

Reference Number: 09/00483/VARCON
Applicants Name: Mr and Mrs Harrison
Application Type: Variation of Condition Application
Application Description: Erection of Dwellinghouse (Removal of Condition 4 of Planning Permission 07/02143/OUT Relating to House Design)
Location: Balmory Hall, Balmory Road, Ascog, Isle of Bute

(A) THE APPLICATION

(i) Development Requiring Planning Permission

- Erection of Dwellinghouse (Removal of Condition 4 of Planning Permission 07/02143/OUT relating to the design of the house)
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(B) RECOMMENDATION

That Planning Permission be **approved** subject to the conditions and reasons on the following page.

(C) SUMMARY OF DETERMINING ISSUES AND MATERIAL CONSIDERATIONS

(i) Development Plan Context:

The site has the benefit of Outline Planning Permission (ref: 07/02143/OUT) granted on 7th April 2008. As the present application seeks 'planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted', the principle of residential development on the site is not in question and, under s.42 (2) Town & Country Planning (Scotland) Act 1997, "the planning authority shall consider only the question of the conditions subject to which planning permission should be granted."

The application proposes the removal of the condition that stipulates the design of the proposed dwelling. Supporting information has been submitted which intimates that it is proposed to erect a dwellinghouse with a 'Huf Haus' design and, indeed, this type of dwelling is the subject of a separate application for approval of reserved matters (ref: 08/02133/REM) which is also currently under consideration.

The total removal of the condition is not considered to be acceptable as the design criteria stipulated in Condition 4 are considered to be essential to the success of a dwellinghouse on this site. Some relaxation may be allowed in the footprint of the proposed dwelling and this is reflected in the recommendation to grant permission subject to a variation in the wording of the condition.

(ii) Representations:

No representations have been submitted.

(iii) Consideration of the Need for a PAN 41 Hearing:

As no representations have been received, there is no requirement to hold a PAN 41 hearing before Members reach a decision.

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

The application is not being recommended as a departure from the Development Plan.

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

No.

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

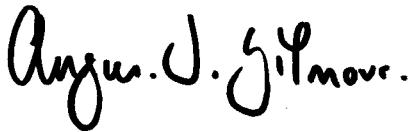
No.

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

There is no requirement to formally notify Scottish Ministers.

(viii) Has a sustainability Checklist Been Submitted:

No.



Angus J Gilmour
Head of Planning
19 June 2009

Author: Steven Gove 01369 708603
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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

CONDITIONS AND REASONS RELATIVE TO APPLICATION 09/00483/VARCON

1. This permission is granted under the provision of Article 4 of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992 on the basis of an outline application for planning permission and that the further approval of Argyll and Bute Council or of the Scottish Executive on appeal shall be required with respect to the undermentioned reserved matters before any development is commenced.
 - a. The siting, design and external appearance of the proposed development.
 - b. The landscaping of the site of the proposed development.
 - c. Details of the access arrangements.
 - d. Details of the proposed water supply and drainage arrangements.

2. In the case of the reserved matters specified in (1) above, an application for approval of the reserved matters in terms of Article 6 of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992 must be made to Argyll and Bute Council no later than 7 April 2011.

3. That the development to which this permission relates must be begun not later than 7 April 2013 or within the expiration of 2 years from the final approval of all reserved matters, whichever is the later.

Reasons: (1), (2) and (3) to comply with Section 59 of the Town and Country Planning (Scotland) Act 1997.

4. Any details pursuant to Condition 1(a) above shall show a house of local traditional design and finish and shall incorporate the following elements:
 - (i) The dwellinghouse shall be single storey or one and a half storey in size.
 - (ii) The window openings shall have a strong vertical emphasis.
 - (iii) The walls shall be finished in a wet dash render/smooth coursed cement render/natural stone.
 - (iv) The roof shall be symmetrically pitched to at least 37 degrees and shall be finished in natural slate.
 - (v) The building shall be of a general rectangular shape and gable ended and its footprint shall not exceed 100 square metres.

Reason: In the interest of visual amenity.

5. The details submitted pursuant to Condition 1 above shall include a turning area and parking provision for 2 cars within the curtilage of the proposed dwellinghouse and the parking and turning facilities shall be provided prior to the occupation of the dwellinghouse.

Reason: In the interests of road safety.

6. The details submitted pursuant to Condition 1 above shall include details of new planting proposals, with details of ground preparation, species, nursery stock size in terms of British Standards and density of planting.

