

STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

12/0020/LRB

**REFUSAL OF PLANNING PERMISSION FOR THE
ERECTION OF A DWELLINGHOUSE**

**LAND SOUTH EAST OF ST MARY'S, DALSMIRREN,
SOUTHEND, ARGYLL**

**PLANNING PERMISSION REFERENCE NUMBER
12/01692/PPP**

8th January 2013

STATEMENT OF CASE

The Planning Authority is Argyll and Bute Council (“the Council”). The appellant is Mr and Mrs J Coats (“the appellant”).

Planning application 12/01692/PPP which proposed the erection of a dwellinghouse, formation of a private vehicular access and the installation of a sewage treatment plant on land south east of St Mary’s, Dalsmirren, Southend, Argyll (“the appeal site”) was refused under delegated powers on the 12th September 2012.

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

DESCRIPTION OF SITE

The application site is situated on land located to the south of Dalsmirren and north of Amod farms. The site is reasonably remote and accessed off a minor road running through the between Auchencorvie Farm and Southend. The site itself is a dog leg shape measuring 0.54ha and is currently used for agriculture. It is adjacent the minor road and has mature fern hedge running along most of the boundary with some minor mature trees adjacent outwith the site boundary. The Breackerie Water runs adjacent the site. Topography is very flat surrounding the site with the exception of the hill to the west, Cnoc na Greine, which rises up steeply. The site is within a flat valley floor with Glen Breackerie with the other steep side across the road and rising toward the east to Cnoc Odhar.

SITE HISTORY

07/01471/OUT – Site for the erection of a dwelling house – permitted with subsequent expiry 22/11/10

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 and determination shall be made in accordance with the development plan unless material considerations indicate otherwise. This is the test for this planning application.

STATEMENT OF CASE

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

- Whether the material considerations asserted by the appellant are sufficient to outweigh the fact that the planning application is contrary to the current adopted development plan; or whether in fact the development plan remains the primary determining factor.

The Report of Handling (Appendix 1) sets out Planning Services assessment of the planning application in terms of policy within the current adopted development plan 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 within Appendix 1. As such it is considered that the Council has all the information required to determine this particular planning application. Given the above and that the proposal is small scale in nature, constitutes a Local Development, 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 APPELLANT'S SUBMISSION

- *The applicant states that the application was effectively a renewal but admits that the previous permission expired in November 2010.*

The use of the term 'renewal' needs to be clarified. A formal renewal is when an application is received to extend the time period of an existing live permission – this must be granted within the lifespan of the existing permission. This existing permission is given significant weighting in the determination of that application. In this instance the original permission had expired and therefore this needed to be treated as a completely fresh application. Since the approval of the previous permission in 2007 the Council has adopted a new Local Plan complete with the Landscape Capacity Study for New Housing. Both of these documents formed the basis of the determination of this application as all planning applications are determined in accordance with the development plan and all other material considerations as set out in the Town and Country Planning (Scotland) Act 1997 as amended by the Planning (Scotland) etc Act 2006.

- *The appellant references the Landscape Capacity Study and queries the potential development opportunity around Amod in the more remote north west end of the valley. The appellant states that the site is in the north west end of the valley.*

According to the Landscape Capacity Study for South Kintyre map reference 11-B shows the site in the northern part of the valley not the north west. The area known as Amod is within the north west with this site some distance to the northern edge. The Study states that opportunity for development may exist along the eastern side of the valley but this in an area to the south of the proposed site. In the northern area of the Rural Opportunity Area (ROA) the study states that '*the west side of the road up to the boundary with the road is in the flatter valley bottom, leading to the river and should remain free of development. Additional development in the more remote north west end of the valley around Amod would be possible*'. It is considered that the site sits on the valley floor given how flat the site is and given the steep topography west and east.

- *The appellant states that there is no open aspect to the south, north or west and restricted aspect to the east.*

Views will be highly visible into the site from the minor road travelling down into the valley bottom. Additionally, some limited views will be available from the south when travelling north given the limited and low lying vegetation on this boundary of the site. Given the agricultural nature of the area mature vegetation tends to demark field boundaries and adjacent the river. The river is to the west of the site with some mature vegetation restricting views from the east once you descend into the valley bottom. It is not considered that the vegetation at the site is sufficient to significantly limit long distance views and additional planting would not assist to any greater degree. Views from the south could be limited further by some additional planting along the southern boundary but this would be a minimal improvement.

