

STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

13/0003/LRB

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

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

**PLANNING PERMISSION REFERENCE NUMBER
12/01783/PPP**

15 FEBRUARY 2013

STATEMENT OF CASE

The Planning Authority is Argyll and Bute Council ('the Council'). The appellant is June Henderson ("the appellant").

Planning Permission in Principle Reference Number 12/01783/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 30 November 2012.

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 08/01958/OUT on the same site was refused on 05/11/09.

A pre-application enquiry reference 11/00718/PREAPP on the same site was given a negative response on 26/05/11.

A further application for planning permission in principle reference 11/01801/PPP was refused on 16/11/11. A subsequent Local Review Board decision reference 12/0002/LRB upheld the refusal and dismissed the review.

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.

- Whether the submissions of the appellant overcome the lack of compatibility between the review site and the surrounding settlement pattern, which renders the proposal contrary to policy, such that a departure from policy can be justified.

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 fully 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. The site has already been the subject of a Local Review Body decision following a site inspection, when it was found that the site was not suitable to accommodate a house. 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 planning service found the refusal to be a difficult decision due to the weight of supporting documentation which accompanied the application.

Comment: All supporting information submitted required thorough appraisal as part of the assessment process as evidenced in the planning Report of Handling. However, the reasons for refusal are strongly founded as evidenced in the report, because the application is contrary to policy.

The planning department have suggested an option to build a separate residential annex on the site, which could be equal or slightly larger than the proposed dwelling. This shows clearly that the planning department are not against development of this site and their assessment that the site is too small is not valid.

Comment: The option to provide an ancillary residential annex within the existing house garden grounds, without any subdivision of the site, for ancillary domestic purposes only is an entirely different proposal than a stand-alone house and site sub-division being proposed by the appellant. It is inappropriate to take support for an ancillary annex and misrepresent that as support for the provision of a separate dwelling on the site. The site is too small to be successfully sub-divided into two separate house plots.

If the plot is not divided, Mrs Henderson's daughter risks the possibility of losing the property in an estate which could be split between siblings in the future.

Comment: The splitting of an estate is not a material consideration in the determination of any planning application. It remains open to the family to resolve

such issues in advance through the involvement of solicitors. Such resolution would take place outwith the planning remit.

The newly proposed local plan gives an encouragement to dwellings of a different size to allow for people with different social needs in areas which presently do not hold a choice of dwelling type, size and tenure.

Comment: The proposed Local Development Plan (LDP) is currently out to consultation and is not yet a material consideration in the determination of any planning applications. It was not a material consideration in the refusal as it was not published at the time the application was considered. The application has been fully assessed in terms of the current Development Plan and it is contrary to the adopted Development Plan. The provisions of the proposed LDP do not go so far as to allow for far smaller individual sites within established residential areas regardless of their established pattern, density and character.

People should have the right to keep large open amenity spaces and other people who own the same should have the right to use their open amenity space to make provision for their future in a way they see fit.

Comment: The current Development Plan sets out the requirements for housing within settlements to pay regard to the setting into which it is proposed. This varies from settlement to settlement and forms a key element of place making. The proposed house plot is significantly smaller than any other plot around it and as such involves a density of development that is at variance with and detrimental to the established character of the area.

The proposal will inject close to £200,000 into the local economy and at the same time create employment and support local suppliers. It is thought no to be the time to refuse such viable proposals.

Comment: All new houses make a contribution to the local economy and this is both noted and appreciated. It does not however override the adopted Development Plan policies or allow for any housing on any site. Planning applications must be assessed in terms of their compatibility with the Development Plan as the primary determining factor.

The site is unique within the area due to the frontage onto a road make access readily available.

Comment: Whilst direct access to an adjacent private road is proposed, the strip of land containing the access has not been shown within the site. The strip of land between the site and the private road is in third party private ownership. Compliance with the requested conditions from the Roads Authority can not be provided within the application site.

The planning officer's assessment that the proposal would lead to a precedent for back land development within the surrounding area is flawed due to the fact that there are no other sites that have this readily available.

Comment: The assessment of the site as backland development is clearly stated in the report of handling. That assessment has already been verified by a Local Review Body dismissal.

