



**Argyll and Bute Council**  
Comhairle Earra Ghaidheal agus Bhoid

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16 April 2013

## **NOTICE OF MEETING**

A meeting of the **ARGYLL AND BUTE LOCAL REVIEW BODY** will be held in the **COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD** on **TUESDAY, 23 APRIL 2013** at **3:30 PM**, which you are requested to attend.

Douglas Hendry  
Executive Director - Customer Services

## **BUSINESS**

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST (IF ANY)**
3. **CONSIDER NOTICE OF REVIEW REQUEST: LAND SOUTH WEST OF ALDER HOUSE, KILMICHAEL, LOCHGILPHEAD, PA31 8QA**
  - (a) Notice of Review and Supporting Documentation (Pages 1 - 12)
  - (b) Comments from Interested Parties (Pages 13 - 32)

## **ARGYLL AND BUTE LOCAL REVIEW BODY**

Councillor Gordon Blair  
Councillor Fred Hall

Councillor Mary-Jean Devon

Contact: Fiona McCallum Tel: 01546 604392

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Ref:  
AB1

**ARGYLL AND BUTE COUNCIL**  
WWW.ARGYLL-BUTE.GOV.UK/\*\*

OFFICIAL USE

4 March  
2013  
F McCallum  
Date Received

**NOTICE OF REVIEW**

Notice of Request for Review under Section 43(a)8  
of the Town and Country Planning (Scotland) Act 1997 and the Town and  
Country Planning (Schemes of Delegation and Local Review Procedures  
(Scotland) Regulations 2008

**Important** – Please read the notes on how to complete this form and use Block Capitals. Further information is available on the Council's Website. You should, if you wish, seek advice from a Professional Advisor on how to complete this form.

<p>(1) APPLICANT FOR REVIEW</p> <p>Name <input style="width: 90%;" type="text" value="MR &amp; MRS CAMPBELL"/></p> <p>Address <input style="width: 90%;" type="text" value="LOCHSIDE"/></p> <p style="padding-left: 20px;"><input style="width: 90%;" type="text" value="LOCHGARRE"/></p> <p style="padding-left: 20px;"><input style="width: 90%;" type="text" value="LOCHGILPHEAD"/></p> <p>Postcode <input style="width: 90%;" type="text" value="PA31 8SD"/></p> <p>Tel. No. <input style="width: 90%;" type="text" value="01546 886307"/></p> <p>Email <input style="width: 90%;" type="text" value=""/></p>	<p>(2) AGENT (if any)</p> <p>Name <input style="width: 90%;" type="text" value="R T HUTTON"/></p> <p>Address <input style="width: 90%;" type="text" value="2 FACTORS BRAC"/></p> <p style="padding-left: 20px;"><input style="width: 90%;" type="text" value="LIMEFILMS"/></p> <p style="padding-left: 20px;"><input style="width: 90%;" type="text" value="FIFE"/></p> <p>Postcode <input style="width: 90%;" type="text" value="KY11 3HG"/></p> <p>Tel. No. <input style="width: 90%;" type="text" value="01383 872000"/></p> <p>Email <input style="width: 90%;" type="text" value="hutton874@btinternet.com"/></p>
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(3) Do you wish correspondence to be sent to you  or your agent

(4) (a) Reference Number of Planning Application

(b) Date of Submission

(c) Date of Decision Notice (if applicable)

(5) Address of Appeal Property

LAND SOUTH WEST OF  
ACDOR HOUSE, KILMICKEL,  
GLASSARY, LOCHGILPHEAD  
PA31 8QA

(6) Description of Proposal

PERMISSION IN PRINCIPLE  
FOR A SINGLE HOUSE AND  
SEPTIC TANK

(7)

Please set out the detailed reasons for requesting the review:-

PLEASE SEE SEPARATE REPORT  
ATTACHED

If insufficient space please continue on a separate page. Is this is  
attached?  (Please tick to confirm)

(8) If the Local Review Body determines that it requires further information on "specified matters" please indicate which of the following procedure you would prefer to provide such information :-

- (a) Dealt with by written submission
- (b) Dealt with by Local Hearing
- (c) Dealt with by written submission and site inspection
- (d) Dealt with by local hearing and site inspection

*NB It is a matter solely for the Local Review Body to determine if further information is required and, if so, how it should be obtained.*

(9) Please list in the schedule all documentation submitted as part of the application for review ensuring that each document corresponds to the numbering in the sections below:-

**Schedule of documents submitted with Notice of Review (Note: 3 paper copies of each of the documents referred to in the schedule below must be attached):**

No.	Detail
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	

If insufficient space please continue on a separate page. Is this is attached?  (Please tick to confirm)

Submitted by  
(Please Sign)

R.T. Muir

Dated

4.3.13

**Important Notes for Guidance**

1. All matters which the applicant intends to raise in the review must be set out in or accompany this Notice of Review
2. All documents, materials and evidence which the applicant intends to rely on in the Review must accompany the Notice of Review **UNLESS** further information is required under Regulation 15 or by authority of the Hearing Session Rules.
3. Guidance on the procedures can be found on the Council's website – [www.argyll-bute.gov.uk/](http://www.argyll-bute.gov.uk/)
4. If in doubt how to proceed please contact 01546 604406 or email [localreviewprocess@argyll-bute.gov.uk](mailto:localreviewprocess@argyll-bute.gov.uk)
5. Once completed this form can be either emailed to [localreviewprocess@argyll-bute.gov.uk](mailto:localreviewprocess@argyll-bute.gov.uk) or returned by post to **Committee Services (Local Review Board), Kilmory, Lochgilphead, Argyll, PA31 8RT**
6. You will receive an acknowledgement of this form, usually by electronic mail (if applicable), within 14 days of the receipt of your form and supporting documentation.