Reason: The proposed development and its location require landscaping to fully integrate the proposal with its surroundings. Without such landscaping the proposal would be contrary to the provisions of Policy POL RUR 1 of the Bute Local Plan.

7. The details submitted pursuant to Condition 1 above shall include details of trees shrubs and hedgerows to be removed and to be retained, tree protection measures, soil stripping, storage and re-spreading procedures.

Reason: The proposed development and its location require landscaping to fully integrate the proposal with its surroundings. Without such landscaping the proposal would be contrary to the provisions of Policy POL RUR 1 of the Bute Local Plan.

8. No trees within the application site shall be lopped, topped or felled or uprooted without the prior written consent of the Planning Authority.

Reason: The landscape features to be protected are important to the appearance and character of the site and the surrounding area and are required to successfully integrate the proposal with its surroundings.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 09/00483/VARCON

MATERIAL CONSIDERATIONS AND ADVICE

(i) POLICY OVERVIEW AND MATERIAL ADVICE

Argyll and Bute Structure Plan 2002:

STRAT DC 5 (Development in Sensitive Countryside) encourages only small scale infill, rounding-off, redevelopment and change of use developments or in situations where certain criteria can be met, including an Area Capacity Evaluation or a locational need.

Bute Local Plan 1990:

POL RUR 1 (Landscape Quality) seeks to maintain and where possible enhance the landscape quality of Bute and resists prominent or sporadic development which would have an adverse impact on the landscape and sets out criteria for assessing developments in the countryside including design, setting and scale of development, locational/ operational need, and economic benefit.

POL HO 3 (Countryside Safeguarding Zone) indicates that residential development will not generally be permitted in such areas.

Argyll and Bute Local Plan (Post Inquiry Modifications) 2006

Policy LP ENV 19 – sets out requirements in respect of development setting, layout and design.

Policy LP ENV 10 – development within Areas of Panoramic Quality should not have a significant adverse impact on the character of the landscape.

Policy LP HOU 1 – encourages only small scale infill, rounding-off, redevelopment and change of use developments within Sensitive Countryside or in situations where certain criteria can be met, including an Area Capacity Evaluation or an operational need.

Note (i): **The applicable elements of the above Policies have not been objected to 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**

(ii) SITE HISTORY

Outline Planning Permission (ref: 07/02143/OUT) granted on 7th April 2008 for the erection of a dwellinghouse on the subject site.

Application (ref: 08/02133/REM) for approval of reserved matters for the erection of a dwellinghouse on the site is currently being processed. A report on this application is also before Members for consideration at this committee.

(iii) **CONSULTATIONS**

Not applicable.

(iv) **PUBLICITY AND REPRESENTATIONS**

The application has been advertised as a Potential Departure from the Development Plan (closing date 15th May 2009). No letters of representation have been received.

(v) **APPLICANT'S SUPPORTING INFORMATION**

A supporting statement (letter dated 8th April 2009) has been submitted by the agent, Seamus Lalor Associates.

The information can be summarised as follows:

- It is understood that the Council may wish to advertise the application as a Departure to the Development Plan. The reason for the imposition of Condition 4 on the original permission was "*in the interests of amenity*". The Development Plan is not mentioned as a reason for its imposition. It is, therefore, requested that the application is not treated as a variation to the original permission but as the deletion of a planning condition, which has no factual connection with Development Plan policy and the application should not be advertised for this reason;

***N.B.** Notwithstanding the agent's comments, the application was advertised as a Potential Departure to the Development Plan.*

- As part of the Outline application, supporting detailed information was submitted in plan form showing the indicative design of the proposed dwellinghouse. At the meeting of the Planning Committee, the Members considered both the principle of the development and the style of house that was being proposed. They specifically endorsed the innovative, contemporary and sustainable nature of the indicative design, the principle of which has received numerous national awards (including from the Royal Town Planning Institute) – including within historic settings;
- It is contended that the supporting detailed information in the form of an indicative design was clearly part of the legally submitted application for Outline Planning Permission and, as such, Condition 4 should be removed as Circular 4/1998 *The Use of Conditions In Planning Permissions* does not support it;
- It is contended that the large parcel of land which is the subject of the application is clearly outwith the policies of Balmory Hall, where there is already a traditional lodge building at the entrance to the policies. The site can easily accommodate a contemporary dwellinghouse of the nature proposed and its location reflects the existing pattern of low density development, will be sympathetic to the character of existing development in the area and will fit in with the landscape character of the area. The dwelling will not be visible to the general public and will not be inter-visible with the nearby Balmory Hall (a Listed Building) due to the topographical and landscape character of the area. Indeed, its location is not dissimilar to that of the contemporary visitor centre at Mount Stuart House.

