

**STATEMENT OF CASE**

**FOR**

**ARGYLL AND BUTE COUNCIL  
LOCAL REVIEW BODY**

**12/0002/LRB**

**REFUSAL OF PLANNING PERMISSION FOR SITE  
FOR ERECTION OF DWELLINGHOUSE**

**GARDEN GROUND OF LYNN HOUSE, GANAVAN,  
BY OBAN**

**PLANNING PERMISSION REFERENCE NUMBER  
11/01801/PPP**

**20 JANUARY 2012**

## **STATEMENT OF CASE**

The Planning Authority is Argyll and Bute Council ('the Council'). The appellant is Mrs J. Henderson ('the appellant').

Planning Permission in Principle Reference Number 11/01801/PP for site for erection of a dwellinghouse within the garden ground of Lynn House, Gavanan, by Oban ('the appeal site') was refused under delegated powers on 16 November 2011.

The planning decision has been challenged and is subject of review by the Local Review Body.

### **DESCRIPTION OF SITE**

The site is situated within the garden ground of Lynn House within the well established residential area of Ganavan to the north of Oban. The area is characterised by medium sized dwellinghouses which locally form two linear rows of development to the east and west of the proposed site.

### **SITE HISTORY**

A previous application for Outline Planning Permission Reference 08/01958/OUT for the same site was refused on 5 November 2009.

### **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 the site has the ability to successfully accommodate a dwellinghouse which would relate to the established settlement pattern of the surrounding area without giving rise to any adverse environmental impact.

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.

### **REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING**

It is not considered that any additional information is required in light of the appellant's submission. 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 small-scale, has no complex or challenging issues and has not been the subject of any public representation, it is not considered that a Hearing is required.

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

The appellant contends that the site is sufficient in size to accommodate a dwellinghouse with an acceptable area of private amenity space and which will leave the donor house with an equally acceptable area of private amenity space, consistent with advice set out in the Local Plan.

The appellant contends that the proposed development reflects the layout of the adjacent cul-de-sacs to the north and south and is not at variance with the established settlement pattern.

The appellant contends that the development of this site would not set a precedent as it is a unique site and there are no other sites of this type which could be developed.

The appellant contends that the plot size is similar to several other houses within the development, the layout of which has resulted in low levels of privacy between dwellings and the proposed development will not affect this standard.

Whilst the appellant's comments are noted, it is still considered that the proposed site is too small relative to development in the surrounding area, and as such, represents a departure from the existing character of development in terms of reduced site size and higher density nature. Housing around the site has an established level of amenity, which is contributed to by the size of the plots. It is not considered that providing a minimum standard plot size is compatible with the higher spacing and amenity levels that exist around the site at present. The development of this site with a dwellinghouse would result in an undesirable form of backland development contrary to the established settlement pattern of the area, and a precedent could be established contrary to the contention of the appellant as the site is not considered to be so unique to justify the development.

A full detailed assessment of the site is contained within the Report of Handling at Appendix 1.

The proposal was refused as the site was considered too small to develop, would not respect the settlement pattern immediately adjacent to the site and would create an unacceptably high density of development which would not integrate with the pattern of surrounding development contrary to the provisions of Development Plan Policies STRAT DC 1, LP ENV 1, LP ENV 19, LP HOU 1 and Appendix A.

### **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 proposed site within the garden ground of Lynn House is not considered to represent an opportunity for acceptable infill, rounding-off or redevelopment but represents a form over-development or a small site in an inappropriate back-land location.

The proposed site is too small to comfortably accommodate a dwellinghouse, and the illustrative layout submitted confirmed that sufficient amenity space (minimum 100sq.m) adequate parking and turning, and a detached house footprint are difficult to achieve within a site of this size. The development of this site with a dwellinghouse would set a precedent for higher density, lower amenity housing than is characteristic of surrounding development. The use of such small sites for detached houses and the provision of higher density development are at variance with the established settlement pattern of the area, which the Development Plan seeks to protect.

It is considered that the proposed site does not take into account of, or relate to, the existing settlement character of the surrounding area as it fails to relate to the size of adjacent plots and constitutes an unacceptable form of back-land development.

Whilst the agent makes a case that the low lying nature of the site make it different from the wider settlement pattern, and reduce the likelihood of a precedent being established, the submissions are not considered to satisfy all planning concerns that exist with this proposal.

The proposal is considered contrary to the provisions of Development Plan Policies STRAT DC 1, LP ENV 1, LP ENV 19, LP HOU 1 and Appendix A.

Taking account of the above, it is respectfully requested that the review be dismissed and the original refusal be upheld.

