

**Trunk Roads: Infrastructure and Professional Services**

Buchanan House, 58 Port Dundas Road, Glasgow G4 0HF

██████████@transportscotland.gsi.gov.uk



FAO ██████████  
Falkirk Council  
Area Roads Engineer  
Estates Management (Corporate and Commercial)  
Estates  
Falkirk Council  
Earls Rd  
Grangemouth  
FK03 8XB

Your ref:

Our ref:

Date: 7 June 2007

Dear Sirs

**Upper Forth Crossing at Kincardine  
Compulsory Purchase of Pine 'n' Oak parking area**

Further to the meeting of 27 February 2007 with our ██████████ and ██████████ we write to advise that we have now given full consideration to the current and future status of the toilets within the parking area at the Pine 'n' Oak cafe.

As a result of our discussions, we can now confirm that Transport Scotland do not wish to take over ownership or maintenance responsibility for these toilets. We would therefore ask that you arrange for their immediate removal from land owned by the Scottish Ministers. In order to allow construction work to proceed without delay on the above scheme we would ask that you arrange for the removal of the toilets by 22 June 2007. Should you be unable to arrange removal of these toilets by this date, we may instruct the Upper Forth Crossing at Kincardine contractor to remove them to a safe location of our choosing for future retrieval by yourselves.

Any compensation issues in relation to the above matter should be addressed in the normal manner through negotiation with the District Valuer.

Should you wish to discuss this matter further, we request that all future contact should be with the undersigned in the first instance.

Yours faithfully,

██████████

cc ██████████ (Jacobs), ██████████ Valuation Office), ██████████ (OSSE)

[REDACTED]

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**From:** [REDACTED]  
**Sent:** 03 March 2020 08:52  
**To:** [REDACTED]  
**Subject:** FW: Proposed ACDC - Deletion of Pine n Oak Road

[REDACTED]  
MTRIPS Design Project Administrator

[REDACTED]

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**From:** [REDACTED]  
**Sent:** 28 February 2007 18:09  
**To:** [REDACTED]  
**Subject:** FW: Proposed ACDC - Deletion of Pine n Oak Road

-----Original Message-----

**From:** [REDACTED]  
**Sent:** 15 February 2007 12:58  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** Proposed ACDC - Deletion of Pine n Oak Road

\*\*\*\*\*  
This email has been received from an external party and  
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\*\*\*\*\*

[REDACTED]

[REDACTED] has advised me that, following the Board Meeting yesterday, MV's decision as to whether or not to proceed with its proposed ACDC for the deletion of the Pine n Oak Road is dependant upon feedback from Transport Scotland ie will Transport Scotland support the change in principle. Please advise.

Regards  
[REDACTED]

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(CCTM Certificate Number 2006/04/0007), the UK Government quality mark initiative for information security products and services. For more information about this please visit [www.cctmark.gov.uk](http://www.cctmark.gov.uk)

[REDACTED]

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**From:** [REDACTED]  
**Sent:** 03 March 2020 08:52  
**To:** [REDACTED]  
**Subject:** FW: Pine n oak Closure

[REDACTED]  
MTRIPS Design Project Administrator

[REDACTED]

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**From:** [REDACTED]  
**Sent:** 28 February 2007 18:09  
**To:** [REDACTED]  
**Subject:** FW: Pine n oak Closure

-----Original Message-----

**From:** [REDACTED]  
**Sent:** 02 February 2007 12:17  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: Pine n oak Closure

\*\*\*\*\*  
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\*\*\*\*\*

All,

Following our attendance ( [REDACTED] myself ) at the consultation meeting with MVJV and Falkirk Council yesterday, it is clear that FC have issues in terms of taking over the car park itself. They also have an issue with the geometry of the design in this area if they were forced to take it over in any event. This of course leaves MVJV in a difficult position regarding the design of the car park and other issues in the area of the Pine N' Oak, as FC are not interested in taking over any maintenance responsibilities in this area. FC have no particular concerns it appears, regarding stopping up the access road to the Powfoulis Hotel.

