

**DEVELOPMENT SERVICES  
PLANNING APPLICATION REPORT  
BUTE & COWAL AREA COMMITTEE**

Ward Number - 6 Cowal  
Date of Validity - 12<sup>th</sup> March 2008  
Committee Date - 2<sup>nd</sup> December 2008

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Reference Number: 08/00611/DET  
Applicants Name: John McNaughton  
Application Type: Detailed  
Application Description: Erection of dwellinghouse, formation of vehicular access and installation of septic tank.  
Location: Site 2, Land 250 metres South of Salthouse, Colintrave, Argyll.

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**(A) THE APPLICATION**

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

- Erection of dwellinghouse
- Formation of vehicular access
- Installation of septic tank

**(ii) Other specified operations**

- Connection to public water main.
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**(B) RECOMMENDATION**

Having due regard to the Development Plan and all other material considerations, it is recommended that Planning Permission **be refused** for the reason set out overleaf.

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**(C) SUMMARY OF DETERMINING ISSUES AND MATERIAL CONSIDERATIONS**

**(i) Development Plan Context:**

Outline Planning Permission was granted in 2004 on this site for the erection of a dwellinghouse. This development proposal was considered to be consistent with Policy STRAT DC 4 of the Structure Plan and policies POL RUR 1 & POL HO 10 of the adopted Cowal Local Plan 1993. The principle of residential development on this site is therefore consistent with the adopted Cowal Local Plan 1993.

The site is identified within a 'Rural Opportunity Area' (ROA) in the Post Inquiry Modified Argyll and Bute Local Plan. The Directorate's report on this emerging local plan recommended that ROA designations within National Scenic Areas be deleted and replaced by 'Sensitive Countryside' designation. The Council's response is to treat such ROA's as Sensitive Countryside until a landscape capacity study of each ROA has been undertaken and agreed by Council.

Structure Plan Policy STRAT DC 5 states that, within areas of 'Sensitive Countryside' encouragement shall be given to small scale infill, rounding off, redevelopment proposals and/or change of use of buildings. In special cases development in the open countryside may be supported if it accords with an Area Capacity Evaluation (ACE).

However, given that the proposed development does not meet the criteria of infill, rounding off, redevelopment or change of use of a building and no special circumstances claim has been made, the proposal is contrary to the emerging Local Plan and established settlement pattern and will have an adverse landscape and

visual impact of the area. The proposal is therefore contrary to Policy STRAT DC5 of the Structure Plan along with policy LP HOU 1 of the Post Inquiry Modified Local Plan.

While this development is consistent with the adopted Local Plan, this Plan is now out of date and the proposal is contrary to the Structure Plan and the emerging Local Plan which is at an advanced stage and represents the most recent policy interpretation of the Council. This is a significant material consideration.

**(ii) Representations:**

No letters of representation have been received.

**(iii) Consideration of the Need for Non-Statutory or PAN 41 Hearing:**

N/A

**(iv) Reasoned Justification for a Departure from the Provisions of the Development Plan.**

N/A

**(v) Is the Proposal a Schedule 1 or 2 EIA development:**

No.

**(vi) Does the Council have an interest in the site:**

No.

**(vii) Need and Reason for Notification to Scottish Ministers.**

No.

**(viii) Has a sustainability Checklist Been Submitted:**

No.

**Angus J Gilmour**  
**Head of Planning**  
26<sup>th</sup> November 2008

**Author:** John Irving  
**Reviewing Officer:** David Eaglesham

**Date:** 25<sup>th</sup> November 2008  
**Date:** 25<sup>th</sup> November 2008

**NOTE: Committee Members, the applicant, agent and any other interested party should note that the consultation responses and letters of representation referred to in Appendix A, have been summarised and that the full consultation response or letter of representations are available on request. It should also be noted that the associated drawings, application forms, consultations, other correspondence and all letters of representations are available for viewing on the Council web site at [www.argyll-bute.gov.uk](http://www.argyll-bute.gov.uk)**

## **REASONS FOR REFUSAL RELATIVE TO APPLICATION: 08/00611/DET**

1. As the proposed development does not meet the criteria of infill, rounding off, redevelopment or change of use of a building and no special circumstances claim has been made, the proposal is considered to be contrary to Policy STRAT DC 5 '*Development in Sensitive Countryside*' of the Argyll & Bute Structure Plan 2002 and Policy LP HOU 1 '*General Housing Development*' of the Post Inquiry Modified Argyll & Bute Local Plan (November 2008). Furthermore, the proposal is also considered to be contrary to the principles set out in Scottish Planning Policy 3 '*Planning for Housing*' (2003) and Planning Advice Note 72 '*Housing in the Countryside*' (2005).
2. Approval of this application is considered premature until such time as the Council has undertaken a landscape capacity study for the Rural Opportunity Area that this site is located within, as required by the Post Inquiry Modified Argyll & Bute Modified Local Plan (November 2008).