If you have any queries relating to the completion of this form please contact Committee Services on 01546 604392 or email [localreviewprocess@argyll-bute.gov.uk](mailto:localreviewprocess@argyll-bute.gov.uk)

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**For official use only**

Date form issued

Issued by (please sign)

STATEMENT IN SUPPORT OF THE REQUEST FOR A REVIEW OF  
THE DECISION TO REFUSE THE APPLICATION FOR PLANNING  
PERMISSION IN PRINCIPLE FOR THE ERECTION OF A  
DWELLINGHOUSE AND INSTALLATION OF A SEPTIC TANK ON  
LAND SOUTH WEST OF ALDER HOUSE, KILMICHAEL,  
GLASSARY.

ARGYLL AND BUTE COUNCIL REFERENCE 12/02588/PPP.

R T HUTTON PLANNING CONSULTANT  
FEBRUARY 2013

## **1.0 Background to the Appeal.**

1.1 In November 2012 Mr and Mrs Duncan Campbell applied for planning permission in principle for the erection of a new house on land they own immediately adjacent to Alder House, on a site approximately 300 metres south of the village of Bridgend. The site extends to 4400 square metres and rises from north to south, with an increase of approximately 10 metres over the site. The site has been colonised by self seeded trees following the clear felling of the area when the earlier commercial forestry had been harvested.

1.2 The applicants submitted their application with an understanding of the Development Plan policies which apply in this area, and with the local knowledge of other houses which have been approved in the locality. They were therefore very disappointed when advised that their application was being refused. They believe that the first two reasons given for this decision result from a very negative interpretation of the quoted policies without reference to the aims behind these policies, and the third reason relates to an issue which could easily have been resolved had the planning case officer chosen to do so. It is for these reasons that Mr and Mrs Campbell now request that the decision to refuse their application for permission in principle be considered by the Council's Local Review Body, and they request that the information contained within this report be considered in support of their case to have their application approved.

## **2.0 The Application Proposal.**

2.1 The application site occupies a position above the A816 road close to the village of Bridgend. The site was, some years ago, planted for commercial woodland, but this was harvested and the site has since been left to return to a natural state of course grassland and self seeded trees which in themselves have no great amenity value. However, it is appreciated that these trees do have a benefit in the wider landscape, and it is the intention that the trees on the periphery of the site will be retained in order to ensure that the development does not detract from this.

2.2 Immediately adjacent to the east of the site is a relatively new property known as Alder House. It is clear that the trees which occupied this site were clear felled to allow for construction of the house and its access. It is proposed that the existing access to this property would be used by Mr and Mrs Campbell to gain entry to their site, and this has the major benefit of allowing retention of all the trees along the frontage of



their site, thus avoiding the need for the extent of tree felling which took place at Alder house. Access to the application site would simply involve taking a spur off the driveway within the present curtilage of Alder House.

2.3 Whilst the application was submitted to establish the principle of a new house being built on this site, it was thought that providing an indication of the scale and type of house envisaged would be helpful in assessing the proposal. It is proposed that the house would be located in the middle of the site, thus minimising the loss of trees on the periphery. This is also the area with fewest trees. The house would be single storey and would have a floor level similar to that of Alder House. By keeping the level of the house down, and with the rising land behind, this will ensure that the building will never be seen against the skyline. In fact there will be no direct view of the property, and it will only be seen through trees.

2.4 It is intended that the new house would have a scale similar to a traditional cottage, and would have a roof pitch of around 40 degrees which again reflects that of a traditional property. The roof would be clad in slates, and the walls finished with a white render, again reflecting the local vernacular style. The applicants would however wish to apply a contemporary approach to the detailed aspects of the design in order to incorporate modern energy efficiency technology.

2.5 Drainage from the site would utilise a septic tank arrangement for the foul sewage, with the discharge connected to the outfall from the tank for Alder House. It is understood that such an arrangement is acceptable to SEPA. Surface water run off from the site would be minimised by the use of permeable surfaces, and the water from the house roof would be connected into the pipe which takes the surface water from Alder House.

### **3.0 The reasons for refusal and the applicants' comments on these.**

3.1 The planning application was refused with three reasons given for that decision. These are:

1. The proposal does not provide for an appropriate "infill", "rounding-off" or "redevelopment" within the designated "sensitive countryside" and in the absence of a valid claim of locational/operational need, is contrary to the provisions of policies STRAT DC 5 of the Argyll and Bute Structure Plan 2002 and LP HOU 1 of the adopted Argyll and Bute Local Plan 2009.

2. The proposed development would occupy a prominent, elevated location which would not only erode the existing settlement pattern to the south of Bridgend village but would significantly diminish the quality of an existing deciduous woodland, both of these factors resulting in a significant adverse impact upon key landscape features of the Knapdale National Scenic Area and is accordingly contrary to the provisions of policies STRAT DC 8 of the Argyll and Bute Structure Plan 2002 and LP ENV 7, LP ENV 8 and LP ENV 19 of the adopted Argyll and Bute Local Plan 2009.

3. The red edge boundary of the proposed development does not include the existing point of access with the public C class road where the applicant intends to gain access to the site. To this extent, access improvements to overcome highway safety concerns relating to the intensification of the traffic cannot be conditioned. In the absence of a Section 75 legal agreement and land being outwith the applicants control the access would be contrary to the provisions of policy LP TRAN 4 of the adopted Argyll and Bute Local Plan 2009. The access to overcome highway safety issues would need to be upgraded to the Council's Highway Drawing standard SD/08/006 Rev. a.

3.2 It is now proposed to address each of these in turn in order to demonstrate why the applicants believe that their application can be approved without breaching the quoted Development Plan policies.

3.3 Reason for refusal 1.

3.3.1 This reason is concerned with policy STRAT DC 5 of the Structure Plan and LP HOU 1 of the Local Plan. The Structure Plan policy is headed "Development within sensitive countryside", and in relation to small scale development states:

"Within Sensitive Countryside encouragement shall only be given to small scale infill, rounding -off, redevelopment and change of use of building development or to single dwelling houses on bareland crofts of single additional dwelling houses on individual crofts subject to consistency with STRAT AC 1 C)"

What is particularly significant in the wording of this policy relative to this review is that it is written in positive terms, listing the forms of development which will be encouraged. Unlike many development management policies it does not state a definite presumption against

development, thus giving scope to decision makers to consider proposals against a wider environmental agenda. In this respect it is then worth considering the text in paragraph 4.10 of the Structure Plan which relates specifically to policy STRAT DC 4. It is a well established principle of planning law that the aims of a policy as well as its detailed wording should be considered when assessing development proposals.