Although MVJV are apparently driving this issue from the perspective of introducing savings and releasing land that they could use in the short term for storage etc. they could attempt to use the FC consultation issue to underpin a recorded delay event in their design and construction process. Whether this is justifiable or not is probably debatable, but we need to bottom out any apparent differences in the FC interpretation of their maintenance liabilities as soon as possible so as to preclude any probability of MVJV heading down this avenue.

FC also have apparent issues in a similar respect at Bowtrees roundabouts and need clarification of the maintenance responsibilities at the Halls of Airth Overbridge.

[REDACTED] and I discussed this briefly by telephone yesterday afternoon, and I understand that [REDACTED] also spoke to [REDACTED]

Regards,

[REDACTED]

[REDACTED]

## **A876 Upper Forth Crossing at Kincardine Pine 'n' Oak Closure**

Further to your discussions with [REDACTED] yesterday, we would like to establish in principle, whether the Morgan Vinci proposal, to remove the car park, toilets, septic tank and access road adjacent to the Pine n Oak, is acceptable to you. This proposal is based on Morgan Vinci buying out the Pine n Oak business.

The reasons behind the original decision to retain this business, and the potential advantages in the Morgan Vinci proposal are outlined below:

### **Justification for current scheme:**

As part of the scheme development, it was decided to make provision for the continued operation of the Pine 'n' Oak cafe. The following are the main reasons for this:

- To minimise socio-economic impact through retention of local jobs etc. This impact is assessed as part of the Environmental Assessment process and as with any other impact, we would normally aim to minimise potential impacts.
- The owner of the business wanted to retain the business, and we did not therefore wish to close it down against his will if there were reasonable alternatives.
- The facility is well used, particularly by business travellers and HGV drivers and provides a useful rest area in advance of the motorway network
- The road safety auditor recommended it be retained because it provides an opportunity for drivers to rest/buy refreshments - thus reducing the risk of accidents through driver tiredness
- The access road also provides an exit route from the Powfoulis area - reducing journey lengths for local residents, and possibly providing to only exit route for some residents when the Powfoulis road floods
- The lay-by area also provides a suitable location for a bus-stop which was requested by Falkirk Council

With the exception of the second point all of the above justifications are still valid. (The owner is apparently now willing to sell the business and allow it to close, if a suitable offer is made)

### **Advantages of closing the business:**

- The removal of the access road would reduce the number of arms on Bowtrees South roundabout - and thus be slightly safer. However, we understand Morgan Vinci now have a design for this roundabout which is approved by their safety auditor.
- The closure of the business and thus the removal of the access road and car park, offers potential cost savings.
- Some local residents may prefer to see the business close - thus reducing disturbance, noise etc.

Again, all of these potential benefits were known at the time the scheme was developed.

In summary, we believe that the original justification for making provision for the continued operation of the Pine 'n' Oak cafe remains substantially unchanged.

Notwithstanding the above, we would recommend that early discussion be held with the owner of the Pine 'n' Oak business and Falkirk Council with regard to the proposed accommodation works (including the car park, septic tank and toilets). We understand that Falkirk Council no longer wish to be responsible for these, and we believe it would be prudent to discuss the location and future maintenance of these with the owner of the Pine n Oak business. Also, as you are aware, Falkirk Council own the land on which the Pine 'n' Oak cafe is built, and we suggest we should confirm they have no intention to prevent the continued operation of the cafe.

We would appreciate if you could confirm your views on the acceptability or otherwise of the above proposal and if you are content to pursue further discussions with regard to the accommodation works at this location.

Should you have any queries please do not hesitate to contact me.