## **INFORMATIVE RELEVANT TO APPLICATION 08/00611/DET**

- i. The applicant is advised to contact the department upon completion of the landscape capacity study of this Rural Opportunity Area, once its findings have been considered and agreed by the Council. Only once this has been undertaken will the department be able to advise whether, in principle, residential development on this site is consistent with Development Plan policy.

## APPENDIX A – RELATIVE TO APPLICATION NUMBER: 08/00611/DET

### MATERIAL CONSIDERATIONS AND ADVICE

#### (i) POLICY OVERVIEW AND MATERIAL ADVICE

##### **Argyll & Bute Structure Plan 2002**

Policy STRAT DC 4 '*Development in Rural Opportunity Areas*' encourages, within Rural Opportunity Areas, small-scale developments on suitable sites that, in terms of siting and design, will visually integrate with the landscape and settlement pattern.

Policy STRAT DC 5 '*Development in Sensitive Countryside*' encourages small scale development to infill and rounding off sites, redevelopment and change of use of existing building.

Policy STRAT DC 8 '*Landscape & Development Control*' seeks to resist development with NSA's which has an adverse wider landscape or coastscape impact.

##### **Cowal Local Plan 1993**

Policy POL RUR 1 '*Landscape Quality*' seeks to resist prominent or sporadic development that would have an adverse environmental impact upon the *Kyles of Bute* National Scenic Area and requires development proposals to be assessed against the following criteria: Environmental Impact; Locational/Operational Need, Economic Benefit; and Infrastructure and Servicing Implications.

Policy POL RUR 13 '*Development in the Countryside*' seeks to support development in the countryside that are sensitive to and integrated with their surroundings.

Policy POL HO 10 '*Housing Development*' in the Countryside' seeks to encourage single or small-scale residential development in the countryside providing there are no infrastructure, servicing or environmental constraints. Particular attention will be paid to infill, rounding off and redevelopment opportunities related to existing development and landform.

Policy POL PU 3 '*Protection of Existing Properties with Private Services*' seeks to resist development that could have a detrimental effect on existing services (water and sewerage) to properties.

##### **Post Inquiry Modified Argyll and Bute Local Plan (November 2008)**

Policy LP ENV 9 '*Development Impact on National Scenic Areas (NSA's)*' seeks to refuse development in NSA's unless the integrity of the designation is not compromised and any adverse effects are outweighed by social or economic benefits of national importance.

Policy LP ENV 19 '*Development Setting, Layout & Design*' sets out the requirements in respect of development setting, layout and design.

Policy LP HOU 1 '*General Housing Development*' within Sensitive Countryside zones it is not considered to have general capacity to absorb any scale of new housing development in the countryside.

Policy LP SERV 1 '*Private Sewerage Treatment Plants & Wastewater Systems*' connection to public sewer will be a prerequisite of planning consents for all developments within the settlement unless demonstrated that it is not feasible for a technical or economic reason.

Policy LP TRAN 4 '*New and Existing, Public Roads and Private Access Regimes*' sets out the requirements for development in respect of new and existing public roads and private access regimes.

**Note (i):** The applicable elements of the above Policies have not been objected too or have no unresolved material planning issues and are therefore material planning considerations.

**Note (ii):** The Full Policies are available to view on the Council's Web Site at [www.argyll-bute.gov.uk](http://www.argyll-bute.gov.uk)

### **National Guidance**

Scottish Planning Policy 3 'Planning for Housing' (2003) promotes housing development in the countryside that supports the rural economy, local services, embodies the principles of sustainable development and enhance the rural environment. Encouragement of careful attention to siting and the adoption of house designs which reflect the variations in landscape and building character found across Scotland. This document stresses the importance of factors such as appropriate design and layout, development form and landscape impact.

Planning Advice Note 72 'Housing in the Countryside' (2005) sets out key design principles which need to be taken into account when determining planning applications. This includes single house developments and important factors such as location within the landscape, woodland setting, layout, scale, design and materials. The PAN reinforces the need for Planning Authorities to determine planning applications taking account of the aforementioned principles in a clear and concise manner. The PAN also reiterates that design is a material consideration in determining planning applications.

### **(ii) SITE HISTORY**

Outline planning permission 04/01845/OUT granted on 4<sup>th</sup> November 2004 for the erection of a dwellinghouse. Now lapsed.

There is an associated planning application 08/00607/DET elsewhere on this agenda for the erection of a dwellinghouse on land to the immediate north of this site.