3.3.2 Paragraph 4.10 explains that sensitivities within the “sensitive countryside” zone can vary considerably, and that it does not have a general capacity to successfully absorb development in the open countryside, and it lists those incidences where this can be achieved. It is therefore clear that the aim of this policy is to ensure that any new development within the sensitive countryside zone does not adversely impact upon the landscape quality of then area.

3,3.3 The Local Plan policy LP HOU 1 is headed “General Housing Development”, and the accompanying text explains that this policy sets out general presumptions in favour or against different scales and circumstances of housing within the 8 development control zones. The policy itself explains that in sensitive countryside there is a presumption against small-scale housing in open/undeveloped areas, though the accompanying text does clarify that in sensitive countryside there is a presumption in favour of “small scale housing developments in close proximity to existing buildings in infill, rounding off changes of use of buildings and redevelopment sites”. The proximity of Alder House clearly mean that the site is in close proximity to an existing building, and as explained above, the proposed house will have minimal impact on the landscape.

#### 3.4 Reason for refusal 2.

3.4.1 The second reason for refusal makes a number of specific points relating to the physical characteristics of the site, and it is on the basis of these that the quoted policies are breached. The applicants disagree with the planning case officer’s assessment of the site’s physical character, specifically his view that:

The development would occupy a prominent, elevated position.

Development of the site would erode the settlement pattern south of Bridgend.

The new house would significantly diminish the quality of the existing deciduous woodland.

On the basis of these 3 factors, the planning officer concludes that the

proposed development breaches a number of policies. The applicants now wish to show why these 3 factors are not accurate.

3.4.2 The position of the application site is elevated above the A816 road, but that in itself does not make the site prominent in the landscape. The site is a small part of a larger woodland which extends to the east of Alder House, and this woodland is seen against the rising land beyond. This natural landscaping and topography mean that the site cannot be described as occupying a prominent position. Also, as explained above, it is the intention to retain the trees on the periphery of the site such that the new house is afforded a mature landscape setting which will ensure it is not particularly visible.

3.4.3 The next point refers to the settlement pattern south of Bridgend village. As with the wider area in and around Bridgend, the settlement pattern is one of individual and 2/3 houses located throughout the landscape, some in prominent positions and others more discretely located. To build the house as proposed, immediately adjacent to Alder House, would not only respect the established settlement pattern, but in a way which would be discrete.

3.4.4 The third point in this second reason for refusal states that the proposed new house would significantly diminish the quality of the deciduous woodland. There are 3 points the applicants would wish to raise with respect to this point. Firstly, the woodland is not of significant quality as pointed out at paragraph 2.1 above. It is an area of self seeded trees, and when consulted previously on the planning application for Alder House, Scottish Natural Heritage confirmed that the trees were of no great value, and no objection to the current application has been raised by SNH.

3.4.5 The second point in relation to the trees is that those of most value in the wider landscape will be retained. The applicants would be more than happy to accept a condition of planning permission which requires that full details of all trees to be felled are supplied to the Council before works starts. Also, that a survey of all trees to be retained be undertaken, and any requirements for management works and replanting be undertaken as part of the development. Finally, having established a position where the best trees are retained, the applicants would accept a condition under the terms of which they must manage the trees in the longer term.

3.4.6 Woodland are living entities which without maintenance can

deteriorate. Under the arrangements outlined above the most important trees on the application site will be retained and managed, thus ensuring that their amenity value is retained for the long term. This is seen as a positive benefit which derives from this planning proposal.

3.4.7 The second reason for refusal lists a number of policies which it is contended would be contravened by the proposed house. However, this view is based upon the false assumption relating to the 3 points noted in paragraph 3.4.1 above. When it is shown that these are not factually correct, the policy issues fail and do not need further consideration.

### 3.5 The third reason for refusal

3.5.1 This reason is really a technical matter which can be easily resolved, as is explained in the delegated report. The Area Roads Engineer wishes to see improvements made to the access involving the road widened to 5.5 metres, provision of a service passing bay, and the road to be surfaced with a bound material. The delegated report states that, had the principle of the application been acceptable, the Council would have encouraged an amended application to include the land needed for the road works, or required a legal agreement.

3.5.2 It is a pity that the Council had not sought to resolve this matter during their consideration of the application. However, the applicants and the owner of Alder House are both prepared to sign a legal agreement relating to the required works, and we trust this gives members of the Local Review Body sufficient assurance to deal with the required road works in this way.

## **4.0 Conclusions.**

4.1 Whilst there are 3 reasons given for the refusal of this planning application, it is apparent that the single key issue of real concern is the potential impact the proposed house would have on a sensitive landscape. The policies quoted in the first 2 reasons for refusal are all designed to ensure that new development does not impact significantly in an adverse way, and this is clear from either the wording of the policies or the text which accompanies them. The aims behind policies must be considered as well as the detailed wording in any assessment of a proposal.

4.2 Having established that there is no absolute policy presumption against the proposed new house, and that visual impact is the key issue, we have sought to demonstrate why the house will not have the adverse

effect as feared by the planning case officer. By retaining those trees which are most important in the landscape and by management and some new planting, the development will result in a long term improvement for this local area.

4.3 The concerns of the Area Roads Engineer can be addressed through a legal agreement which the applicants and the landowner are prepared to sign. This will ensure the required works are undertaken before the new house is occupied.

4.4 In light of all of the above, the applicants ask that the Local Review Body overturn the decision of the planning officer and grant planning permission in principle for the proposed new house. They are more than happy to accept conditions relating to trees and house design as described above, and to enter into a legal agreement to ensure works to the access road are carried out.