- *The appellant states that existing properties are more apparent and that this site would provide an opportunity for rounding off the loose cluster of housing.*

Rounding off is described in the Local Plan glossary as:

“new development positioned largely between substantial building(s) on one side and a substantial ground or natural feature on the other side and arranged such that the local pattern of development terminates at this point”

In this instance there are two existing properties located some 100m distant to the north east and north west. In this instance the proposal cannot be considered rounding off given that there is not substantial buildings adjacent the site and the land to the south is open. The site is not closed off. Therefore the site does not meet the criteria for rounding off development. the house to the north west is Dalsmirren Farmhouse and has been on-site for a significant amount of time. The property to the north east was originally granted permission under reference 05/00271/DET prior to the adoption of the 2009 Local Plan and the Landscape Capacity Study and therefore approved under different planning policies. This permission was still live when application 10/00564/DET was submitted and therefore was granted significant weight in the determination of the application. The principle of a dwelling housing was already established by the existing 2005 live permission and the 2010 application was effectively a renewal of this principle with some design changes.

The appellant's statement of case does not conclusively address the reasons for refusal above which are explained fully within the Report of Handling attached within (Appendix 1).

CONCLUSION

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

Although the site previously benefited from permission that has since lapsed and the recent application was assessed on the merits of the adopted Local Plan 2009 and all relevant material considerations including the Landscape Capacity Study for New Housing. The adopted Local Plan requires proposals within Rural Opportunity Areas (ROAs) to be assessed, where relevant, by the Landscape Capacity Study covering that area. In this instance the site is not supported by the relevant Landscape Capacity Study for reasons detailed within the Report of Handling within Appendix 1 below. It is therefore respectfully requested that the review be dismissed and the original refusal be upheld.

APPENDIX 1

Argyll and Bute Council
Development 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

Reference No: 12/01692/PPP

Planning Hierarchy: Local Development

Applicant: Mr and Mrs J Coats

Proposal: Site for the erection of dwelling house

Site Address: Land South East of St Mary's, Dalsmirren, Southend

DECISION ROUTE

(i) **Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997 (as amended)**

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of dwelling house
- Installation of private waste water treatment system
- Provision of private water supply

(ii) Other specified operations

- Upgrade of existing access
-

(B) RECOMMENDATION:

It is recommended that the application is refused for the reasons appended to this report.

(C) HISTORY:

07/01471/OUT – Site for erection of dwelling house – Permitted (expired)
11/02153/PREAPP – Site for erection of dwelling house – Negative advice provided
12/00460/PREAPP – Site for erection of dwelling house – Negative advice provided

(D) CONSULTATIONS:

Area Roads Manager

Report dated 29/08/12

No objection subject to the following conditions:

- Connection to public road, 53 x 2.40 x 1.05 metres.
- Connection to public road to be constructed as per standard detail drawing ref: SD 08/004 Rev a.
- Turning and parking for 2 vehicles for dwellings with up to three bedrooms and 3 vehicles for dwellings with four or more bedrooms.
- Refuse collection point to be provided adjacent to the public road.

Core Paths

No response received at time of writing report.

Public Protection Unit

No response received at time of writing report.

(E) PUBLICITY:

The proposal has been advertised in terms of regulation 20, closing date 07/09/12.

(F) REPRESENTATIONS:

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: | 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 |

(H) PLANNING OBLIGATIONS

- | | | |
|-----|--|-----------|
| (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 4 – Development in Rural Opportunity Areas

STRAT DC 8 – Landscape and Development Control

STRAT SI 1 – Sustainable Development

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 SERV 1 – Private Sewage Treatment Plants and Wastewater Systems

LP SERV 4 – Water Supply

LP TRAN 4 – New and Existing Public Roads and Private Access Regimes

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)

Landscape Capacity Study, North and South Kintyre, 2009

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

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

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

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

(O) Requirement for a hearing: No

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

The proposal is for the erection of a dwelling house at Dalsmirren, Southend. The site is located within a loose and scattered development pattern.

The application is for a single dwelling house as Planning Permission in Principle (PPP). A private water supply will be used as well as a private waste water treatment facility. The existing access will be upgraded consistent with the Area Roads Engineers' consultation response. No details of the house design, size etc has been provided.

