

**REQUEST FOR REVIEW OF DECISION TO
REFUSE PLANNING PERMISSION FOR THE
DEMOLITION OF A GARAGE, ERECTION
OF A DWELLINGHOUSE AND FORMATION
OF A PARKING AREA, GARDEN GROUND
OF HAZELBANK, UPPER FLAT, 118A SHORE
ROAD, INNELLAN (REFERENCE
12/01566/PP)**

STATEMENT OF CASE

Submitted on behalf of Mr S Gallagher



MH Planning
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REQUEST FOR REVIEW OF DECISION TO REFUSE PLANNING PERMISSION FOR THE DEMOLITION OF A GARAGE, ERECTION OF A DWELLINGHOUSE AND FORMATION OF A PARKING AREA, GARDEN GROUND OF HAZELBANK, UPPER FLAT, 118A SHORE ROAD, INNELLAN (REFERENCE 12/01566/PP)

STATEMENT OF CASE

1. Site Description:

Hazelbank is a traditional 1½ storey villa that has been subdivided into two flats (upper and lower). The review site is to the north of Hazelbank, and to the south of the adjoining modern dwelling (Window Rock). It is currently occupied by a substantial timber garage/store, measuring 7.6 metres by 6.1 metres, and to the rear of this a lawful static residential caravan.

2. Planning History:

A previous planning application for the erection of a dwelling on the site (reference 11/2004/PP) was refused on 31 January 2012 for the following reasons:

1. Having regard to the character of the immediate settlement pattern that provides for detached dwellings with principal elevations facing east towards the Firth of Clyde and generous curtilages allowing meaningful separation distances between dwellings, the proposed dwellinghouse would be at odds with the character of the immediate established settlement pattern of the area, resulting in reduced standards of amenity for the existing lower and upper flats within Hazelbank, while creating reduced amenity for potential occupants of the proposed dwellinghouse.

Additionally, the proposed dwellinghouse including its scale, design and siting, would constitute an alien and incongruous feature resulting in the over-development of the site given the subsequent removal of amenity and visual space around Hazelbank.

Accordingly, a new dwellinghouse sandwiched in the side amenity space between Hazelbank and Window Rock and sited in such close proximity to these dwellings, would result in unacceptable infill development and contrary to the principles of sustainable development and that of protecting and enhancing the quality of the environment as identified in Scottish Planning Policy (February 2010); Planning Advice Note 67 - *'Housing Quality'*; STRAT SI 1, STRAT DC 1, STRAT HO 1 of the Argyll and Bute Structure Plan 2002; and to Policies LP ENV 1, LP ENV 19

(including Appendix A Sustainable Siting and Design Principles and Sustainable Design Guidance 1-4); and LP HOU 1 of the Argyll and Bute Local Plan (August 2009), all of which presume against the nature of the development proposed and advises that;

“The design of a successful place will begin with understanding how new housing can be connected to the settlement patterns of an area. The combination of layout of buildings, streets and spaces should create local identity, and contribute positively to the character of towns and villages ... New housing should take account of the wider context and be integrated into its wider neighbourhood, where issues to consider include the topography of the site and its relationship to adjacent sites and natural and built features”. (Planning Advice Note 67 - ‘Housing Quality)’”

“Infill sites within existing settlements can often make a useful contribution to the supply of housing land. Proposals for infill sites should respect the scale, form and density of the surroundings and enhance the character and amenity of the community. The individual and cumulative effects of infill development should be sustainable in relation to social, economic, transport and other relevant physical infrastructure and should not lead to over development”. (Scottish Planning Policy 2010, para. 82).

The things that must be considered when developing an infill site are access and car parking provision and the scale and design of the proposal, which should be in harmony with the surrounding area, particularly the adjacent buildings. The amenity and privacy of neighbouring properties should also be considered. (10.2, Appendix A: Sustainable Siting and Design Principles, Argyll and Bute Local Plan 2009)’”

2. The introduction of a further dwellinghouse to the plot would result in a loss of existing amenity for the existing two flats within Hazelbank and also result in an intensification of the plot in respect of reduced amenity spaces, and an increase in car parking, visitors, servicing and deliveries. There are existing parking issues within the larger plot which the proposal would only exacerbate to the detriment of existing dwellings. The removal of amenity space and intensification of the plot is considered to be unacceptable and would be contrary to the surrounding settlement character where traditional dwellings benefit from generous private amenity spaces. Such a development would therefore be contrary to Policies LP ENV 19 (including Appendix A Sustainable Siting and Design Principles and Sustainable Design Guidance 1-4) and LP HOU 1 of the

Argyll and Bute Local Plan (August 2009), all of which now presume against the nature of the development proposed.