**STATEMENT OF CASE**

**FOR**

**ARGYLL AND BUTE COUNCIL  
LOCAL REVIEW BODY**

**REFUSAL OF PLANNING PERMISSION IN  
PRINCIPLE FOR A SITE FOR THE ERECTION OF  
A DWELLINGHOUSE AT LAND SW OF ALDER  
HOUSE, KILMICHAEL GLASSARY,  
LOCHGILPHEAD**

**LOCAL REVIEW BODY REF. 13/0005/LRB**

**PLANNING PERMISSION APPLICATION  
REFERENCE NUMBER 12/02588/PPP**

**18<sup>th</sup> March 2013**

## **STATEMENT OF CASE**

The planning authority is Argyll and Bute Council ('the Council'). The appellants are Mr and Mrs Duncan Campbell. ('the appellants').

The planning application, reference number 12/02588/PPP, for a site for the erection of a dwellinghouse ("the appeal site") was refused under delegated powers on the 25<sup>th</sup> January 2013. The planning application has been appealed and is subject of referral to a Local Review Body.

### **DESCRIPTION OF SITE LOCATION**

The application pertains to some 0.44 ha of self-seeded deciduous woodland which sits on a ridge some 240m to the south of the village of Bridgend above the line of the old main road which runs through the village. The woodland is particularly prominent in views from the A816 travelling south toward/past Bridgend the south bound carriageway of which passes by some 30m from the site at a considerably lower level. The woodland is an important landscape feature which frames the southern boundary of the village of Bridgend marking a change in topography and landscape character where the mouth of Kilmichael Glen opens out onto the more expansive landscape setting of Dunadd and Moine Mhor beyond. The woodland frontage is some 170m in length although this has been interrupted with a gap of some 40-50m by the previous development of Alder House, planning permission for which was originally granted in 2004 at which time this location was identified within a draft 'Rural Opportunity Area' in the emerging Argyll and Bute Local Plan. The previous planning assessment noted the important landscape qualities of this woodland area and in accepting the development of Alder House concluded that it was imperative that the remainder of the woodland setting be retained to provide an appropriate setting to the new development and to prevent significant change to the existing landscape setting. It is noted that the Local Plan settlement strategy was later changed to reflect this consent by amendment of the ROA to sensitive countryside.

### **SITE HISTORY**

There is no planning history directly relating to the current application site.

Planning permission has previously been granted for development of adjoining land to the north-east (04/01619/OUT and 07/00796/DET) for the dwelling which has recently been constructed and is known as Alder House.

### **STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED**

Section 25 of the Town & Country Planning (Scotland) Act 1997 provides that where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in



accordance with the plan unless material considerations indicate otherwise. This is the test for this application.

## **STATEMENT OF CASE**

Argyll and Bute Council considers the determining issues in relation to the case are as follows:-

- Whether or not the proposal is consistent with the Council's 'Settlement Strategy' as set out in the Development Plan, in this instance policies STRAT DC 5, and LP HOU 1.
- In the event that the proposal were to be considered consistent with the Council's 'Settlement Strategy', whether or not the proposed development and its impact upon a woodland area would give rise to a significant adverse impact upon landscape quality having due regard to the provisions of policies STRAT DC 8, LP ENV 7, LP ENV 9 and LP ENV 19.
- In the event that the proposal were to be considered consistent with the Council's 'Settlement Strategy', whether or not the proposed development is capable of complying with the minimum technical standards in the Council's Road Development Guide having regard to the provisions of LP TRAN 4.

The Report of Handling (Appendix 1) sets out the Council's assessment of the application in terms of Development Plan policy and other material considerations. The consultation comments submitted by statutory and other consultees (Appendix 2) are attached for the purpose of clarity.

## **POLICY BACKGROUND**

The appeal relates to a 'small scale' residential development on an 'open countryside' site within the 'Sensitive Countryside' – the following policy considerations are relevant to the determination of this matter:

### *Structure Plan Policy DC 5 – Development in Sensitive Countryside*

- A) Within Sensitive Countryside encouragement shall only be given to small scale infill, rounding-off, re-development and change of use building development or to single dwellinghouses on bareland crofts or ingle additional dwellinghouses on individual crofts subject to consistency with STRAT DC 1 C).*
- B) In special cases, development in the open countryside and medium and large scale development may be supported if this accords with an area capacity evaluation which demonstrates that the specific development proposed will integrate sympathetically with the landscape and settlement pattern and that the development will entail or result in at least one of the following outcomes:*

1. *a small scale housing development which accords with the area capacity evaluation, OR*
2. *a positive development opportunity yielding significant countryside management or environmental enhancement benefit, or building retention benefit or local community benefit or economic benefit;*

OR

3. *a development with a locational need to be on or in the near vicinity of the proposed site.*

*C) Developments which do not accord with this policy are those outwith categories A) and B) above and those with incongruous siting, scale and design characteristics or resulting in unacceptable forms of ribbon development or settlement coalescence.*

*D) Developments are also subject to consistency with other policies of the Structure Plan and in the Local Plan.*

*Local Plan Policy LP HOU 1 – General Housing Development*

*(A) There is a general presumption in favour of housing development other than those categories, scales and locations of development listed in (B) below. Housing development for which there is a presumption in favour will be supported unless there is an unacceptable environmental, servicing or access impact.*

*(B) There is a general presumption against housing development when it involves:*

*1.-3. – n/a*

*In the countryside development control zones:*

*4. Small-scale housing development in the Greenbelt, Very Sensitive Countryside and in open/undeveloped areas within Countryside Around Settlements and Sensitive Countryside.*

*5. n/a*

*(C) Housing development, for which there is a general presumption against will not be supported unless an exceptional case is successfully demonstrated in accordance with those exceptions listed for each development control zone in the justification for this policy.*

*(D) Housing developments are also subject to consistency with other policies of both Structure and Local Plan ...*

Justification text for Policy LP HOU 1

*The sensitive countryside zone may be viewed as intermediate between rural opportunity areas and very sensitive countryside. This zone does not have the general capacity to successfully absorb any scale of new housing development when it is in the open countryside. Consequently, the presumption in favour is restricted to small-scale housing development in close proximity to existing buildings in infill, rounding-off, change of use of building and redevelopment sites.*