### **(iii) CONSULTATIONS**

**SEPA** (letters dated 16<sup>th</sup> April and 17<sup>th</sup> June 2008): No objection subject to condition.

**Scottish Natural Heritage** (letter dated 22<sup>nd</sup> May 2008): No objection subject to conditions.

**Area Roads Manager** (memo dated 17<sup>th</sup> April 2008): No objection subject to conditions.

**Scottish Water** (letter dated 8<sup>th</sup> April 2008): No objection.

### **(iv) PUBLICITY AND REPRESENTATIONS**

No letters of representation have been received.

The applicant has submitted a design statement received 12<sup>th</sup> March 2008. The points raised are detailed below:

*The house is to be no more than one and a half storey with dormer windows to accommodate bedrooms in the roof space.*

*The aesthetics to the West highland in essence, making use of traditional materials such as natural stone, white render and stained timber in the walling and natural slate and lead on the roofs.*

*The principal living accommodation to have views across the loch to the west, but also to have south facing glazing to take maximum advantage of sunlight and solar gain.*

*It was recognised at an early stage that due to the site contours there would always be a fair amount of underbuilding to the elevations facing the B886 and that the impact of this would have to be minimised by terracing or garden retaining walls in natural stone.*

The applicant has submitted a further letter dated 25<sup>th</sup> November 2008 which is summarised below:

*The outline planning permission was granted on 4<sup>th</sup> November 2004, which expired 3<sup>rd</sup> November 2007. We entered into pre-application discussions with the department on 24<sup>th</sup> August 2007 including a meeting on 9<sup>th</sup> October 2007. Further amended plans were submitted 14<sup>th</sup> November 2007 to address the concerns of the department. Further issues raised by the department.*

*Design of dwellings modified to take account of the departments comments and planning application submitted on 27<sup>th</sup> February 2008.*

*In view of the detailed consultation and submissions that started three months prior to the expiry of the outline planning permission and that have been on-going until the present time, we are of the opinion that this effectively was all part of the purification of the conditions attached to the outline consent and it is therefore totally unacceptable, if not incompetent, to be informed on 18<sup>th</sup> November 2008, that the outline consent has lapsed and will therefore have no bearing on the determination of the application.*

*Our client would have expected that in following recommended procedures in carrying out pre application consultation that he would have been alerted to the date of lapse of the outline consent.*

Comment:

- Pre application discussions with this department did not result in the submitted planning application(s) taking due consideration of the department's concerns.
- The submission of pre-application information and plans cannot purify conditions attached to the now expired outline planning permission. This can only be done through the submission of a 'reserved matters' planning application, prior to the expiry of the associated outline consent. In any event, the applicant submitted two 'detailed' planning applications.
- It is the applicant's responsibility to ensure that the outline planning permission does not expire and is renewed on time.

## APPENDIX B – RELATIVE TO APPLICATION NUMBER: 08/00611/DET

### PLANNING LAND USE AND POLICY ASSESSMENT

#### A. Settlement Strategy

The adopted Cowal Local Plan encourages single or small-scale residential development in the countryside providing there are no infrastructure, servicing or environmental constraints. Particular attention will be paid to infill, rounding off and redevelopment opportunities related to existing development and landform.

**The proposal is consistent with Policy POL HO 10 of the adopted Cowal Local Plan 1993.**

The site was designated as a Rural Opportunity Area (ROA) in the Argyll & Bute Modified Finalised Draft Local Plan 2006. As members will be aware, the Reporters' recommendations on the emerging local plan included a specific recommendation that ROA designations located within National Scenic Areas be deleted and replaced by 'Sensitive Countryside'. The Council has resolved to treat such ROA designations as 'Sensitive Countryside' until a landscape capacity study has been undertaken of the ROA and its findings agreed by Council. Given the aforementioned, in terms of determining this planning application the site must be assessed as being located within 'Sensitive Countryside' designation.

In terms of Structure Plan, Policy STRAT DC5, there is a presumption in favour of 'small scale' development provided it is restricted to infill, rounding off, redevelopment or change of use of buildings. The proposed development does not meet the definition of infill, rounding off or redevelopment as defined in the Post Inquiry Modified Argyll and Bute Local Plan. Therefore, there is an initial presumption against development, unless, a 'Special Case' can be substantiated, together with an Area Capacity Evaluation (ACE). No such special case or circumstance has been submitted with this application.

The erection of a dwellinghouse in this open countryside location, within 'Sensitive Countryside' cannot be justified as infill or rounding off development in close proximity to existing buildings or indeed a change of use or redevelopment opportunity. In policy terms, the proposal is contrary to the housing policy for 'Sensitive Countryside' contained within the adopted Structure Plan and emerging Local Plan.