Regards

[REDACTED]

[REDACTED]

Divisional Director  
Jacobs

[REDACTED]

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**From:** [REDACTED]  
**Sent:** 03 March 2020 08:59  
**To:** [REDACTED]  
**Subject:** FW: A876 Upper Forth Crossing Kincardine - Land - Pine n Oak sewage disposal facility

[REDACTED]  
MTRIPS Design Project Administrator

[REDACTED]

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**From:** [REDACTED]  
**Sent:** 09 July 2007 10:32  
**To:** [REDACTED]  
**Cc:** [REDACTED]

[REDACTED]

**Subject:** RE: A876 Upper Forth Crossing Kincardine - Land - Pine n Oak sewage disposal facility

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My thoughts are as follows:

- Q1 Placing a replacement septic tank in land which will become surplus seems a reasonable option. If FC do not want the land and the café owner does not purchase TS would retain but (I suspect not maintain). If existing discharge not legal this could be a problem. The property would however be in a similar position so no compensation issues.
- Q2 Accurate estimate of goodwill impossible without accounts. As ground lease only has two years to run it should not have a high value as my understanding is that the tenant can be removed at the end of the lease without compensation **however** the Lands Tribunal have given compensation for short term interests where it appeared likely they would continue. Nevertheless the rent could well be increased for a new lease to include the buildings.
- Q3 No comment on this one although looks an easy answer.

We had believed the occupier did not have a compensatable interest however **if** he has a servitude and we are effectively acquiring it, this may be an acquisition of an interest in land. This could open up the possibility for a claim for any other losses incurred as a result of the scheme. Legal advice required on this.

Valuation **could** be £80,000 - £100,000 for the whole business but this includes the buildings. Having said that profits can be high for a business of this type. For the business alone (goodwill) I would suggest 2 or 3 times the adjusted net profit. It would be essential to see three years accounts before discussing a figure **unless** the claimant offered to settle at a modest figure (£10-£15,000) which you may consider worthwhile to solve this problem!

I hope this is helpful.

[REDACTED]

-----Original Message-----

**From:** [REDACTED]  
**Sent:** Monday, July 09, 2007 9:18 AM  
**To:** [REDACTED]  
**Cc:** [REDACTED]

**Subject:** A876 Upper Forth Crossing Kincardine - Land - Pine n Oak sewage disposal facility  
**Importance:** High

[REDACTED] All

Legal Question.

The situation that has been created at the Pine n Oak café through not eliminating them by CPO is becoming critical in the Contract.

Currently Pine n Oak discharge foul water from their staff toilet to a septic tank on what is now our land (formerly Falkirk Council's). It is my understanding that Pine n Oak did not appear to have formal servitude rights for this, it was habit and practice. Can this be checked with the title deeds please?

The septic tank is in the Contractor's way to complete the works and therefore a solution is urgent.

I see 3 possible solutions.

1 Allow the Contractor to place a septic tank on our land in a location that will be surplus to the scheme afterwards. This could then be offered back to Falkirk Council as previous owner with the burden of a septic tank. Unlikely that they would take it. Then offer it for sale to the owner of the Pine n Oak. He may not take it as he does not own the land the café sits on. Do Falkirk Council have any responsibilities for discharges from their land? The maintenance of the septic tank and the consent to discharge from SEPA may also be problematic. Where do the existing septic tanks discharge too and are SEPA aware?

2 Refuse to allow the installation of a new septic tank on our land. There is no other suitable land and therefore it would cause problems. How much would it cost to buy the Pine n Oak out with goodwill. He seems to be indicating to the Contractor that he may be willing to sell the premises. The land would remain as Falkirk Council's.

3 It is considered to be the Contractor's problem and if necessary he buys the Pine n Oak out at his cost. Is this feasible under the Contract? The land would stay as Falkirk Council's.

Can I get an opinion as to exactly what our legal obligations are please?

Can I get a valuation estimate of what the buy out costs would be?

If necessary a meeting can be held on site this Wednesday pm to resolve this matter/ determine a strategy. It is that urgent.

Please call to discuss if necessary.

Responses from all please.

