

STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

12/0013/LRB

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

**LAND SOUTH OF CILL BHEAG, DERVAIG,
ISLE OF MULL**

**PLANNING PERMISSION REFERENCE NUMBER
12/00050/PPP**

10 SEPTEMBER 2012

STATEMENT OF CASE

The Planning Authority is Argyll and Bute Council ('the Council'). The appellant is A J Loynd ('the appellant').

Planning Permission in Principle Reference Number 12/00050/PPP for site for erection of a dwellinghouse on land south of Cill Bheag, Dervaig, Isle of Mull ('the appeal site') was refused under delegated powers on 22 May 2012.

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

DESCRIPTION OF SITE

The site is a generally flat area of land situated immediately adjacent to a dwellinghouse currently under construction to the north, with an established residential area to the west. To the south and east the site is bounded by open moorland, which is beyond the settlement boundary identified in the local plan.

Development within this area of Dervaig is generally characterised by single dwellinghouses situated within spacious plots with a high level of private amenity space. Although there are a couple of exceptions, which are highlighted by the applicant in support of the review, these are in the minority, and are mitigated by adjacent areas of open space, which helps ensure that those developments do not overly jar with the predominant character of the area, which is for more spacious plots, with good spacing and high privacy and amenity standards. One of the sites referenced is for holiday chalets only, where lesser spacing and amenity standards are more appropriate than for permanent housing as is the subject of this review. Taking account of the predominant character of the area, it is not considered acceptable to apply the minimum standards identified in Appendix A in this case, because to do so would conflict with the wider and more important aim of ensuring development integrates with the setting into which it itself is proposed.

SITE HISTORY

There is no history relevant to this site.

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, or adversely affecting the density, pattern and character of the existing settlement.

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 application was for permission in principal but has been judged as a detailed application and therefore the impact of the proposal on privacy or amenity levels of neighbouring properties cannot be assessed. *This is not founded on any evidence.*

The appellant contends that the site is sufficient in size to accommodate a dwellinghouse with an acceptable area of private amenity space. *However, this is an inappropriate attempt to read one piece of guidance in isolation, and it fails to acknowledge the over-riding policy aim for new development to be compatible with the existing settlement pattern, density, capacity and character, as stated in paragraphs 4.1 and 4.2 of the same document.*

The appellant contends that there is no issue with lack of amenity to be afforded to the proposed dwellinghouse.

The appellant contends that the plot size is larger than several other properties within the area with some buildings situated extremely close together (particularly the chalet development at Cill Mhoire and a house at Plot 1).

The appellant contends that a precedent for higher density development has been established by the granting of previous development as outlined above.

The site is on the outskirts of the village and has historically offered little value to the area and the loss of this open land would represent a negligible loss of amenity to the inhabitants of the village.

The applicant contends that he is a young member of the local community seeking to build a home and will help maintain the demographic spread of the community which

is ageing due to the large number of people moving into the village when nearing retirement age.

The applicant contends that previous advice given in 2006 regarding the development of the site was positive.

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 the small site area and resultant higher density nature of development. Housing around the site has an established level of amenity, which is contributed to by the size of the plots and the spacing between buildings. 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 development contrary to the established settlement pattern of the area. To accord with Development Plan policy, all developments must integrate with their individual settings and reflect the established character of the existing settlement.

With regards to the development at Cill Mhoire, recent history shows the chalets limited to holiday occupation only and as such do not require the same privacy and amenity standards associated with permanent residential units. A third chalet was approved as a replacement to a caravan which had been determined to be lawful. These circumstances are not comparable to the proposal under review.

With regards to the previous pre-application advice given, this was prior to the adoption of the current Local Plan which was used to assess the planning application subject of this review. Furthermore, any pre-application advice given by the Planning Service states that the advice is given on the information submitted at that time and in the event of a formal planning application being submitted, the Council must take into account all other material considerations and any subsequent assessment must reflect this and may therefore differ from the initial assessment. The advice refers to the building form, and not to the settlement pattern or density.

A full detailed assessment of the site is contained within the Report of Handling at Appendix 1. The appellants statement does not conclusively address the lack of compatibility with the existing settlement pattern.

The proposal was refused as the site was considered too small to comfortably accommodate a house, with an inappropriate density having insufficient regard to the character of development surrounding the site contrary to the provisions of Development Plan policies STRAT DC 1, LP ENV 1, LP ENV 19 and LP HOU 1, which collectively seek to resist housing development which will have an unacceptable environmental, servicing or access impact; developments that give insufficient regard to the context of their individual site settings; and show inappropriate densities or involve over-development.

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.

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 overdevelopment and does not represent an opportunity for acceptable infill, rounding-off or redevelopment.

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

Reference No: 12/00050/PP

Planning Hierarchy: Local Development

Applicant: Mr Alexander Loynd

Proposal: Site for Erection of Dwellinghouse

Site Address: Land South of Cill Bheag, Dervaig, Isle of Mull

DECISION ROUTE

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

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Site for erection of dwellinghouse
- Upgrade of existing vehicular access

(ii) Other operations

- Connection to public sewer (as applied for, contrary to Scottish Water advice on presence of a sewer)
 - Connection to public water system
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(B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that the application be refused for the reasons appended to this report.

(C) HISTORY:

No history relevant to this particular site.

(D) CONSULTATIONS:

Area Roads Manager

Report dated 23/02/12 advising no objection subject to conditions.

Scottish Water

Letter dated 02/03/12 advising no objection to the proposed development and highlighting that there are no public sewers within the vicinity of the site.