3. The applicant has failed to provide detailed information in respect of surface water drainage proposals (SuDS) for the application site. The lack of precise drainage arrangements incorporating a SuDS scheme to alleviate potential surface water run-off from the proposed dwellinghouse and any areas of hard standing is contrary to policy LP SERV 2 – *Sustainable Drainage Systems (SuDS)* of the Argyll and Bute Local Plan (August 2009), which presumes against the nature of the development proposed.

3. The Review Application:

The review application was submitted in order to seek to address the two principal reasons for the refusal of the previous application, which related to the size and orientation of the proposed dwelling, which the Planning Officer considered resulted in unacceptable infill development that would have an adverse impact on the amenities of the adjoining dwellings. The following amendments to the proposal were made:

- The orientation of the dwelling was altered in order that the main elevation would face Shore Road (the same as the existing garage building);
- The footprint was broken down into 2 components; the main building, which was only marginally (approximately 1.0 metre) wider than the existing garage, and a narrower, lower, rear 'extension'; and
- The upper storey of accommodation (2 bedrooms and a bathroom) was removed entirely, and the ridge height of the dwelling was reduced by approximately 1.25 metres.

Notwithstanding these amendments, the application was refused again, on 2 October 2012, for the following reasons:

1. Having regard to the character of the immediate settlement pattern that provides for detached dwellings with generous curtilages allowing meaningful separation distances between dwellings, the proposed dwellinghouse would be sandwiched in the side amenity space between Hazelbank and Window Rock. Sited in such close proximity to these dwellings, the proposal would result in unacceptable infill development at odds with the character of the immediate established settlement pattern of the area, resulting in reduced standards of

amenity for the existing lower and upper flats within Hazelbank, and Window Rock, where the proposed dwellinghouse would be visually dominant and overbearing. Additionally, the proposed dwellinghouse including its scale, design and siting and lack of adequate separation distances would result in the overdevelopment of the site given the subsequent removal of amenity and visual space around Hazelbank to the detriment of the adjacent dwellings and to the character of the Special Built Environment Area.

Accordingly, the proposal is considered to be contrary to the principles of sustainable development and that of protecting and enhancing the quality of the environment as identified in Scottish Planning Policy (February 2010); Planning Advice Note 67 - 'Housing Quality'; STRAT SI 1, STRAT DC 1, STRAT HO 1 of the Argyll and Bute Structure Plan 2002; and to Policies LP ENV 1, LP ENV14, LP ENV 19 (including Appendix A Sustainable Siting and Design Principles and Sustainable Design Guidance 1-4); and LP HOU 1 of the Argyll and Bute Local Plan (August 2009), all of which presume against the nature of the development proposed and advises that;

"The design of a successful place will begin with understanding how new housing can be connected to the settlement patterns of an area ... New housing should take account of the wider context and be integrated into its wider neighbourhood, where issues to consider include the topography of the site and its relationship to adjacent sites and natural and built features". (Planning Advice Note 67 - 'Housing Quality')"

"Infill sites within existing settlements can often make a useful contribution to the supply of housing land. Proposals for infill sites should respect the scale, form and density of the surroundings and enhance the character and amenity of the community. The individual and cumulative effects of infill development should be sustainable in relation to social, economic, transport and other relevant physical infrastructure and should not lead to over development". (Scottish Planning Policy 2010, para. 82).

The things that must be considered when developing an infill site are access and car parking provision and the scale and design of the proposal, which should be in harmony with the surrounding area, particularly the adjacent buildings. The amenity and privacy of neighbouring properties should also be considered. (10.2, Appendix A: Sustainable Siting and Design Principles, Argyll and Bute Local Plan 2009."