Regards

[REDACTED]

[REDACTED]  
Project Manager  
Transport Scotland  
Trunk Road Infrastructure & Professional services  
Tel [REDACTED] Fax [REDACTED]  
Mobile [REDACTED] Tel [REDACTED]  
Email: [REDACTED]

\*\*\*\*\*  
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[REDACTED]

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**From:** [REDACTED]  
**Sent:** 03 March 2020 08:51  
**To:** [REDACTED]  
**Subject:** FW: A876 Upper forth crossing Kincardine - Pine n Oak - legal and valuation meeting with owners

**Importance:** High

[REDACTED]  
MTRIPS Design Project Administrator

[REDACTED]

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**From:** [REDACTED]  
**Sent:** 12 July 2007 09:30  
**To:** [REDACTED]  
**Subject:** FW: A876 Upper forth crossing Kincardine - Pine n Oak - legal and valuation meeting with owners  
**Importance:** High

-----Original Message-----  
**From:** [REDACTED]  
**Sent:** 11 July 2007 17:01  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** A876 Upper forth crossing Kincardine - Pine n Oak - legal and valuation meeting with owners  
**Importance:** High

[REDACTED]

I left a message but since I am on holiday I thought I had better email.

We met today with the owners of the Pine N Oak café and agreed to another meeting hopefully next week to iterate exactly the legal and compensation situation in regard to their situation.

I would be grateful if you could let [REDACTED] know your availability for next week for a pre-meeting on site and then on to the Pine N Oak owners premises.

[REDACTED] is unavailable on Wednesday.

This meeting is getting urgent to get this matter resolved and I would be grateful if it could proceed with legal representation. I would also suggest Design 2 are represented as this is liable to go on until after the Contract.

This is an information meeting with the owners to let them know the exact situation and let them decide whether they require to obtain an agent.

It may be useful at the pre-meeting to also discuss the compensation rights of the [REDACTED] at [REDACTED] [REDACTED] as they seem to have taken access across the plot 26 land for a lot of years. [REDACTED] and [REDACTED] can explain the situation.

Thanks

[REDACTED]

[REDACTED]

Project Manager

Transport Scotland

Trunk Road Infrastructure & Professional services

Tel [REDACTED] Fax [REDACTED]

Mobile Tel [REDACTED]

Email: [REDACTED]

[REDACTED]

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**From:** [REDACTED]  
**Sent:** 03 March 2020 08:58  
**To:** [REDACTED]  
**Subject:** FW: A876 Upper forth crossing Kincardine - Pine n Oak - legal and valuation meeting with owners

[REDACTED]  
MTRIPS Design Project Administrator

[REDACTED]

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**From:** [REDACTED]  
**Sent:** 13 July 2007 16:22  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
[REDACTED]

**Subject:** RE: A876 Upper forth crossing Kincardine - Pine n Oak - legal and valuation meeting with owners

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## **OSSE**

Office of the Solicitor to the Scottish Executive

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[REDACTED]

I refer to our telephone conversation yesterday. As you know, it would likely be the week after next before I could attend a meeting. I also consider that if SE are being represented by a solicitor, then the owner of Pine'n'Oak should have the opportunity to be legally represented as well (I cannot advise him on his rights with regard to this matter), and this is not what is intended for the meeting.

I have today spoken with [REDACTED] and he is content with the legal position SE are putting forward - in effect the owner of Pine'n'Oak can make a claim for compensation. The VOA will therefore open a case for this matter.

[REDACTED] has suggested that I would not need to attend this meeting. He will do so, and if any legal issue does arise, it can be referred to me after the meeting. This seems a practical way forward, and will allow the meeting to go ahead next week. I will leave you and [REDACTED] to arrange the meeting.

I look forward to feedback from the meeting in due course.

[REDACTED]

[REDACTED]

Office of the Solicitor to the Scottish Executive

[REDACTED]

[REDACTED]

[REDACTED]

e: [REDACTED]

-----Original Message-----

**From:** [REDACTED]  
**Sent:** 11 July 2007 17:01  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** A876 Upper forth crossing Kincardine - Pine n Oak - legal and valuation meeting with owners  
**Importance:** High

[REDACTED]

I left a message but since I am on holiday I thought I had better email.

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[REDACTED]

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Thanks

[REDACTED]

[REDACTED]

Project Manager

Transport Scotland

Trunk Road Infrastructure & Professional services

Tel [REDACTED] Fax [REDACTED]

Mobile Tel [REDACTED]

Email: [REDACTED]