**The proposal is therefore considered to be contrary to Policy STRAT DC 5 of the adopted Structure Plan and Policy LP HOU 1 and Appendix E of the Post Inquiry Modified Argyll and Bute Local Plan.**

#### B. Location, Nature and Design of Proposed Development

This application is for the erection of a single one and a half storey dwelling house. The building has an extensive front elevation at approximately 20 metres wide. However, this elevation is well balanced and proportioned as a result of the three dormer window features. The use of sympathetic finishing materials such as a natural slate roof along with stone cladding, timber windows and a chimney feature results in a dwellinghouse which boasts many elements of meaningful design. In design terms and with respect of the design of surrounding nearby properties, it is considered that this proposal is acceptable.

The topography of this site will require a significant amount of earth removal and cutting in but this will result in a dwellinghouse which respects the surrounding landform and, crucially, limits its wider landscape impact. The proposal presents no amenity, overlooking or privacy issues and subject to conditions relating to materials samples, landscaping, tree planting and surface treatments, it is considered that this proposal is acceptable.

**The proposal is therefore considered to be consistent with Policy LP ENV 19 and Appendix A of the Post Inquiry Modified Argyll and Bute Local Plan along with the Sustainable Design Guidance 1 ‘Small Scale Housing Development’.**

#### **C. Natural Environment**

This site is located in the Kyles of Bute National Scenic Area (NSA) on the east bank of Loch Riddon, south of Salthouse, on the steep section of open rough grass and wooded land sandwiched between the B886 and A886.

This area is identified as the ‘Craggy Upland’ landscape character (see section below). The NSA designation identifies this area as highly sensitive to further development, in particular the shoreline at Salthouse to the north and Tigh-na-Creige to the south.

The scale and position of this dwellinghouse limits the ability of the existing woodland along the lower slopes of the site to screen and absorb the development. The site can also be clearly seen from the opposite banks of Loch Riddon which is also located within the NSA and which boasts a number of key vantage points where the site can be seen from. This includes, importantly, the panoramic view point on the Tighnabruaich A8003 road but also other vantage point at Ormidale Lodge and along both the A8003 and A886 roads.

Scottish Natural Heritage has raised no objection to this application on its own merits but considers the cumulative effect of this dwellinghouse, in addition to the proposed dwellinghouse to the north of this site to present an adverse wider landscape impact. See associated report (08/00607/DET), elsewhere on this committee agenda.

It is the Planning Authority’s duty to protect sensitive landscapes from inappropriate and unsympathetic development and given the aforementioned it is considered that this proposal will have a significant adverse wider landscape impact.

**The proposal is therefore considered to be contrary to Policy STRAT DC 8 of the adopted Structure Plan and Policy LP ENV 9 of the Post Inquiry Modified Argyll and Bute Local Plan.**

#### **D. Landscape Character**

The landscape character of the Kyles of Bute comprises a mix of ‘Craggy Upland’, ‘Steep ridgeland and Mountains’, and ‘Open Ridgeland’ as outlined in the Argyll and Bute Firth of Clyde Landscape Character Assessment (1996).

The area combines deeply enclosed passages of sea, scattered with islands, diverse mixed woodland on lower slopes, opening on higher ground to reveal a mix of smooth steep ridgeland and rocky roughly undulating hill country. These elements combine to create a great sense of visual drama of contrasting scale and form.

The description of the Kyles of Bute NSA notes the striking views, which are offered over three arms of water from the mainland hills and high degree of enclosure, which confer an appearance of peaceful calm on these narrow waters, which underlies their physical beauty.

#### **E. Road Network, Parking and Associated Transport Matters.**

The site will be accessed from the B866 Colintrave back road. Parking for two vehicles and a turning area will be provided on site. The Area Roads Manager has raised no objection to this application subject to conditions concerning the formation of a passing place at the site entrance, sightlines, gradients and surface water drainage.

**The proposal is therefore considered to be consistent with Policy LP TRAN 4 of the Post Inquiry Modified Argyll and Bute Local Plan.**



**F. Infrastructure**

It is proposed to provide a private foul drainage system, with treatment and partial soakaway, discharging to the adjacent watercourse. SEPA has raised no objection to this proposal.

It is proposed to connect to the public water main and Scottish Water has advised that while there are potential water pressure issues, they have no objection in this regard.

**The proposal is therefore considered to be consistent with Policy LP SERV 1 & 4 of the Post Inquiry Modified Argyll and Bute Local Plan & Policy POL PU 3 of the Cowal Local Plan.**

**G. Other Scottish Executive Advice**

This proposal is considered to be contrary to the provisions of Scottish Planning Policy 3 '*Planning for Housing*' (2003) and Planning Advice Note 72 '*Housing in the Countryside*' (2005), as detailed in Section (i) of Appendix A above.

**CONCLUSION**

The impact of this proposal, located within a nationally designated sensitive landscape is unacceptable and contrary to development plan policy. Given all of the aforementioned, this application is recommended for refusal.