The site is located within a Rural Opportunity Area (ROA) and therefore subject to Structure Plan policy STRAT DC 4 (Development in the Rural Opportunity Areas). This policy is generally supportive of small scale, infill, redevelopment, rounding off and change of use. However, the ROAs were subject to a review by landscape architects who produced the Landscape Capacity Study for North and South Kintyre. Within this document this ROA was reviewed under reference South Kintyre 11 B (area 3). This review describes the area as:

"...narrower valley formed by the Abhainn Breacairigh and is populated by a few residential properties and farmsteadings including Ormsary, Culinlongart and Amod. The mature wooded areas are mostly associated with the river banks and the valley sides are devoid of any woodland cover. There is some forestry plantation on the north facing slopes of Corr nan Long. The northern extremity of the ROA in this valley lies within well wooded areas of forestry plantation."

The site itself is located in the northern section of the ROA adjacent the minor road that runs through the valley from Homeston Farm to Southend. The site is relatively flat with rising ground to the west and south and well hemmed in by reasonably mature vegetation. The site is relatively open to the east and any development would be extremely visible from the approach road travelling from the north.

According to the Landscape Capacity Study *"areas suitable for development are those to the east side of the valley which could absorb more development. This should be alongside the road to fit the existing pattern of properties in this valley. The west side of the road up to the boundary of the ROA is in a flatter valley bottom, leading to the river and should remain free of development. Additional development in the more remote north west end of the valley around Amod would be possible."* Additionally development should focus on existing clusters, mature trees and existing farms.

The site is to the north and west of the ROA in the flat valley floor. It is fairly remote from clusters of housing and not associated with mature trees. There is a single property to the north east but this was originally approved prior to the adoption of

Landscape Capacity Study in 2005 and maintained in perpetuity in subsequent consents.

Areas not recommended for development in Area 3 are “*the flat valley bottom should be avoided due to its open aspect and lack of any other development in this area*”. In this instance the application site is not associated with an existing built cluster and nor is it associated with mature trees. The site is also on the flat valley floor. There is scant built development in the immediate area with the farm at Dalsmirren to the north west and the single house to the north east. Although the site is fairly well contained it presents open aspects to the east which are visible from distanced views travelling from the north. The existing property to the north east was approved prior to the adoption of the Landscape Capacity Study. It is considered that opportunities for some development exist south of this location around Amod and further south.

In summary the application is not consistent with the provisions of the Landscape Capacity Study and therefore not consistent with adopted Local Plan policies LP ENV 1 and LP HOU 1.

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

(R) Reasons why planning permission or a Planning Permission in Principle should be refused:

The site presents fairly open aspect long distance views from the minor road serving the area travelling south. The site is not associated with an existing farm or built cluster nor is it associated with mature planting. The council’s Landscape Capacity Study for North and South Kintyre details that new developments should be clear of the valley floor to avoid long distance views into the site and associated with existing clusters of development to maintain the existing settlement pattern. The current application is located on the valley floor offering long distance views from the main road into the site and is not associated with any existing built development. In this regard the application is not consistent with the provisions of the adopted Landscape Capacity Study 2009 and by extension policy STRAT DC 4 of the approved Structure Plan and policies LP ENV 1 and LP HOU 1 of the adopted Local Plan.

(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: David Love

Date: 26/09/12

Reviewing Officer: Peter Bain

Date: 28/09/12

Angus Gilmour
Head of Planning

GROUNDINGS OF REFUSAL RELATIVE TO APPLICATION REFERENCE 12/01692/PPP

The site presents fairly open aspect long distance views from the minor road serving the area travelling south. The site is not associated with an existing farm or built cluster nor is it associated with mature planting. The council's Landscape Capacity Study for North and South Kintyre details that new developments should be clear of the valley floor to avoid long distance views into the site and associated with existing clusters of development to maintain the existing settlement pattern. The current application is located on the valley floor offering long distance views from the main road into the site and is not associated with any existing built development. In this regard the application is not consistent with the provisions of the adopted Landscape Capacity Study 2009 and by extension policy STRAT DC 4 of the approved Structure Plan and policies LP ENV 1 and LP HOU 1 of the adopted Local Plan.

APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **12/01692/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.

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