*Notwithstanding the initial presumption against, in exceptional cases, where an operational need has been established and an applicant demonstrates that there is a specific locational need to be on, or in the near vicinity of the proposed site, small-scale housing may therefore be considered within this zone. This is provided that there is sufficient capacity to successfully integrate the proposed housing within the landscape. The planning authority will conduct an Area Capacity Evaluation (ACE) in order to assess the direct and cumulative impact of any such development. The ACE process is further explained in supplementary planning guidance.*

Structure Plan Policy STRAT DC 8 – Landscape and Development Control

*A) Development which, by reason of location, siting, scale, form, design or cumulative impact, damages or undermines the key environmental features of a visually contained or wider landscape or coastscape shall be treated as 'non-sustainable' and is contrary to policy. Outwith the National Park important and vulnerable landscapes in Argyll and Bute are those associated with:*

- 1. National Scenic Areas*
- 2. Historic landscapes and their settings with close links to archaeology and built heritage and/or historic gardens and designed landscapes.*
- 3. Landward and coastal areas with semi-wilderness or isolated or panoramic quality.*

*B) Protection, conservation and enhancement to landscape will also be encouraged in association with development and land use proposals.*

Local Plan Policy LP ENV 7 – Development Impact on Trees/Woodland

*In accordance with Schedule FW 2, the Council will protect trees, groups of trees and areas of woodland by making Tree Preservation Orders (TPOs) where this appears necessary in the interests of amenity.*

*In addition, the Council will resist development likely to have an adverse impact on trees and will ensure, through the development control process, that adequate provision is made for the preservation of and when considered appropriate the planting of new woodland/trees, including compensatory planting and management methods.*

*Schedule FW 2 – Features of important woodland/trees to be safeguarded include:*

- *The whole area of woodland or segments of woodland when these are highly valued and not capable of absorbing development without fundamental damage occurring to the integrity, appearance or prized features of the woodland.*
- *The prized features of a woodland may include:*
  - *The remaining part of an ancient or semi-natural woodland;*
  - *Recreational value to local people;*
  - *Amenity value;*
  - *The woodland setting;*
  - *The habitat value;*
  - *Highly valued tree specimens;*
  - *Windbreak characteristics;*
  - *The configuration of open spaces, glades, network, canopy and understorey;*
  - *The important contribution of the woodland, as key landscape features, to local and regional landscape character and distinctiveness.*

*Local Plan Policy LP ENV 9 – Development Impact on National Scenic Areas*

*Development in, or adjacent to, National Scenic Areas that would have a significant adverse effect on a National Scenic Area will be refused unless it is demonstrated that:*

- (A) *The objectives of the designation and overall integrity of the area will not be compromised;*
- (B) *Any significant adverse effects on the quality for which the area has been designated are clearly outweighed by social and economic benefits of national importance;*
- (C) *Where acceptable, development must also conform to Appendix A of the Local Plan.*

*In all cases the highest standards, in terms of location, siting, landscaping, boundary treatment, materials and detailing will be required within a National Scenic Area.*

*Local Plan Policy LP ENV 19 – Development Setting, Layout and Design*

*The Council will require developers and their agents to produce and execute a high standard of design in accordance with the design principles set out in Appendix A of this Local Plan, the Council's sustainable design guide and the following criteria: -*

*Development Setting*

*(A) Development shall be sited and positioned so as to pay regard to the context within which it is located.*

*Development Layout and Density*

*(B) Development layout and density shall effectively integrate with the urban, suburban or countryside setting of the development. Layouts shall be adapted, as appropriate, to take into account the location or sensitivity of the area. Developments with poor quality or inappropriate layouts or densities including over-development and overshadowing of sites shall be resisted.*

*Development Design*

*(C), (D) and (E) relate to scale, massing, form, design details, special needs requirements and energy efficiency.*

*Local Plan Policy LP TRAN 4 – New and Existing, Public Roads and Private Access Regimes*

*Acceptance of development utilising new and existing public roads and private access regimes.*

*(A) n/a*

*(B) n/a*

*(C) n/a*

*(D) Where a site is served by an existing private access regime (i.e. private road or access) and this is considered to be of such a poor standard as to be unsuitable for additional vehicular traffic the Planning Authority may consider the proposal unacceptable, unless the applicant can either;*

*(i) Secure ownership of the private road or access to allow for commensurate improvements to be made to the satisfaction of the Planning Authority; OR,*

*(ii) Demonstrate that an appropriate agreement has been concluded with the existing owner to allow for commensurate improvements to be made to the satisfaction of the Planning Authority.*

**REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING**

The issues raised were covered in the Report of Handling which is contained in Appendix 1. As such it is considered that Members have all the information they need to determine the case. Given the above and that the proposal is 'local' development, has no complex or challenging issues and has not been

the subject of significant body of conflicting representation, then it is considered that a Hearing is not required.

### **COMMENT ON APPELLANTS' SUBMISSION**

Having regard to part (7) of the appellant's submission the following comments are noted for the record in respect of the specific issues raised:

#### 1. Reason for Refusal 1 - Paras 3.3.1 – 3.3.3

It is reaffirmed that the provisions of STRAT DC 5 (A) state that “Within Sensitive Countryside encouragement shall only be given to small scale infill, rounding-off, redevelopment and change of use of building development or to single dwellinghouses on bareland crofts or single additional dwellinghouses on individual crofts subject to consistency with STRAT AC 1”.

The contention that Structure Plan policy STRAT DC 5 has been misinterpreted by officers is rebutted. The proposal does not conform with the definitions of ‘infill’ or ‘rounding-off’ development in the Local Plan (nor any of the other limited, specified circumstances which would allow development to be supported) and consequently the proposal is not supported by STRAT DC 5.

It is further noted that the provisions of Local Plan policy LP HOU 1 (B) 4. sets out a general presumption against “small scale housing development in the Greenbelt, Very Sensitive Countryside and in open/undeveloped areas within Countryside Around Settlement and Sensitive Countryside”.

#### 2. Reason for Refusal 2 – Paras 3.4.1 – 3.4.7

Officer's assessment of the impact of the proposal upon settlement pattern, woodland setting and landscape quality are clearly set out in the Report of Handling.