West of Scotland Archaeology Service

Letter dated 14/03/12 advising a condition should be imposed on any permission granted requiring the submission of a written scheme of archaeological works.

(E) PUBLICITY:

The proposal has been advertised in terms of Regulation 20 procedures, closing date 15/03/12.

(F) REPRESENTATIONS:

No representations have been received regarding the proposed development.

(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: | No |
| (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 SI 1 – Sustainable Development

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

(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:	No
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(P) Assessment and summary of determining issues and material considerations

Planning permission in principle is sought for a single dwellinghouse on an area of land south of Cill Bheag, Dervaig, Isle of Mull.

In terms of the adopted Argyll and Bute Local Plan the site is situated within the Settlement Zone of Dervaig where 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 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 1 advised that developments must demonstrate suitable densities and provide for privacy at existing and proposed development.

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.

Local Plan Appendix A further advises on the standards that will be applied to all developments. Section 4.2 relates to housing within settlements. As well as indicating the minimum standards to be applied for private open space and plot ratios (as highlighted by the applicant in support of the application), there is an overwhelming emphasis on respecting the character and setting of the individual development proposal, taking account of local spacing, densities and privacy standards. This remains the main criteria against which the suitability or otherwise of a development shall be evaluated.

Whilst the acceptability of the principle of residential development within this area of Dervaig 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. Development proposals that involve inappropriate densities or over-development shall be resisted.

The site is generally flat area of land situated immediately adjacent to a dwellinghouse currently under construction to the north, with an established residential area to the west. To the south and east the site is bounded by open moorland, which is beyond the settlement boundary identified in the local plan.

Development within this area of Dervaig is generally characterised by single dwellinghouses situated within spacious plots with a high level of private amenity space. Although there are a couple of exceptions, which are highlighted by the applicant in support of the application, these are in the minority, and are mitigated by adjacent areas of open space, which helps ensure that those developments do not overly jar with the predominant character of the area, which is for more spacious plots, with good spacing and high privacy and amenity standards. Taking account of the predominant character of the area, it is not considered acceptable to apply the minimum standards identified in Appendix A in this case,

because to do so would conflict with the wider and more important aim of ensuring development integrates with the setting into which it itself is proposed.

The proposed site subject of this application is not considered suitable for development with a dwellinghouse as it is considered too small to comfortably accommodate a dwellinghouse and associated amenity space which would be out of keeping with the established pattern of the area, contrary to current development plan policy. Furthermore, the development of this site with a dwellinghouse would have a significant adverse impact on the privacy and amenity levels afforded to the dwellinghouse currently under construction to the north.

In this case, the site applied for lies immediately alongside one of the smaller plots that already exists, as highlighted by the applicant. Whilst the applicant's position is noted, i.e. that one sets a precedent for the other, this is not accepted. Indeed, the open space that forms the application site is an important part of the undeveloped space that is perceived around Cill Bheag, and to lose it would compound the impacts of the inappropriate density of development at the site, to a point where the character of the area would be adversely affected. The creation of two houses both on unusually small plots immediately alongside one another would be incongruous with the existing character of development in this part of Dervaig.

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.

The application shows water and drainage via connection to the public systems. Scottish Water was consulted on the proposed development and raised no objection to connection to the public water main but advised that there was no public sewer within the vicinity of the site. Scottish Water also advised that augmentation of the system at the developer's expense may be required.

However, as the principle of development is not supported by current policy, the consultee issues need no further attention at this stage.

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 and it is recommended that the application be refused for the reasons appended to this report.

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

(R) Reasons why planning permission in principle should be refused.

The proposal is contrary to Development Plan policy, by virtue of being too small to comfortably accommodate a house, with an inappropriate density having insufficient regard to the character of development surrounding the site, as detailed in the reasons for refusal recommended below.

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

N/A

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

Author of Report: Fiona Scott Date: 30/04/12

Reviewing Officer: Stephen Fair Date: 20/05/12

SF

**Angus Gilmour
Head of Planning**

GROUNDINGS OF REFUSAL RELATIVE TO APPLICATION REFERENCE 12/00050/PPP

1. In terms of the adopted Argyll and Bute Local Plan, the application site is located within the Settlement Zone of Dervaig which is subject to the effect of Policy STRAT DC 1 of the approved 'Argyll and Bute Structure Plan' 2002 and LP HOU 1 of the adopted 'Argyll and Bute Local Plan' 2009, which establish a presumption in favour of housing development within settlements, provided it is of a scale and form compatible with the surrounding area and does not result in inappropriate densities or the loss of valuable open areas.

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 development in the surrounding area, which if approved, would lead to a precedent for similarly high density proposals on nearby sites. This would collectively undermine the existing predominant high standards of residential amenity enjoyed at properties in the vicinity of the application site, and in the absence of any detailed design or appropriate design statement, be at odds with the local distinctiveness of the area.

Albeit there are a couple of smaller sites near the site, these are in the minority and are currently mitigated by the existence of open space alongside them. The application proposed now would use up one such valuable piece of open space, and result in two small plots being located immediately alongside one another, which would be an obvious higher density element of development in an area that is otherwise characterised by lower density development, which would be incongruous with the context into which the development would be proposed.

The proposal is considered contrary to the provisions of Development Plan policies STRAT DC 1, LP ENV 1, LP ENV 19 and LP HOU 1, which collectively seek to resist housing development which will have an unacceptable environmental, servicing or access impact; developments that give insufficient regard to the context of their individual site settings; and show inappropriate densities or involve over-development.

APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **12/00050/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.

No

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

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