# APPENDIX 1

Argyll and Bute Council  
Development and Infrastructure

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: 11/01801/PPP

Planning Hierarchy: Local Development

Applicant: Mrs J Watson-Henderson

Proposal: Site for Erection of Dwellinghouse

Site Address: Garden ground of Lynn House, Ganavan, Oban

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## DECISION ROUTE

Section 43 (A) of the Town and Country Planning (Scotland) Act 1997 (as amended)

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### (A) THE APPLICATION

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

- Site for erection of dwellinghouse
  - Upgrade of existing vehicular access
  - Connection to public water main
  - Connection to public drainage system
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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 reasons appended to this report.

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### (C) HISTORY:

08/01958/OUT

Site for erection of dwellinghouse – Refused: 05/11/09

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### (D) CONSULTATIONS:

Area Roads Manager

Report dated 20/10/11 advising no objection subject to conditions.

Scottish Water

Letter dated 27/09/11 advising no objection but providing advisory comments for the applicant.

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**(E) PUBLICITY:**

The proposal has been advertised in terms of Regulation 20 procedures, closing date 20/10/11.

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**(F) REPRESENTATIONS:**

Four representations have been received regarding the proposed development.

Mrs Wendy Douglas, Farringford, Ganavan Road, Oban, PA34 5TU  
John C. Hyde, Island View, Ganavan, Oban, PA34 5TU  
David W. T. Hodge, West Bracklinn, Ganavan, Oban, PA34 5TU  
Lesley MacPhail, c/o Allan Macaskill, 5 Ferryfield Road, Connel, PA37 1SR

**(i) Summary of issues raised**

- The proposed site is not in keeping with the established settlement pattern of the area.

*Comment: This is fully addressed in the assessment at Section (P) below.*

- The private road would prove difficult for large vehicles during the construction period and there should be no obstruction to access for residents.

*Comment: This is not a material consideration in the determination of this planning application but a civil matter between the applicant and relevant owners of the access road for private roads or the police for public roads.*

- The proposed site is situated off of a private unadopted access and if approved, would require to be brought up to adoptable standards which would detract from the rural aspect of the area.

*Comment: The Area Roads Manager was consulted on the proposed development and in his response stated that the existing access should be upgraded but did not seek that the road to be brought up to adoptable standards. Nevertheless, Policy TRAN 4 requires adoptive standards where 6 or more houses are served.*

The above represents a summary of the issues raised. Full details of the letters of representation are available on the Council's Public Access System by clicking on the following link <http://www.argyll-bute.gov.uk/content/planning/publicaccess>.

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**(G) SUPPORTING INFORMATION**

Has the application been the subject of:

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|-------|---|----|
| (i)   | Environmental Statement:  | No |
| (ii)  | An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:   | No |
| (iii) | A design or design/access statement:<br>Yes   |    |
| (iv)  | A report on the impact of the proposed development e.g. retail impact, transport impact, noise impact, flood risk, drainage impact etc: | No |
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**(H) PLANNING OBLIGATIONS**

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|-----|-------------------------------------|----|
| (i) | Is a Section 75 agreement required: | No |
|-----|-------------------------------------|----|
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|-----|--|----|
| (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 1 – Development within the Settlements

Argyll and Bute Local Plan 2009

LP ENV 1 – Impact on the General Environment

LP ENV 19 – Development Setting, Layout and Design

LP HOU 1 – General Housing Development

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.**

Argyll & Bute Sustainable Design Guidance (2006)

The Town & Country Planning Act (Scotland) 1997

The Planning etc. (Scotland) Act, 2006

SPP, Scottish Planning Policy, 2010

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<b>(K)</b>	<b>Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:</b>	<b>No</b>
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<b>(L)</b>	<b>Has the application been the subject of statutory pre-application consultation (PAC):</b>	<b>No</b>
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<b>(M)</b>	<b>Has a sustainability check list been submitted:</b>	<b>No</b>
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<b>(N)</b>	<b>Does the Council have an interest in the site:</b>	<b>No</b>
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<b>(O)</b>	<b>Requirement for a hearing:</b>	<b>No</b>
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**(P) Assessment and summary of determining issues and material considerations**

Planning permission in principle is sought for erection of a dwellinghouse within the grounds of Lynn House, Ganavan, Oban.

In terms of the adopted Argyll and Bute Local Plan the site is situated within the Settlement Zone of Oban within which Policy STRAT DC 1 of the approved Argyll and Bute Structure Plan gives a presumption in favour of development on an appropriate infill, rounding off and redevelopment basis subject to compliance with other relevant local plan policies.

Policy LP HOU 1 gives encouragement to infill housing development in settlements provided it will not result in an unacceptable environmental, servicing or access impact and Policy LP ENV 1 requires applications to be assessed for their impact on the natural, human and built environment.

Policy LP ENV 19 states that development shall be sited and positioned so as to pay regard to the context within which it is located and that development layout and density shall integrate with the setting of surrounding development. Developments with poor quality or inappropriate layouts, including over-development, shall be resisted.