#### 3. Reason for Refusal 3 – Paras 3.5.1 – 3.5.2

It is agreed that the Roads issues are essentially a technical matter; it is understood that the improvements are physically capable of being implemented however a S75 planning agreement would be necessary to ensure that improvements on land outwith the control of the applicant could be achieved. It is reaffirmed that Officers did not pursue resolution of this matter given the fundamental policy conflicts arising in relation to other aspects of the proposal.

### **CONCLUSION**

Section 25 of the Town and Country Planning Act 1997 requires that all decisions be made in accordance with the development plan unless material considerations indicate otherwise.

The proposal is for a 'small scale' housing development on an 'open countryside' location within 'sensitive countryside' wherein the provisions of STRAT DC 5 of the Argyll and Bute Structure Plan 2002 and LP HOU 1 of the adopted Argyll and Bute Local Plan 2009 set out a presumption against development except in specific circumstances relating to the management of land and subject of Area Capacity Evaluation. In this instance the appellant has not presented an overriding claim of locational/operational justification in support of the proposal.

Furthermore, the proposal is considered likely to significantly diminish the landscape value of the existing deciduous woodland which is itself a key landscape feature and located within a National Scenic Area. In this way the proposal would also be contrary to the provisions of STRAT DC 8, LP ENV 7, LP ENV 9 and LP ENV 19.

The application as submitted also gives rise to a requirement to secure access improvements involving land outwith the control of the applicant; until such time as the applicant can demonstrate an ability to undertake the requisite improvements the proposal is considered contrary to LP TRAN 4

Taking account of the above, it is respectfully requested that the appeal be dismissed.

**Appendix 1 – Report of Handling**

**Argyll and Bute Council  
Development & Infrastructure Services**

**Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle**

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**Reference No:** 12/02588/PP  
**Planning Hierarchy:** Local  
**Applicant:** Mr And Mrs Duncan Campbell  
**Proposal:** Site for the erection of dwelling-house and installation of septic tank.  
**Site Address:** Land south west Of Alder House, Kilmichael Glassary

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**DECISION ROUTE**

Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997

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**(A) THE APPLICATION**

**(i) Development Requiring Express Planning Permission in Principle**

- Site for the erection of dwelling-house (Planning permission in principle), requiring
- Installation of septic tank and
- Formation of access of a private driveway

**(ii) Other specified operations**

- Connection to public water supply.
- 

**(B) RECOMMENDATION:**

It is recommended to refuse the development for the reasons expressed..

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**(C) CONSULTATIONS:**



Area Roads Engineer – Refuse as the improvements required to the existing Alder House access for this development (as indicated by the agent) needful for the intensification of traffic are outside the application site and as such are unable to be secured by the Planning Authority within the context of this application

Area Environmental Health Officer – no objections

Scottish Water – no objections ; advice notes.

Scottish Natural Heritage – no objections

West of Scotland Archaeology Service – no objections

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**(D) HISTORY:**

On neighbouring land to the north - east:

04/01619/OUT - Erection of dwelling house and installation of septic tank in principle – approved 05.10.2004.

*(Background : this was approved when the former Mid Argyll Local Plan was the relevant statutory Local Plan and the emerging Draft Argyll and Bute Local Plan at the time of the assessment defined this area as Rural Opportunity Area where appropriate small scale development could be supported – it needs to be appreciated that the statutory Local Plan (2009) adjusted matters and excluded this land from ROA status defining it as Sensitive Countryside).*

07/00796/DET - Erection of dwelling house and installation of septic tank – approved 19.07.2007 on the 2004 Outline site and now built (property known as Alder House).

On neighbouring land to the south-west:

04/02547/OUT – Site for erection of dwelling-house (same applicants; the site lies to the SW of current site beyond the trees) – Withdrawn 03.02.2005

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**(E) PUBLICITY:**

Regulation 20(1) Advertisement. Period for representations expired on the 28.12.2012

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**(F) REPRESENTATIONS:**

**(i) Representations received from:**

None

**(ii) Summary of issues raised:**

- None

**(G) SUPPORTING INFORMATION**

**Has the application been the subject of:**

- (i) Environmental Statement:** No
- (ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No
- (iii) A design or design/access statement:** Yes

It reads in summary as follows : ‘This has been submitted because the site lies within National Scenic Area.

The site adjoins recently constructed Alder House.

The site, colonised by self seeded trees which cover the majority of the site rises from north to south by about 10 metres, the lower level corresponding to the floor of the relatively level Kilmichael Glen. To the south the continuing rising land goes into hill. The hills have both extensive plantation tree cover and open moorland. Within this landscape traditional and new dwellings are found.

From an examination of current properties (traditional and new) built in the nearby village of Bridgend and in the open countryside it is possible to identify the factors which contribute to the successful integration of new houses into this sensitive landscape, these being : topography, existing vegetation and detailed house design.

It is accordingly proposed that the dwelling should be : single storey, likely rendered, with a slate roof with a pitch of about 40 degrees, built within a clearing within the trees to be formed in the middle of the site. Peripheral trees should be retained for shelter and immediate landscape framework. The floorslab level should be similar to neighbouring Alder House at 105.4 AOD thereby ensuring that the trees to be retained to the south would remain above the ridge line.

Scottish Natural Heritage have opined that this woodland has no special value that requires its’ retention.

Access to the site would be taken from the secondary road, but not directly, rather from the driveway which serves Alder House as it offers use of an existing good access and assists in keeping tree cover next to the road to benefit views of it from the north.

It is considered that such a development will not skyline with its' rising backcloth and will respect the character of the area with minimal visual impact.'

In recognition through telephone enquiry of the Authorities intent over this application to refuse, on the basis of the proposal being contrary to statutory policy, additional written comments dated 14.01.2013 have subsequently been received from the agent. These have been carefully considered and can be found within the digital file together with this Authorities reply dated 21.01.2013. The agents' comments revealed a mis-understanding and application of the relevant policies in relation to consideration of a 'special case'. The assessment of the application against these policies is found below.

