

**STATEMENT OF CASE
FOR
ARGYLL & BUTE COUNCIL**

**REFUSAL OF PLANNING PERMISSION FOR THE
ERECTION OF DWELLINGHOUSE AT KNOCKDERRY
HOUSE, SHORE ROAD, COVE
PLANNING APPLICATION
REFERENCE NUMBER: 12/02666/PP
LOCAL REVIEW BODY REFERENCE: 13/0012/LRB**

10 August 2013

INTRODUCTION

The Planning Authority is Argyll & Bute Council ('the Council'). The appellant is Mr MacLeod ('the appellant').

The detailed planning application, reference number 12/02666/PP, for the erection of dwellinghouse at Knockderry House Shore Road Cove ('the appeal site') was refused under delegated powers on 1 May 2013. The planning application has been appealed and is subject of referral to a Local Review Body, reference number 13/0012/LRB.

DESCRIPTION OF SITE

The appeal site is within the grounds of Knockderry House Hotel, a Category B listed building. There are two entrances to the hotel, one to the east of the hotel and another to the west. These access roads sweep round to the hotel leaving a large open area to the front. The proposed site is located at the east entrance of the site and is bounded to the north by the access road and to the west by Shore Road. The proposed plot measures approximately 1350 square metres. To the north of the site there is ribbon development of fairly modern bungalows.

SITE HISTORY

09/01376/PP – Erection of dwellinghouse (Refused 29/01/2010).

The reasons for refusal were as follows:

The proposed building is situated within the curtilage of, and some 60 metres from, Knockderry House. This is a 19th century, L-plan Arts and Crafts Category B Listed Building with alterations by William Leiper. The proposed building will be located in a plot to the east of Knockderry House and will be bounded by the entrance road to the listed building and the main road. This area is important to the setting of the listed building since it provides open aspects to it when travelling in an easterly direction. The proposed building has a footprint of approximately 200 square metres, combines one and a half and two storey elements, has hipped and pitched roofs and has a mix of window styles and modern finishes. Siting a building of this massing, scale and design at this location would reduce the open aspect when approaching Knockderry House in an easterly direction, as well as obscuring views of the listed building, consequently affecting its setting. It is also considered that the with its mix of roof pitches,

inappropriate window styles, steel balustrades and integral garages as well as the choice of modern materials including concrete roof tiles and uPVC windows it is an inappropriate development within the grounds of a listed building. It would result in a development which, given its position, massing, scale and design would, when juxtaposed with the Arts and Crafts property, be visually intrusive, visually discordant and would unacceptably detract from the setting of Knockderry House.

The proposal is therefore contrary to Policies STRAT DC 1 and STRAT DC 9 of the Argyll and Bute Structure Plan, Policies LP ENV1, LP ENV 13a and LP ENV19 and Appendix A of the Argyll and Bute Local Plan Adopted August 2009 and the Council's Design Guide. These require, inter alia, that in relation to any works affecting listed buildings or their setting, special attention is paid to siting and design in order that the building's character and setting is not eroded. Furthermore, the proposal would fail to accord with criteria contained within Historic Scotland's Technical Guidance Notes relating to development within the curtilage of listed buildings that may affect their setting. This states that at all times the listed building should remain the focus of its setting. Attention must never be distracted by the presence of any new development be it within or outwith the curtilage.

STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED

Section 25 of the Town and 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 the determination shall be made in accordance with the plan unless material considerations indicate otherwise. This is the test for this application. Argyll & Bute Council considers the determining issues in relation to the case are as follows:

- Whether the proposal accords with Development Plan policy and whether there are any material considerations to outweigh these adopted policies. In particular, whether the proposed erection of a dwellinghouse would undermine the setting of Knockderry House, a Category B listed building and would erode the character and appearance of the Conservation Area.

The Report of Handling (Appendix 1) set out the Council's assessment of the application in terms of Development Plan Policy and other material considerations.

COMMENTS ON APPELLANT'S SUBMISSION

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that where, in making any determination under the planning Acts, regard is to be had to the development plan, and the determination shall be made in accordance with the plan

unless material considerations indicate otherwise. Applications 09/01376/PP and 12/02666/PP were both assessed on this basis as is the appeal.