It was strongly communicated at an early stage of the application, by planning officers, that the only chance of acquiring an approval on this application would be from a local review body indicating from a very early stage and long before all the supporting documentation had been complied, and submitted, their intention for refusal of the proposal.

Comment: Given the negative planning history at the site, namely two refusals, one dismissed Local Review Body decision and one negative pre-application enquiry, the appellant was advised that realistically any further application would not be viewed favourably by the Planning Service. The appellant was advised that should any further application for permission be refused they would have the right to appeal to the Local Review Board.

Throughout the planning process the applicant has sought advice and Council from local and national architects, MSP, building contractors and members of the legal profession and their positive outlook to this proposal is a governing factor in the pursuit of this application. If the applicant had not received such positivity then this case would have been dropped long before it reached this stage. The fact that it has come this far shows a strong merit of validity.

Comment: In so doing, the applicant has notably ignored the previous refusals, the previous dismissed review, and previous negative pre-application advice from the Planning Service. This is the best and most direct source of information on the likely acceptability of any planning proposal. The Planning Authority is not responsible for, or accountable to, the opinions or advice of any other professionals or parties.

The above summarises the comments made by the appellant. A full and 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. None of the appellant's submissions successfully addresses any of those issues.

CONCLUSION

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

The proposed site within the garden ground of Lynn House does not represent an opportunity for acceptable infill, rounding-off or redevelopment but represents a form over-development on an unusually small site for the settlement in an inappropriate back-land location.

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.

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: 12/01783/PPP

Planning Hierarchy: Local Development

Applicant: Ms June Watson-Henderson

Proposal: Site for Erection of Dwellinghouse

Site Address: Garden Ground of Lynn House, Ganavan Road, Oban

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 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.

(C) HISTORY:

History relative to application site:

08/01958/OUT

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

11/00718/PREAPP

Erection of one and half storey dwelling house – Negative response: 26/05/11

11/01801/PPP

Site for erection of dwellinghouse – Refused: 16/11/11. Subsequent LRB decision to uphold refusal and dismiss review.

History relative to wider area, referenced by agent:

12/01581/PP

Site for erection of dwellinghouse within garden ground of Crannaig A Mhinster – Granted: 21/09/12 – The site subject of this application is situated within the garden ground of Crannaig an Mhinster where there is currently a single storey, pitched roof, double garage. The application was assessed as being suitable for redevelopment with an appropriately designed modest dwellinghouse, similar in scale and massing to existing dwellinghouses in the surrounding area. This application differs to the proposal subject of this current application as the donor house effectively sat in a double plot and therefore the application proposes a significantly larger plot and also leave the donor house with a plot size that is compatible with the surrounding pattern of development. The development of this site with a dwellinghouse will also relate well to the established settlement pattern, density and character of the area surrounding the site, contrary to the current application under consideration.

(D) CONSULTATIONS:

Area Roads Manager

Report dated 26/09/12 advising no objection subject to conditions.

Scottish Water

Letter dated 23/08/12 advising no objection to the proposed development but providing advisory comments for the applicant.

(E) PUBLICITY:

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

(F) REPRESENTATIONS:

18 representations have been received regarding the proposed development. Six objections and twelve supportive submissions have been received (including one from the agents partner).

Craig Mullarkey, Trainee Planning & Investigative Consultant, 6 Dalrigh, Dunollie Road, Oban, PA34 5PG submits a range of supporting statements and responses to some objections raised. (Mr Mullarkey is the partner of the agent Ms MacArthur, who is the applicant's daughter. It is understood Mr Mullarkey and Ms MacArthur are the intended occupants of the house applied for.)

- Making representations on behalf of the applicant regarding the validity of the comments made in the three objection letters submitted.

Comment: The comments made by objectors have been summarised below and the application has been fully assessed against the terms of the Development Plan at Section P below.

- Supporting statements and special case submitted in favour of the application.

Comment: The supporting statements are noted and are appraised later in this report.