2. The introduction of a further independent dwellinghouse to the plot where some of the facilities are communal, would result in a loss of existing amenity for the existing two flats within Hazelbank and also result in an intensification of the plot in respect of reduced amenity spaces, and an increase in car parking, visitors, servicing and deliveries. There are existing parking issues within the larger plot which the proposal with its particular requirements would only exacerbate to the detriment of existing dwellings. The removal of amenity space and intensification of the plot with the addition of an additional separate dwellinghouse and car parking spaces in the front garden area and also between Hazelbank and the proposed dwellinghouse is considered to be unacceptable and would be contrary to the surrounding settlement character where traditional dwellings benefit from generous private amenity spaces. Such a development would therefore be contrary to Policies LP ENV 19 (including Appendix A Sustainable Siting and Design Principles and Sustainable Design Guidance 1-4) and LP HOU 1 of the Argyll and Bute Local Plan (August 2009), all of which now presume against the nature of the development proposed.
3. The proposal lacks necessary improvements to the existing access to improve sightlines that would appear to be outwith the applicant's control. The northern access would require the provision of sightlines (42 metres from a 2.4 metre setback), where the northbound sightline is on land outwith the applicant's control. Accordingly, the inability to provide the necessary visibility splay would be contrary to Policy LP ENV 19 'Development Setting, Layout and Design' including Appendix A Sustainable Siting and Design Principles, Policy LP TRAN 4 'New and Existing, Public Roads and Private Access' of the Argyll and Bute Local Plan (August 2009).

4. Reasons for Review:

This review is requested on the basis that the Planning Officer's reasons for refusal of the application are not agreed with, and that it is therefore considered that the proposal (subject to the imposition of conditions) will comply with the relevant provisions of the Development Plan. In essence the Officer's reasons for refusal relate to the following:

Unacceptable infill development

In this respect it is material for the Local review Body to be aware that the building to be replaced, which is now used as a garage/store, was historically a self-contained cottage, occupied independently of Hazelbank. Photographs taken c1978 and c1992 are attached to illustrate this important

consideration (Appendix 1). Furthermore, in correspondence with the Planning Officer, the applicant has previously been advised that *“it may be possible to fit a very modest dwellinghouse in its (i.e. the garage’s) footprint with no significant visual impact beyond the existing structure”*.

The amendments made to the proposal in order to attempt to overcome the previous reasons for refusal have resulted in a much more modest dwelling that, from the principal public view point (i.e. Shore Road) would not appear to be significantly different in size to the building to be demolished (see Appendix 2). On this basis it is not accepted that the new dwelling would appear to be “sandwiched in the side amenity space between Hazelbank and Window Rock”; it is clearly no more “sandwiched” than the existing building.

Equally, it is difficult to see how the proposed new building could be described as being “visually dominant and overbearing”; given that it is both significantly smaller and lower than the buildings to either side. Furthermore, all of the principle windows of the new dwelling would face either to the front or the rear, with the only windows in the side elevations being either to a bedroom (facing Hazelbank) and a bathroom (facing Window Rock). Every effort has been made to ensure that the new dwelling would not be unneighbourly

An application for a **Certificate of Lawful Use**, in respect of the siting of a caravan for ancillary residential use, has recently been submitted to the Council. This seeks the Council’s confirmation that a caravan can be sited within the garden grounds of 118A Shore Road. It is understood that a Certificate will soon be issued on this basis. The Caravan Sites and Control of Development Act 1960 defines a caravan as “... any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted. This definition was modified by the Caravan Sites Act 1968, to prescribe the following **maximum dimensions** for a caravan:

- a) length (exclusive of any drawbar); 60 feet (18.288 metres);
- b) width: 20 feet (6.096 metres);
- c) overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): 10 feet (3.048 metres).

On the basis of this Certificate a caravan significantly larger than the dwelling being proposed could therefore be sited on the land, without the need for planning permission. Whilst it is accepted that such a caravan

could not be occupied completely independently of the main dwelling (in this case the Upper Flat), as the photograph in Appendix 3 demonstrates, it's visual impact would be much greater than the new building the subject of the current review.

Additionally, whilst not in respect of the siting of a caravan, reference is also made to Uttlesford District Council v Secretary of State for the Environment & White [1991], the leading case in respect of the use of an existing building within the curtilage of a dwellinghouse, for the provision of ancillary residential accommodation. Here it was concluded that a building within the garden of a property could be used as an integral part of the main residential use, without this representing a breach of planning control (i.e. a material change of use). As was noted in the judgement:

"... the Department's present view is that the use of an existing building in the garden of a dwelling-house for the provision of additional bedroom accommodation ... merely constitutes an integral part of the main use of the planning unit as a single dwelling-house and, provided that the planning unit remains in single family occupation, does not therefore involve any material change of use of the land ...

... the elderly relative to be accommodated would have her own bedroom, bathroom and, I assume, lavatory, small kitchen, somewhere to sit and her own front door. To that extent she will be independent from the rest of the family. I find no reason in law why such accommodation should consequently become a separate planning unit from the main dwelling."