This site has been the subject of pre-application advice on a number of occasions. In 2009 the appellant was advised as follows in relation to a house on this plot:

“It is the Conservation and Design Officer’s view that the principle of building a house on this site would be acceptable. However, any house should be located towards the corner of the site and this should be of a Lodge type design in the contextual spirit of the traditional Cove properties. The garden area should be grassed over and the existing inappropriate fencing removed and replaced with a stone boundary wall in order to improve the setting of both properties.

The building shown on pre-application plans submitted for discussion was considered to be too large and too close to the existing building and of an inappropriate design.

Following on from this application 09/01376/PP was subsequently submitted. The design of the proposed house did not heed the advice given. It showed a modern two storey detached property completely out of character with the appellant’s hotel and of a massing and scale that would have destroyed the setting of Knockderry. The application was therefore refused.

In 2011 a further pre-application enquiry was submitted and the same advice given. The application, which is the subject of this appeal, was submitted. Whilst some changes had been made, the same basic design was used and the same inherent design flaws remained. As such the application was refused for the reasons given in the report of handling (Appendix 1).

Prior to this appeal being submitted further advice was given. The Planning Authority has been entirely consistent in its approach. Firstly, the principle of a house on this site is accepted and we have been happy to negotiate in terms of a design and footprint which would get the appellant the type of accommodation he requires. However, the design has to take account of the adjacent listed buildings, and especially their setting. The designs chosen have neither been sensitive or sympathetic to the location.

In terms of the setting of a listed building, Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states the following:

‘In considering whether to grant planning permission for development that affects a listed building or its setting, a planning authority or the Secretary of State, as the case may be, shall have special regard to the desirability of preserving the building or its setting or any special features of special architectural or historic interest which it possesses.’

Historic Scotland's Managing Change in the Historic Environment Guidance Notes goes on to state:

'Setting can be important to the way in which historic structures or places are understood, appreciated and experienced. Planning authorities must take into account the setting of historic assets or places when drawing up development plans and guidance, when considering various types of environmental and design assessments/ statements, and in determining planning applications'.

'Development proposals should seek to avoid or mitigate detrimental impacts on the settings of historic assets.'

The appellant quotes from the Council's Design Guide for Small-scale housing development. New development must be integrated with its setting, and scale, massing and proportion are key elements in the design process. Unfortunately, this advice and the advice of Officers has not been followed. The appellant has stated that the proposed dwelling would lead your eye from the single storey dwelling adjacent to the site, to the 2 storey proposed dwelling, then onto the 3 storey Knockderry House. It is not considered however that this is the case, since Knockderry House is set back approximately 25 metres from the main road and approximately 65 metres from the proposed dwelling. Due to these distances, when travelling in an easterly direction, the proposed dwelling would, even with landscaping, seem intrusive, obscuring the views to the listed building.

The proposed building would sit in front of the main elevation of the listed building. Siting a building of this massing, scale and design at this location would reduce the open aspect when approaching Knockderry House travelling west to east, as well as obscuring views of the listed building, consequently affecting its setting. As stated it is a modern building that has little in common with the hotel. The design of the building, its mass and scale and its mix of roof pitches, inappropriate window styles and choice of materials is not appropriate for a development within the grounds of a listed building. As such the application was refused.

To the north of the site there is ribbon development of fairly modern bungalows. These are of limited architectural value and contribute little or nothing to the character of the area. They do not set a precedent and cannot be used to justify other equally inappropriate development. The proposed house is suburban in character and would sit uncomfortably with the adjoining listed buildings. Given its design it would also sit uncomfortably with the modern bungalows to the west. If the appeal is upheld the proposed house would undo all the good work the appellant has done to refurbish the hotel, including a sensitive and high quality extension.

OTHER MATERIAL CONSIDERATIONS

In addition to the strong policy assumption against development of this site, the previous refusals are the other key material consideration. As such these material considerations give further weight to the case against the current proposal.

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. Officers have already accepted the principle of a house on this site.