Other supporters:

Mr Craig McGougan Neil McGougan Ltd Unit 1 Sinclair Drive Oban PA34 4DR (letter 01/10/12)

Mike MacKenzie MSP 31 Combie Street Oban Argyll PA31 4HS (email 01/11/12)

Peter MacKie Slaters Coal Company 14 Mill Lane Oban Argyll (letter 06/11/12)

Stuart Kunz City Electrical Factors Ltd Unit 7 Tweedmill Soroba Road Oban (letter 06/11/12)

Michael Higgins Rembrand Timber Ltd Glenshellach Business Park Oban Argyll (letter 06/11/12)

Depot Manager Mull Building Supplies Glenshellach Terrace Oban Argyll PA34 4BH (letter 06/11/12)

Depot Manager Howdens Joinery Company Sinclair Drive Oban Argyll PA34 4DR (letter 06/11/12)

Depot Manager MGM Timber Lynn Road Oban Argyll PA34 4PH (letter 06/11/12)

A MacPherson Oban Electrical Services 19 - 21 Stevenson Street Oban Argyll (letter 07/11/12)

S Cameron Keyline Builders Merchants Soroba Road Oban Argyll PA34 1HQ (letter 07/11/12)

R Johnstone PTS Plumbing 7E Glengallan Road Oban Argyll (letter 07/11/12)

Summary of issues raised:

- Any work in the current economic climate would be advantageous to local tradesmen and suppliers. Encouragement given to Planning Authority to approve the application in line with policy (as perceived by the writers), and in order to support the local economy.

Comment: This comment is noted but is not a material consideration in the determination of this planning application.

- Large vehicles will have no problems using the private road that serves the site.

Comment: This comment is noted. There are no current objections from the Roads Authority to the application.

- General support offered taking account of the special circumstances that exist.

Comment: This comment is noted. There are no sufficiently strong special circumstances that outweigh the conflict created by the proposal against adopted policy, nor is this the only option available to address the special

circumstances submitted in favour of the development. This matter is assessed in full below.

Objections:

David WT Hodge, West Bracklinn, Ganavan, Oban, PA34 5TU (letter 12/09/12)
Mrs Wendy Douglas, Farringford, Ganavan Road, Oban, PA34 5TU (09/09/12)
(Submitted as a representation. Assessed as an objection due to content)
Mrs Lesley MacPhail, Fairfield, Ganavan Road, Oban, PA34 5TU C/O Mr Alan MacAskill 5 Ferryfield Road Connel Oban PA37 1SR (letter 31/08/12)
John C. Hyde, Island View, Ganavan, Oban (letter 19/09/12)
Ian And Rhoda McInnes Bil Na Bruaich Ganavan Road Oban Argyll And Bute PA34 5TU (letter 19/09/12)
Mr & Mrs Yip, Leven Cottage, Ganavan, Oban (letter 19/09/12)

Summary of issues raised

- The application is contrary to STRAT DC 1, LP ENV 1, and LP ENV 19 because it is inappropriate backland development, is positioned contrary to the settlement pattern, would adversely affect the character of the existing area, and does not comprise infill, rounding off or redevelopment.

Comment: These concerns are supported by the officer assessment, which is set out in Section P, below.

- The application involves an over-development of a site that is too small to accommodate the development, it would remove the amenity space afforded to the existing house, and would introduce a higher density of development than exists at present in the area, with insufficient private amenity space.

Comment: These concerns are supported by the officer assessment, which is set out in Section P, below.

- 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. The application is contrary to LP HOU 1 and LP TRAN 4.

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. This approach is consistent with LP TRAN 4 part D. The required road widening and splays are located beyond the site boundary in third party land.

- Road and pedestrian safety issues. Privately owned road and verge - leading to queries over landowner consent and maintenance of open access to existing road users.

Comment: The Roads Authority was consulted on the proposed development and raised no objection on road or pedestrian safety grounds. Issues of ongoing access are civil matters in this instance. No owner notification was issued by the applicants, because the site boundary is held tightly to the land in the applicant's ownership itself. The adjacent privately owned land at the

access and verge are not shown within the site, albeit they would be affected in the event that the road widening or visibility splays were to be provided as part of any planning permission, if such permission were to be granted. In this case, there are fundamental reasons for refusal, and so this matter needs to further attention at this stage.