The reason for referring to this case is to show that, again without the need for planning permission, it would alternatively be possible for the existing garage/store to be renovated, and used for residential purposes, provided that (as in Uttlesford) no separate planning unit was created.

Inadequate parking/amenity space

The second reason for refusal relates to a perceived loss of existing amenity for the two flats within Hazelbank, and an increase in car parking, visitors, servicing and deliveries where, according to the Planning Officer, there are "existing parking issues". So far as the applicant is aware, there are no such issues. The application was accompanied by a coloured plan showing how the amenity space would be divided, and parking provision made for each separate dwelling. This is attached as Appendix 4, and indicates in:

- Red – the application site and the proposed new dwelling/parking area;

- Blue – the land forming in the ‘curtilage’ of the Upper Flat; and in
- Green – the land forming the ‘curtilage’ of the Lower Flat.

This plan shows that more than adequate parking/amenity space can be provided for both the existing and the proposed dwelling, and that the communal right of access etc. will not be adversely affected in any way.

Inadequate access arrangements

In the context of the current review it is extremely disappointing to now note that over and above the Planning Officer's continuing concerns regarding the scale of the proposed new dwelling, an additional reason for refusal, not referred to in respect of the previous refusal of planning permission, has also been introduced. This relates to the applicant's inability to improve the existing access to the property.

The Council's Roads and Amenity Services Department were consulted on the previous application (11/02004/PP) on 25 October 2011. The consultation letter states:

"If you are unable to reply by this time please advise the local area office on 01369 708606 by 1 November 2011. If we have not received a written reply by 15 November 2011 and no request has been made for an extension to the time period, we shall assume that you have no objections to the proposal and the planning application will be processed accordingly."

No response to this consultation was received by 15 November 2011, and the Planning Officer (and thus also the applicant) therefore assumed that there were no highway safety related objections to the proposal. Had the applicant been aware that there was going to be such an objection to the subsequent application, it is quite possible that it may not have been submitted as it was.

With respect to the Roads Officer's previously unexpressed concerns regarding the access arrangements, it is material to give appropriate weight (as established above) to the fact that that the existing building could either be:

- Replaced with a twin-unit static caravan measuring up to 6.096 metres in width by 18.288 metres in length; or
- Renovated and used as residential accommodation,

and that this could be done without the need for planning permission. Although in either case the use would have to remain ancillary to the use of the Upper Flat, the number of vehicle movements generated would potentially be the same as would be by the occupier of the proposed new dwelling.

However, should the Local Review Body be of the opinion that the new dwelling proposed could be accommodated on the site without any adverse impact on amenity, and that access remains a concern, an alternative arrangement has recently been submitted to the Roads Officer for his consideration. This suggested closing both of the existing accesses, and creating a single new point of access to the existing (and proposed) dwellings, at a central position on the site's frontage.

The Roads Officer has advised in respect of this that "*the submitted plan meets roads requirements assuming that the sightlines of 42 x 2.4 metres can be met in both directions*". Having regard to this, it would be possible to resolve the access issue through the imposition of a 'Grampian Condition', of the following form:

"Access Improvements: The erection of the new dwelling hereby permitted shall not be commenced until such time that access improvements have been implemented in accordance with details that have previously been submitted to, and approved in writing by, the Local Planning Authority."

5. Conclusion:

In conclusion it is considered that the proposed new dwelling, when viewed from the public highway, will not be significantly larger than the existing building (which was previously a dwelling itself) which it would replace. It is therefore not accepted that it would appear to be "sandwiched" between the existing dwellings to the north or the south, or that either the existing or proposed dwellings would have inadequate parking or amenity space.

As **Scottish Planning Policy** notes, "*Infill sites within existing settlements can often make a useful contribution to the supply of housing land*". There are many local examples of small new dwellings being constructed over the years, within the garden grounds of older properties, without there being any adverse impact on the character or the amenity of the area. The current proposal would have the added advantage of also removing from the site a building which makes no meaningful contribution to the appearance of the area, thereby resulting in an overall visual improvement.

For all of the above reasons, and taking into account the implications of the Certificate of Lawful Use, it is therefore hoped that the Local Review Body will feel able to overturn the Planning Officer's decision in this instance, and to grant planning permission for the proposed development, subject to the imposition of appropriate conditions.



Photograph of review site c1978



Photograph of review site c1992

APPENDIX 2



View from Shore Road showing proposed new dwelling

APPENDIX 3



Illustration twin-unit static caravan measuring 20' x 45'



Plan showing proposed amenity space and parking arrangements