APPENDIX B – RELATIVE TO APPLICATION NUMBER: 09/00483/VARCON

PLANNING LAND USE AND POLICY ASSESSMENT

A. Procedural Matters

One of the issues raised by this application is the nature of the development that was approved at the time of the Outline Planning Permission (ref: 07/02143/OUT) being issued in April 2008 and it is considered necessary to address this issue first.

As stated in Section (v) of the previous part of this report, it is contended on behalf of the applicants that they have Outline Planning Permission for a 'Huf Haus'-style dwelling on the basis that this information was put forward at the time of the Outline application being submitted and Members considered this information at their deliberations on the application.

From this Department's perspective, the agent specified in his letter accompanying the Outline application that the plans were submitted "*to indicate the indicative design of the proposed house*". These plans included a location plan and site plan (not showing the position of any dwelling); an aerial photograph of the site; photographs of an existing 'Huf Haus' dwelling in an unspecified location; and floor plan/sectional plans of a 'Huf Haus' for a property in Surrey.

The application was discussed at the April 2008 Bute and Cowal Area Committee where Members considered the Head of Planning's report together with a powerpoint presentation that included the photographs of a typical 'Huf Haus' submitted by the applicant. Of significant importance in Point B of Appendix B contained within the Head of Planning's report, which acknowledges that indicative design proposals were submitted but which clearly advises:

"as an Outline application, the details of the siting and design are reserved for subsequent approval and the acceptability of the eventual siting and design proposals and landscaping proposals will be interdependent"

This section goes on to further state that "*to accord with this character, it is considered that any development of the application site should take the form of a traditional lodge building*".

The outcome of the above comments was the recommendation by the Department that the design of the dwellinghouse should accord with certain parameters (as contained in Condition 4) and all of the conditions recommended by the Head of Planning were endorsed by Members at the Area Committee.

In light of the above, the Department is satisfied that the information submitted with the application was duly acknowledged in the report, the indicative type of dwelling was rejected and Condition 4 was attached requiring a specific type of dwellinghouse.

B. Justification for Condition 4

The Outline Planning Permission (ref: 07/02143/OUT) contained eight conditions, the first three of which are standard in nature – a description of the reserved matters, the timescale of the reserved matters to be submitted and the date by which the development should be commenced.

Condition 4 related to the design of the building and stated the following:

Any details pursuant to Condition 1(a) above shall show a house of local traditional design and finish and shall incorporate the following elements:

- (ii) *The dwellinghouse shall be single storey or one and a half storey in size.*
- (ii) *The window openings shall have a strong vertical emphasis.*

- (iii) *The walls shall be finished in a wet dash render/smooth coursed cement render/natural stone.*
- (iv) *The roof shall be symmetrically pitched to at least 37 degrees and shall be finished in natural slate.*
- (v) *The building shall be of a general rectangular shape and gable ended and its footprint shall not exceed 80 square metres.*

Reason: *In the interest of visual amenity.*

This condition was considered necessary, having regard to the character of other residential dwellings that are subservient to larger buildings in this particular part of Ascog. As can be seen, Part (v) of the above condition specified a building footprint of 80 square metres but it is considered that there may be scope to relax this particular element. Discussions have taken place with the agent as to whether he and his client would be willing to agree to a modest increase in the building footprint. The agent spoke to his client and whilst he was appreciative of the offer, he considered that he wished to pursue the building footprint of 158 square metres that is shown as part of the application for Reserved Matters (ref: 08/02133/REM)

Notwithstanding the response of the agent, the Department would recommend that the new figure of 100 square metres be stipulated, having regard to the general footprint of other similar buildings in the vicinity.

CONCLUSION

The site has the benefit of Outline Planning Permission (ref: 07/02143/OUT) granted on 7th April 2008. As the present application only seeks approval to remove one of the conditions, the principle of residential development on the site is not in question.

The application proposes the removal of the condition that stipulates the design of the proposed dwelling. Supporting information has been submitted which intimates that it is proposed to erect a dwellinghouse with a 'Huf Haus' design and, indeed, this type of dwelling is the subject of a separate application for approval of reserved matters (ref: 08/02133/REM) which is also currently under consideration.

The total removal of the condition is not considered to be acceptable as the design criteria stipulated in Condition 4 are considered essential to achieving a successful design of a dwellinghouse on this site. Some relaxation may be allowed in the footprint of the proposed dwelling and this is reflected in the recommendation to grant permission subject to a variation in the wording of the condition.