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

Comment: No objections have been submitted from the Roads Authority. Beyond this, private issues of the suitability for the road to take heavy traffic associated with construction are civil matters in this instance.

- The proposed site is not in keeping with the established settlement pattern of the area and represents back development which would set an undesirable precedent for the area.

Comment: This concern is supported by the officer assessment.

- The proposed development of this site with a dwellinghouse would exacerbate existing drainage problems at the site and within the area.

Comment: This is noted and is a matter which could be dealt with adequately by way of a condition should planning permission in principle be granted.

- This is the fourth application for this site with nothing having changed since the previous submissions. Previous refusals have included a site visit already.

Comment: The site history is noted and it includes two refusals and the rejection of an application for review, by the Local Review Body.

- Precedent.

Comment: This concern is closely linked to the problems surrounding the small site area proposed and the resultant higher density development this would introduce to the area. In this respect, concerns over precedent are shared by the officer assessment and the statements of the agent are not sufficient to counter these concerns.

- Impact on trees.

Comment: It is not considered that the proposal involves unacceptable impacts on trees.

- Natural light is restricted to the proposed house.

Comment: The site is low lying, but is not so over-shadowed as to involve the provision of a house with unacceptably low levels of natural day light.

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>.

(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:
Yes | |

A range of supporting documents/statements have been submitted by the agent in support of the application.

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| (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)

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

Introduction:

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

This site has been the subject of two previous refusals and an application for review which was dismissed by the Local Review Board.

This is the third application for a dwellinghouse on this site. In support of this current application, the applicant has submitted a range of supporting information which is assessed below. The site area has also been slightly increased from the previous 288m² plot, to a 329m² plot as currently applied for.

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

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.

Claim of operational need:

The application has been accompanied by a claim of special case on the basis of health reasons. It is stated that the applicant has a need for her daughter to be nearby and the proposed house is considered by the applicant to be a solution to this need. The applicant has requested that these details be made available to the Planning Authority but not part of the publicised record pertaining to the application. The claim made is brief and has not been raised as a reason for the application beforehand.

The circumstances of the applicant are noted and her aspirations to have family close by in the future are understandable. However, the necessity of this does not appear to be strong and there are no supporting statements from health professionals or occupational health officers independent of the situation to verify the exact extent of this need.

The first solution to the health and future care needs is the existing arrangement; whereby the applicant and her daughter reside in their respective addresses, which are only around 2 miles apart. There is no evidence submitted to explain why the existing arrangement is not sufficient for the current or imminent needs of the applicant.

The second option for closer care arrangements comes from the applicant's existing house. It is understood to be a three bedroom house with a single occupant. For occasional overnight stays, or to be on hand more regularly, it is not explained why this would not be appropriate for family use and assistance.

As a third option to address caring requirements, a residential annex could be proposed in the rear garden, ancillary to the existing house and tied in ownership to the existing house without any plot sub-division. This option has been presented to the applicant and agent, but has been rejected on the basis that they are not willing to work out the financial matters taking account of future succession and because there is more than one sibling.

In summary, the claim of operational need for health reasons is poorly explained and insufficiently justified or independently asserted by health care professionals. Assuming the needs can be demonstrated, they can be met by the existing arrangement whereby the agent (daughter) resides in Oban at a distance of around 2 miles from the applicants property. This proximity is normally close enough for families facing similar circumstances in the area. If it proves inadequately close, there are other options available from spare bedrooms in the existing house or by means of a residential annex which could be utilised to meet the ongoing needs of the applicant. The health reasons submitted and lack of willingness to explore the alternative options to meet these needs, mean that the claim of operational need fails. The claim of operational need is insufficient, it does not represent a special

case, and does not overcome the concerns that exist with the development currently proposed, which are detailed in the following assessment.

Settlement pattern:

Whilst the acceptability of the principle of additional development within settlements is set out in policy, this is qualified by a requirement to ensure developments integrate with their setting and do not result in an unacceptable environmental, servicing or access impact. There are minimum standards to consider (Local Plan Appendix A), but the appendix itself explains that the context of the site and the character and pattern of existing development around any site must be considered of primacy. The alternative to doing so would be the acceptance of all applications which pass the minimum standards, which clearly represents a poor planning approach at variance with the objectives of the local plan to integrate development into existing settlements and protect and enhance the sense of place. The sense of place in settlements is contributed to by the pattern, style, layout, density, design and spacing of existing developments.