Whilst the acceptability of the principle of infill development within this area of Oban is set out in current policy, this is qualified by a requirement to ensure developments do not result in an unacceptable environmental, servicing or access impact.



The site is situated within the garden ground of Lynn House within the well established residential area of Ganavan to the north of Oban. The area is characterised by medium sized dwellinghouses which primarily locally form two linear rows of development to the east and west of the proposed site.

The proposed site within the garden ground of Lynn House is not considered to represent an opportunity for infill, rounding-off or redevelopment but represents a form of inappropriate back-land development.

The proposed site is too small to comfortably accommodate a dwellinghouse, and the illustrative layout submitted confirms that sufficient amenity space (minimum 100sq.m, adequate parking and turning, and a detached house footprint are difficult to achieve within a site this size. The development of this site with a dwellinghouse would set a precedent for higher density development than that which is characteristic of surrounding development. The use of such small sites for detached houses, and the provision of high density development is both at variance with the established settlement pattern of the area.

It is considered that the proposed site does not take into account of, or relate to, the existing settlement character of the surrounding area as it constitutes an unacceptable form of back-land development.

Whilst the application would also remove significant amenity space from the donor house, the minimum standards of 100sq.m could still be met at the donor house.

The application proposes to utilise an existing vehicular access to serve the proposed development. The Area Roads Manager was consulted on the proposal and raised no objection subject to conditions regarding the upgrade of the access, clearance of visibility splays and provision of an appropriate parking and turning area. However, to accord with TRAN 4, adoptive standards are required where 6 or more houses are served in total. This matter has not been investigated further at this time because the application is not being supported.

The application shows water and drainage via connection to the public systems to which Scottish Water has raised no objection but advised that augmentation of the system at the developer's expense may be required.

Whilst the agent makes a case that the low lying nature of the site and its characteristics make it different from the wider settlement pattern, and reduce the likelihood of a precedent being established, the submissions are not considered to satisfy all planning concerns that exist with this proposal.

Taking the above into consideration, it is considered that the proposal would represent an inappropriate form of back-land development and a development which is contrary to the established settlement pattern of the surrounding area. The site is too small to comfortably accommodate a house, parking and turning, and private amenity space. The proposal is therefore considered contrary to the provisions of Development Plan Policies STRAT DC 1, LP ENV 1, LP ENV 19, LP HOU 1 and Appendix A and it is recommended that planning permission in principle be refused for the reasons appended to this report. This conclusion is consistent with the previous refusal and negative pre-application advice offered to the applicant in 2009 and 2011 respectively.

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

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**(R) Reasons why planning permission should be refused**

The proposal is contrary to Development Plan policy for the reasons for refusal detailed below.

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

N/A

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

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**Author of Report: Fiona Scott Date: 01/11/11**

**Reviewing Officer: Stephen Fair Date: 14/11/11**



**Angus Gilmour  
Head of Planning**

#### **REASONS FOR REFUSAL RELATIVE TO APPLICATION REFERENCE 11/01801/PP**

1. The application site is too small. The site cannot comfortably accommodate a detached house, adequate parking and turning, and the minimum 100m<sup>2</sup> of private open amenity space, that is required to meet the Council's minimum standards set out in Argyll & Bute Council Local Plan 2009 Appendix A. The small site area proposed is at variance from the pattern of surrounding residential development, where an unacceptably high density of development is involved, rendering it contrary to Argyll & Bute Structure Plan 2002 Policy STRAT DC 1; and Argyll & Bute Local Plan 2009 Policy LP ENV 1 part A and D, and LP ENV 19 part A and B.
2. The application site fails to respect the settlement pattern immediately adjacent to the site, which is characterised by linear development, whereas the proposal represents inappropriate backland development in a location that is at variance with the adjacent development pattern; in a manner that is not considered to represent infill, rounding off or redevelopment; rendering it contrary to Argyll & Bute Structure Plan 2002 Policy STRAT DC 1; and Argyll & Bute Local Plan 2009 Policy LP ENV 1 part A and D, and LP ENV 19 part A and B.
3. By virtue of the small site area proposed, it is considered that the development involves an unacceptably high density of development that fails to integrate with the pattern of surrounding development, which if approved, would lead to a precedent for similarly high density proposals on nearby sites, which would collectively undermine

the existing high standards of residential amenity enjoyed at properties in the vicinity of the application site.

#### **NOTES TO APPLICANT RELATIVE TO APPLICATION NUMBER 11/01801/PP**

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended) within three months from the date of this notice. The notice of review should be addressed to the Director of Customer Services, Argyll and Bute Council, Kilmory, Lochgilphead, PA31 8RT.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state, and it cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the landowner's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997 (as amended).

## APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **11/01801/PP**

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- (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.

**No**

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- (B) The reason why planning permission has been refused.

The proposal is contrary to Development Plan policy for the reasons for refusal detailed above.