- (iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** No

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**(H) PLANNING OBLIGATIONS**

**Is a Section 75 agreement required:** No

- 
- (I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:** No

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**(J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application**

- (i) List of all Development Plan Policy considerations taken into account in assessment of the application.**

'Argyll and Bute Structure Plan' 2002

STRAT DC 5 – Development in Sensitive Countryside  
STRAT DC 8 – Landscape and Development Control

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment  
LP ENV 7 – Development Impact on Trees/Woodland  
LP ENV 9 – Impact on National Scenic Area

LP ENV 19 – Development Setting, Layout and Design  
LP HOU 1 – General Housing Development  
LP SERV 1 – Private Sewage Treatment Plants and Wastewater Systems  
LP SERV 2 – Incorporation of Natural Features/Sustainable Drainage Systems  
LP TRAN 4 – New and Existing Public Roads and Private Access Regimes  
LP TRAN 6 – Vehicle Parking Provision

Appendix A – Sustainable Siting and Design Principles  
Appendix C – Access and Parking Standards

**(ii) List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 4/2009.**

- Councils' Sustainable Design Guide

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**(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: No**

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**(L) Has the application been the subject of statutory pre-application consultation (PAC): No**

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**(M) Has a sustainability check list been submitted: No**

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**(N) Does the Council have an interest in the site: No**

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**(O) Requirement for a hearing (PAN41 or other): No**

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**(P) Assessment and summary of determining issues and material considerations**

The site lies within designated Sensitive Countryside within part of a designated National Scenic Area where the most relevant policies STRAT DC 5, LP HOU 1 and LP ENV 9 of the statutory Development Plan apply.

The provisions of STRAT DC 5 and LP HOU 1 set out a presumption against development of "open" countryside locations within the 'sensitive countryside' with new development only being supported on appropriate 'infill', 'rounding-off' or 're-development' sites or as a 'special case' where the applicant has been able to demonstrate a locational/operational necessity for the development and where such a proposal is consistent with an Area Capacity Evaluation.

The provisions of STRAT DC 8 and LP ENV 9 would seek to resist

development which would have a significant adverse effect upon the National; Scenic Area.

The provisions of LP ENV 7 states that the Council will seek to resist development that would have an adverse impact upon trees.

The current submission seeks planning permission in principle for the erection of a single dwellinghouse (no details of siting, design or finishes provided) set within a clearing to be formed in the existing (again no details provided in relation to any necessary tree felling).

The application pertains to some 0.44 ha of self-seeded deciduous woodland which sits on a ridge some 240m to the south of the village of Bridgend above the line of the old main road which runs through the village. The woodland is particularly prominent in views from the A816 travelling south toward/past Bridgend the south bound carriageway of which passes by some 30m from the site at a considerably lower level. The woodland is an important landscape feature which frames the southern boundary of the village of Bridgend marking a change in topography and landscape character where the mouth of Kilmichael Glen opens out onto the more expansive landscape setting of Dunadd and Moine Mhor beyond. The woodland frontage is some 170m in length although this has been interrupted with a gap of some 40-50m by the previous development of Alder House, planning permission for which was originally granted in 2004 at which time this location was identified within a draft 'Rural Opportunity Area' in the emerging Argyll and Bute Local Plan. The previous planning assessment noted the important landscape qualities of this woodland area and in accepting the development of Alder House concluded that it was imperative that the remainder of the woodland setting be retained to provide an appropriate setting to the new development and to prevent significant change to the existing landscape setting. It is noted that the Local Plan settlement strategy was later changed to reflect this consent by amendment of the ROA to sensitive countryside.

The wooded application site, comprising of part of this deciduous woodland, has a frontage of 63 metres facing northwards toward the A816 and its' depth varies from 45 – 72 metres, rising over 10 metres in height (as expressed by the agent) with significantly higher land beginning to rise beyond it in part open landscape (upland grazing) and conifer plantation.

The application site adjoins the south western boundary of the curtilage of Alder House but is located within a wider area of undeveloped 'sensitive countryside' punctuated by dispersed development which lies south of Bridgend with Forest Lodge and Achnashelloch being located some 200m and 400m from the application site respectively. Within this context the proposal is not considered to be 'infill' or 're-development' having regard to the appropriate definitions in the Local Plan.

The previous landscape assessment pertaining to the development of Alder House concludes that retention of the wider woodland setting is essential to the successful integration of that development (Alder House) into this sensitive landscape and maintenance of landscape character. There has been no significant change to the circumstances of the immediate locality or its surrounds which would suggest that the previous landscape assessment requires to be revised, indeed the only notable change in circumstance is

that the settlement strategy within the Development Plan has been amended to a more sensitive designation to reflect the increased sensitivity of the landscape setting following the 2004/2007 permissions and as such it is concluded that additional development in the vicinity of Alder House which includes for diminishment of its woodland setting cannot be considered to be an appropriate 'rounding-off' development.

The Agent for the application has sought to contend that the development should be considered as a 'special case' and argues that the development of this site would be consistent with an Area Capacity Evaluation (ACE) as it would be possible to retain some of the woodland with a view to concealing/partially concealing the development from public views within the wider landscape setting. It is however noted that the justification pertaining to policy LP HOU 1 in the adopted Argyll and Bute Local Plan 2009 confirms that such 'special cases' relate to situations where an operational need has been established and the applicant demonstrates that there is a specific locational need to be on or in the near vicinity of the proposed site. In this instance the details submitted in support of the application do not demonstrate a valid locational/operational justification for the proposal and accordingly an ACE has not been undertaken by officers in the consideration of this application.

Having regard to the above the current application is considered to be contrary to the provisions of STRAT DC 5 and LP HOU 1.

It is recognised that this proposal (sitting alongside an existing dwelling even if partially concealed through a measure of tree retention along the site frontage) would (if the development is to enjoy a measure of light and typical garden amenity around the building) have a significant adverse impact upon the settlement pattern and landscape/built characteristics of the area to the detriment of the National Scenic Area through development growth beyond the village of Bridgend as would be clearly evident by those passing by on the A816. The development would also significantly diminish the landscape value of the existing deciduous woodland which is itself a key landscape feature. In this way the proposal would also be contrary to the provisions of STRAT DC 8, LP ENV 7, LP ENV 9 and LP ENV 19.