The application 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 rows of houses sit at a higher level with a low lying burn and shallow valley left free of development. It is in this low lying valley that the house site is proposed. The row of houses to the north-east is clearly legible as a single linear row.

The proposed site within the garden ground of Lynn House does not represent an opportunity for infill, rounding-off or redevelopment but represents a form of inappropriate back-land development. The local plan defines the terms infill, rounding off and redevelopment, and notwithstanding the assertions of the agent, the proposal does not meet any of these terms taking account of the circumstances and context of the site. The proposed site does not take account of, or relate to, the existing settlement character of the surrounding area as it constitutes an unacceptable form of back-land development.

Plot size and density:

The plot size is much smaller than the size of plots around the site and has previously been judged too small to comfortably accommodate a house per the previous refusals, negative pre-application advice, and the local review board decision. The applicant has submitted supporting documentation with this current application, and increased the site area from 288m² to 329m² in an attempt to overcome this issue.

The agent states 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, with direct references to the minimum standards set out in Local Plan Appendix A.

A density survey of the area surrounding the site has been submitted, which the agent claims, shows that the surrounding housing scheme has a higher density than the resultant density of the area in which the proposed site lies once the development were to proceed.

However, the methodology employed by the agent in conducting the density study is fundamentally flawed and gives no regard to key factors such as the site specific plot sizes that exist at Ganavan, nor the site specific plot ratios in the area either. By contrast, the study submitted by the agent identifies sub-areas of Ganavan then mistakenly asserts that the total footprint of development in an area, divided by the total land in that area gives the density of development, and that the totals for each area are the only factor to consider. Whilst the total built development in an area is important to gauge the overall density, on an application by application basis, the assessment must also evaluate the individual plot size and plot ratio (the percentage of built development to open space) on all individual plots, to truly compare whether a proposal fits the plot size and density levels that are characteristic of the existing area.

The agent asserts that the site lies within an area 3 of Ganavan and that the nearby area 2 has a higher density. For the ease of assessment and comparison, the Planning Service is happy to look at these two areas in greater detail.

In area 3, where the proposed plot is located, there are 15 plots including 14 houses and one plot approved under 12/01581/PP. The plot sizes range from 680m² to 1424m² with an average plot size of 924m². The plot ratios of the three plots closest to the application site are 17%, 12.6% and 9.7%. The application site as applied for measures 329m² and proposed a plot ratio of 23.4%. The plot site is less than half the smallest existing plot in the area, and only around a third of the average plot size. The plot ratio proposed exceeds that of surrounding sites. Both the proposed plot size and ratio are in no way comparable to that found in surrounding development.

In area 2, there is a higher density of development on smaller sites than exist in area 3. That area contains 13 houses ranging in site area from 426m² to 899m² with an average plot size of 628m². The plot ratio of the smallest plot (Claremont) is 15.5%.

The agent asserts that the application site compares well to five of the houses in area 2. These are Foothills, Tor na Var, Heanish, Broomhill and Claremont. These plots measure 571m², 484m², 564m², 541m² and 426m² respectively. The average plot size for these five referenced small plots is 517m². None of those plots are intervisible with the application site and even the smallest of them exceeds the application site area by over 100m². As well as proposing a plot ratio significantly higher than that plot. It is not accepted that the proposed plot is of comparable size or density to development in the identified area 2, and in any case, that area is not where the application site is located.

The development of the application 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 are both at variance with the established settlement pattern of the area and as such the proposal runs contrary to the provisions of the adopted Development Plan.

Precedent:

The agent asserts three main arguments related to precedent:

- 1) That the site has a former consent for a garage and can therefore be accepted as suitable for the proposed house.

- 2) That a recent approval nearby (12/01581/PPP) sets a precedent that is favourable to the application at this site.
- 3) That the circumstances at this site are unique and will not therefore establish a precedent.

