **8** (referenced B12..etc)) n.b. this junction is outside the Rural Community boundary and feeds a substantial amount of traffic to and from Buckie on to the A98)
- Auchentae Farm = **4** (referenced A1,2....etc)
- Arradoul Mains Farm= **1** (referenced AM1) (n.b this junction on to the A98 is at the western extremity of the Rural Settlement serving at least 11 houses and other uses such as farms)

These junctions all serve more than individual residences and are either outside the Rural Community or at its eastern extremity. The accidents occurring at these locations represent **65%** of all the records. As a result these records perhaps mistakenly bias the traffic safety reputation of the entire Arradoul Rural Community.

The remaining 7 accident locations (referenced (O1,O2 ...etc) are as follows :-

- O1 - A98 Cullen to Fochabers Road approx a half mile west of junction with unclassified road to Buckpool Buckie (grid references suggest this to be near the entrance to Restwood)
- O2 - A98 at Arradoul about half a mile west of its junction with Barhill Road Buckie (grid references suggest this to be near the entrance to Restwood)
- O3 - A98 Buckie to Fochabers road at Arradoul
- O4 - A98 Cullen to Fochabers Road 150m east of its junction with the unclassified road to Whitegates Arradoul (we measure this to be in the vicinity of Arradoul Hall car park junction , an unnamed access serving several houses and the Auchentae junction)
- O5 - A98 Fochabers Buckie Road 100metres west of its junction with Barhill Road, Buckie
- O6 - A98 Buckie to Fochabers Road at entrance to Arradoul House
- O7 - A98 Road westbound at the Village of Arradoul Moray

Of these :-

Nos O1,O2 and O3 occurred prior to the 50mph to imposition of the 50mph limit. However it is worth noting that one of these i.e. ,O2 involved vehicle waiting to turn right into a residential property.

This effectively leaves us with :-

Number O4 – an accident that took place in April 2005 involving 3 vehicles going ahead in an E to W direction.

Number O5 - an accident in December 2006 involved one vehicle moving ahead in an easterly direction and apparently took place outside the Boyd Food Machinery premises at 1.20pm in the morning.

Number O6 – an accident in January 2008 involving two vehicles travelling E to W one slowing or stopping and

Number O7 – an accident in May 2011 involving one car only travelling E to W

In conclusion if one accepts that :-

- accidents occurring at the Barhill Road, Auchentae and the Arradoul Farm junctions;
- accidents outwith the Rural Community Boundary;
- accidents involving only one vehicle;

are not really material to the case under consideration, one is left with 2 accidents since the imposition of the 50mph that may have some relevance to the current case i.e. accidents

- No O4 (24/04/2005) and
- No O6 (17/01/2008).

No O4 did not involve slowing stopping or turning. No06 is the only relevant accident left to involve slowing and turning. This was at the entrance to Arradoul House which on a bend.

Footnote :- In the passing we note that in the period 2005 – 2012 post introduction of the 50 mph limit there have been 5 accidents within the Arradoul Rural Community boundary involving turning/slowing/stopping. These are :-

- Accident 5 / A1 in 2006
- Accident 7/O6 in 2008
- Accident 10/A3 in 2009
- Accident 12/AM1 in 2010
- Accident 14/A4 in 2011

From the above it is immediately obvious that there is a fairly regular pattern emerging at the Auchentae and Arradoul mains junctions on an almost annual basis. Accident 7/O6 is the only residential access identified after the imposition of the 50mph limit. This is the entrance to Arradoul House which on a bend .

Conclusion

All the above suggests that during the past 7 years under the 50 mph limit there has only been 1 accident involving a residential access in Arradoul and that access is on a bend while there was one accident involving an individual residential access in the three years prior to the limit

Consideration of Local Plan update

At its meeting on December 10th 2013 the Planning and Regulatory Services Committee of the Moray Council approved a draft of the Proposed Plan and issued a public statement announcing the following :-

“The Proposed Plan represents the settled view of Moray Council on the form and content for the new Local Development Plan.” (Appendix 12)

This settled view of the Proposed Plan classifies Arradoul as a Rural Grouping. The proposed Plan statement for Arradoul is attached in (Appendix 12) . This new policy statement contains no reference to any limitation of new accesses to the A98.

This suggests that the Council is no longer proposing that new accesses to the A98 at Arradoul will constitute a departure from the new Plan.

OVERALL CONCLUSION

- The existing access used by our client does not meet current Council standards
- Our client is unable to maintain or control visibility at his existing access let alone achieve current standard of visibility.
- Our client is concerned that his visibility to the west could easily be adversely affected through his lack of control over land at Firthview and other properties.
- The Transportation Manager's satisfaction with our client's current sub standard access is open to question.
- Our client can however create an access on to the A98 which over which he could control visibility to the standard required by the Council for a 50 m ph limit.
- Our client is willing to block off his access on to the access he currently uses thereby reducing the volume of traffic using that substandard access.
- Our client arguably owns the last property left in Arradoul physically capable of achieving sufficient visibility on to the A98 to meet Council standards
- Reference to traffic safety in relation to residential accesses in Council Policy relating to Arradoul does not appear to be underpinned by analysis of accident records.
- Accident records demonstrate that the majority recorded have taken place outside the Arradoul Rural Community boundary
- For similar 3 year periods pre and post the imposition of the 50mph limit there appears to have been a significant improvement in relevant accident statistics.
- Only one accident at a residential access has been recorded over the 7 year period up to 2012
- Departure from a Local Plan is legitimate. It is catered for in procedure and legislation.
- The Council is proposing to depart from its current limitation of accesses at Arradoul. A recent Public statement by the Council drops the embargo on new accesses at Arradoul
- The Council has accepted that the amenity provided by the existing trees will not be detrimentally affected and that there is no departure from the Local Plan in that respect.
- Material reasons for a departure have been put forward and the application should be considered on its individual merits.
- There have been no objections from the public on any grounds whatsoever

Our client is very conscious of the road safety issues and has no wish to proceed with a reckless proposal. He does however wish to establish the justification for current policy and secure a safe access which is under his control.

For all of the reasons set out above the Review Board is requested to approve this application on the basis that

- The existing access is sub standard
- The proposed access will meet standards for visibility in a 50 mph limit

- The free flow of traffic, such as it is, through Arradoul is unlikely to be materially affected.