However, a house will only work if it is sensitively designed and sympathetic to its setting. The proposed building is situated within the curtilage of, and some 65 metres from, Knockderry House Hotel. This is a 19th century L-plan Arts and Crafts Category B Listed Building with alterations by William Leiper. The proposed building will be located in a plot to the west of Knockderry House Hotel and will be bounded by the entrance road to the listed building and the main road. This area is important to the setting of the listed building since it provides open aspects to it when travelling in an easterly direction. The proposed building has a footprint of approximately 165 square metres, combines a mix of hipped and roof pitches and has a mix of window styles. Siting a building of this massing, scale and design at this location would reduce the open aspect when approaching Knockderry House in an easterly direction, as well as obscuring views of the listed building, consequently affecting its setting. It is also considered that the design and choice of materials of the building are inappropriate for a development within the grounds of a listed building. It would result in a development which, given its position, massing, scale and design, would be visually intrusive, visually discordant and would unacceptably detract from the setting of Knockderry House Hotel. The proposal is therefore contrary to Policies STRAT DC 1 and STRAT DC 9 of the Argyll and Bute Structure Plan, Policies LP ENV1, LP ENV 13a and LP ENV19 and Appendix A of the Argyll and Bute Local Plan Adopted August 2009 and the Council's Design Guide. These require, inter alia, that in relation to any works affecting listed buildings or their setting, special attention is paid to siting and design in order that the building's character and setting is not eroded. Furthermore, the proposal would fail to accord with criteria contained within Scottish Planning Policy which confirms that the preservation of listed buildings and their setting is a material consideration in both the development planning and development management processes.

The proposal does not meet the terms of Section 25 of the Act. It is contrary to policy and any other material considerations further presume against the development as submitted. Taking account of the above, it is respectfully requested that the appeal be dismissed.

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: 12/02666/PP

Planning Hierarchy: Local Application

Applicant: Murdo MacLeod

Proposal: Erection of dwellinghouse

Site Address: Knockderry House Shore Road Cove Helensburgh Argyll and Bute G84 0NX

DECISION ROUTE

(i) **Local Government Scotland Act 1973**

(A) THE APPLICATION

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

- Erection of dwellinghouse
- Formation of new vehicular access

(ii) **Other specified operations**

- Connection to existing public water main
 - Connection to existing public sewer
-

(B) RECOMMENDATION:

It is recommended that planning permission be refused for reasons given overleaf.

(C) HISTORY:

09/01376/PP – Erection of dwellinghouse (Refused 29/01/2010)

(D) CONSULTATIONS:

Roads Helensburgh
and Lomond

Awaiting response

Scottish Water North 08.03.2013 No objections.
Region

Archaeologist 18.03.2013 No objections subject to conditions

(E) PUBLICITY:

Listed Building/Conservation Advert (expired 04.04.2013)

(F) REPRESENTATIONS: None.

(i) Summary of issues raised

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) **Environmental Statement:** N
- (ii) **An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** N
- (iii) **A design or design/access statement:** Y
 - It will provide accommodation for the applicant's family.
 - In establishing a design concept for the new dwelling, the existing Knockderry Hotel building had to be acknowledged and its design taken into account. But this had to be balanced against merely producing a miniature version of the main building and creating a new dwelling which would be comfortable with within the locality and which would not have an adverse impact on the existing buildings.
 - It will represent a stepping stone in scale between the size and features of the hotel and the smaller, plainer, adjacent buildings.
 - The application site has little in the form of landscaping other than some small trees. A new belt of trees would be planted along the southern boundary of the house plot.
 - The proposed new dwelling would be of a size, massing, scale and design which would sit well within the existing landscape and streetscape and would have a positive impact on the locality complying with Policy LP ENV 19 and the Council's Design Guidance.
- (iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** N

N/A

Summary of main issues raised by each assessment/report

N/A

(H) PLANNING OBLIGATIONS

- (i) **Is a Section 75 agreement required:** N

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- (I) **Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:** N
-

(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

STRAT DC1 - This policy details of the scale of development which is generally acceptable in the different sizes of settlements.

STRAT DC9 - This policy resists development that damages or undermines the historic, architectural or cultural qualities of the historic environment.

Argyll and Bute Modified Finalised Draft Local Plan

LP ENV 1 – This policy requires that the Council assesses applications for their impact on both the natural, human and built environment.

LP ENV 13(a) – Development affecting a listed building or its setting shall preserve the building or its setting.

LP ENV 14 – This policy presumes against developments which do not preserve or enhance the character or appearance of a Conservation Area. It also requires that developments conform to Historic Scotland's Memorandum of Guidance on Listed Buildings and Conservation Areas and to Appendix A of the Local Plan.

LP ENV19 – This policy requires a high standard of design and that consideration be given to setting, layout and density and design.