In relation to highway matters the application explains that access would not be gained directly off the neighbouring C class public road (in order that site frontage trees could be retained) but would be taken off the neighbouring Alder House driveway, utilising that access with the C class road. To use this access route the Area Roads Engineer has advised that it would be necessary for the existing access to be upgraded to incorporate with a 5.5 metre wide bound material access with a service bay passing place. As the existing access does not consist of a bound material and is without a service bay and the position of this is outside of the application site and the control of the applicant it is not possible to secure this requirement through condition. Had the principle of the proposal been otherwise acceptable the Authority would have either encouraged an amended application to incorporate the additional land necessary for access improvements or alternatively secured such improvement by means of a legal agreement if the third party land owner were amenable. These options have not been pursued in this instance given the fundamental issues detailed above in relation to settlement strategy and landscape character and the proposal as submitted is considered to be contrary to the provisions of LP TRAN 4.

In conclusion the Authority finds this proposal unacceptable and should be refused for the reasons attached.

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**(Q) Is the proposal consistent with the Development Plan: No**

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**(R) Reasons why Planning Permission or Planning Permission in Principle Should be Refused:**

The proposal does not provide for an appropriate 'infill', 'rounding-off' or 're-development' within the designated 'sensitive countryside' and, in the absence of a valid claim of locational/operational need, is contrary to the provisions of policies STRAT DC 5 of the Argyll and Bute Structure Plan 2002 and LP HOU 1 of the adopted Argyll and Bute Local Plan 2009.

The proposed development would occupy a prominent, elevated location which would not only erode the existing settlement pattern to the south of Bridgend village but would significantly diminish the quality of an existing deciduous woodland, both of these factors resulting in a significant adverse impact upon key landscape features of the Knapdale National Scenic Area and is accordingly contrary to the provisions of policies STRAT DC8 of the Argyll and Bute Structure Plan 2002 and LP ENV 7, LP ENV 9 and LP ENV 19 of the adopted Argyll and Bute Local Plan 2009.

The red edge boundary of the proposed development does not include the existing point of access with the public C class road where the applicant intends to gain access to the site. To this extent, access improvements to overcome highway safety concerns relating to the intensification of the traffic cannot be conditioned. In the absence of a Section 75 legal agreement and land being outwith the applicants control the access would be contrary to the provisions of policy LP TRAN 4 of the adopted Argyll and Bute Local Plan 2009. The access to overcome highway safety issues would need to be upgraded to the Councils' Highway Drawing standard SD 08/006 Rev a.

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**(S) Reasoned justification for a departure to the provisions of the Development Plan**

Not applicable

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**(T) Need for notification to Scottish Ministers or Historic Scotland: No**

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**Author of Report:** Derek Hay **Date:** 23.01.2013

**Reviewing Officer:**  **Date:** 24.01.2013

**Angus Gilmour**

**Head of Planning & Regulatory Services**

**REASONS FOR REFUSAL RELATIVE TO APPLICATION REF. NO : 12/02588/PP**

1. The proposal does not provide for an appropriate 'infill', 'rounding-off' or 're-development' within the designated 'sensitive countryside' and, in the absence of a valid claim of locational/operational need, is contrary to the provisions of policies STRAT DC 5 of the Argyll and Bute Structure Plan 2002 and LP HOU 1 of the adopted Argyll and Bute Local Plan 2009.
2. The proposed development would occupy a prominent, elevated location which would not only erode the existing settlement pattern to the south of Bridgend village but would significantly diminish the quality of an existing deciduous woodland, both of these factors resulting in a significant adverse impact upon key landscape features of the Knapdale National Scenic Area and is accordingly contrary to the provisions of policies STRAT DC8 of the Argyll and Bute Structure Plan 2002 and LP ENV 7, LP ENV 9 and LP ENV 19 of the adopted Argyll and Bute Local Plan 2009.
3. The red edge boundary of the proposed development does not include the existing point of access with the public C class road where the applicant intends to gain access to the site. To this extent, access improvements to overcome highway safety concerns relating to the intensification of the traffic cannot be conditioned. In the absence of a Section 75 legal agreement and land being outwith the applicants control the access would be contrary to the provisions of policy LP TRAN 4 of the adopted Argyll and Bute Local Plan 2009. The access to overcome highway safety issues would need to be upgraded to the Councils' Highway Drawing standard SD 08/006 Rev a.

**APPENDIX TO DECISION REFUSAL NOTICE**

Appendix relative to application **12/02588/PPP**

- |     |  |           |
|-----|--|-----------|
| (A) | Has the application been the subject of any "non-material" amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing. | <b>No</b> |
| (B) | The reason why planning permission has been  |           |



approved:

**The proposal does not provide for an appropriate 'infill', 'rounding-off' or 're-development' within the designated 'sensitive countryside' and, in the absence of a valid claim of locational/operational need, is contrary to the provisions of policies STRAT DC 5 of the Argyll and Bute Structure Plan 2002 and LP HOU 1 of the adopted Argyll and Bute Local Plan 2009.**

**The proposed development would occupy a prominent, elevated location which would not only erode the existing settlement pattern to the south of Bridgend village but would significantly diminish the quality of an existing deciduous woodland, both of these factors resulting in a significant adverse impact upon key landscape features of the Knapdale National Scenic Area and is accordingly contrary to the provisions of policies STRAT DC8 of the Argyll and Bute Structure Plan 2002 and LP ENV 7, LP ENV 9 and LP ENV 19 of the adopted Argyll and Bute Local Plan 2009.**

**The red edge boundary of the proposed development does not include the existing point of access with the public C class road where the applicant intends to gain access to the site. To this extent, access improvements to overcome highway safety concerns relating to the intensification of the traffic cannot be conditioned. In the absence of a Section 75 legal agreement and land being outwith the applicants control the access would be contrary to the provisions of policy LP TRAN 4 of the adopted Argyll and Bute Local Plan 2009. The access to overcome highway safety issues would need to be upgraded to the Councils' Highway Drawing standard SD 08/006 Rev a.**

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