Approval was given in 1979 for a garage within the rear grounds of the house. This verifies that the site is suitable for an ancillary domestic outbuilding within the existing house plot and nothing more. The Planning Service remains of the view that an ancillary domestic outbuilding would fit the existing house plot.

Planning permission in principle 12/01581/PPP involves a site further to the northwest of the site subject of this planning application. This site in question is situated within the garden ground of Crannaig an Mhinister. That application differed from current application as the donor house effectively sat on a 'double' plot, whereby even following sub-division the house retained a plot of 1271m² and the approved plot has an area of 700m². The existing house and approved plot are served by two different access spurs and the approved plot lies in a position where it can readily integrate with the established settlement pattern. For these reasons, the referenced approval at 12/01581/PPP only serves to vindicate the retention of sufficient plot sizes well in excess of the site applied for now, and to secure house positions that can integrate with the settlement pattern.

Finally, turning to the reference of the site as unique. It is unique in the sense that it occupies a low lying spot alongside a burn, but this is not necessarily a favourable point to highlight. The siting differs from the settlement pattern and encroaches onto a low lying valley hitherto left free of development. The nature of the site is not sufficient to overcome all of the obstacles to the development, nor is it sufficient to outweigh the adopted Development Plan requirements for development to integrate with its setting. If the development were to proceed it would establish a precedent for significantly smaller sites and a significantly higher density of development than exists at present.

Infrastructure and servicing:

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.

Objectors highlight that a previous Roads response on 08/01958/OUT recommended refusal in the absence of an upgrade to an adoptive standard road. That initial response was subsequently updated to a position of no objections subject to conditions requiring a commensurate improvement by means of widening the existing private road at the proposed site access and providing sufficient visibility splays. The provision of commensurate improvements to existing private accesses is supported under Policy LP TRAN 4 part D. Ever since then, the Roads Engineers advice has remained consistent. The land required to undertake the upgrades is in separate private ownership and is not identified within the application site. This would need attention if the development was being supported, but given the over-riding problems with the application principle, this need not be the subject of further consideration at this time.

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.

History:

As outlined above, the site has been the subject of two previous refusals, negative pre-application advice, and a local review body dismissal in 2009, 2011 and 2012 respectively. The only differences between then and now is that the site area has been increased from 288m² to 329m² and a supporting statement has been submitted including a claim of operational need. For the reasons set out above, the plot remains too small and the supporting statements are not supported by an objective assessment of the facts. The claim of operational need is weakly presented and could easily be addressed by three other alternative options, all of which are preferable to the proposal submitted.

The 1979 garage permission merely verifies that the site has capacity to accommodate an ancillary domestic outbuilding only.

The planning history does nothing to indicate a house plot should be supported now.

Conclusion:

The applicant's supporting statements are all noted, but they are not supported by an objective assessment of the application. It is 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 plot size and its 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 would be established, contrary to the contention of the agent, as neither the site nor the circumstances are considered to be so unique as to justify the development.

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 planning permission in principle be refused for the reasons appended to this report.

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

(R) Reasons why planning permission should be refused.

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

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

N/A – The application is recommended for refusal because it conflicts with the Development Plan.

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

Author of Report: Fiona Scott Date: 27/09/12

Reviewing Officer: Stephen Fair Date: 28/11/12

**Angus Gilmour
Head of Planning**

REASONS FOR REFUSAL RELATIVE TO APPLICATION REFERENCE 12/01783/PPP

1. The application site is too small. 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 along both sides of a lower lying undeveloped valley with a burn at its base, 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.
4. The claim of operational need submitted on the basis of health grounds is poorly explained and insufficiently justified or independently supported by health care professionals. Assuming the need for proximity between mother and daughter can be demonstrated, this need is considered to be readily met by the existing arrangement whereby the parties reside at a distance of around 2 miles apart. If that arrangement proves inadequate, the spare bedrooms in the existing house would also provide an option for close health care and support. As a third alternative, an ancillary residential annex could be utilised to meet the ongoing health care needs. The claim of operational need is insufficient. The proposal does not represent a special case and the submissions made do not outweigh the conflicts that the development would create with the adopted Development Plan.