LP HOU 1 – This policy gives a general presumption in favour of certain categories of housing development unless there is an unacceptable environmental, servicing or access impact.

Appendix A – Sustainable Siting and Design Principles

- (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)

Scottish Historic Environment Policy

(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: N

(L) Has the application been the subject of statutory pre-application consultation (PAC): N

(M) Has a sustainability check list been submitted: N

(N) Does the Council have an interest in the site: N

(O) Requirement for a hearing (PAN41 or other): N

N/A

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

Settlement Strategy

The application site is located within the settlement boundary. There is a presumption in favour of the development of housing in these areas subject to other site specific Local Plan policies being satisfied. The site is also within Cove Conservation Area. Within such areas development must preserve or enhance the Conservation Area.

Location, Nature and Design of Proposed Development

The proposed site is within the grounds of Knockderry House Hotel, a Category B listed building. There are two entrances to the hotel, one to the east of the hotel and another to the west. These access roads sweep round to the hotel leaving a large open area to the front. The proposed site is located at the east entrance of the site and is bounded to the north by the access road and to the west by Shore Road. The proposed plot measures approximately 1350 square metres. To the north of the site there is ribbon development of fairly modern bungalows.

The plot at present has a few trees and shrubs dotted near the boundary and has previously been used as a dumping ground for rubble and debris left over from previous development work at the hotel itself. However, while this area has not been well maintained, it is important to the setting of Knockderry house since it provides open aspects to the hotel when travelling in an easterly direction

The proposed dwelling would have a footprint of approximately 165 square metres, would combine one and a half and 2 storey elements and be located towards the centre of the site. The building will be L-shaped with a pyramid roof and a height of 7.5 metres. The building will be finished in cream coloured roughcast, random stone panel and sandstone quoins. A new access is proposed adjacent to the access to Knockderry House.

Local Plan Policies LP ENV 1, LP ENV 13(a), LP ENV 14, LP ENV 19, Appendix A and The Council's 'Sustainable Design Guidance' gives advice on how to approach sustainable urban infill. The Design Guide offers three possible solutions. The first is contemporary landmark which is sensitive design of a high architectural quality which is essentially of a different architectural style to the buildings surrounding it. The second

option is a design which more obviously is based on the architecture of the buildings adjacent. Finally, there is traditional design.

Discussions have previously taken place between the applicant and the Council's Conservation officer and the principle of a dwelling at this location has been agreed. However the advice was to locate the building towards the corner of the site and that it should be a lodge style design in the contextual style of traditional Cove properties, so as to minimise the impact on the listed building. However, the submitted design does not take account of this as it is neither located in the corner of the site or of traditional lodge style. It is instead a large building combining one and a half and 2 storey elements.

The applicants have stated in their design statement that the proposed dwelling would lead your eye from the single storey dwelling adjacent to the site, to the 2 storey proposed dwelling, then onto the 3 storey Knockderry House. It is not considered however that this is the case, since Knockderry House is set back approximately 25 metres from the main road and approximately 65 metres from the proposed dwelling. Due to these distances, when travelling in an easterly direction, the proposed dwelling would, even with landscaping, seem intrusive, obscuring the views to the listed building.

Siting a building of this massing, scale and design at this location would reduce the open aspect when approaching Knockderry House in an easterly direction, as well as obscuring views of the listed building, consequently affecting its setting. It is also considered that the design of the building, its mass and scale and its mix of roof pitches, inappropriate window styles and choice of materials is not appropriate for a development within the grounds of a listed building. Whilst some amendments have been made to the design refused under 09/01376/PP, they do not address the concerns and advice previously given. As such the recommendation is to refuse.

Road Network, Parking and Associated Transport Matters.

The Area Roads Manager has not responded but on the previous application had no objections to the proposal subject to conditions regarding sightlines and parking being adhered to.

Built Environment

Knockderry House is a late 19th Century, William Leiper, L-plan Arts and Crafts house. It is grand in appearance with turrets and crowstepped gables. The proposal is to build a building combining one and a half and 2 storey elements directly at the entrance to this building. A building of this massing, scale and design at this location would obscure its views from one of the main entrances and distract from the listed building itself, unacceptably affecting the setting of the listed building.

Scottish Executive Advice

Under section 59(1) of the 1997 Act the planning authority, in determining any application for planning permission for development that affects a listed building or its setting, is required to have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses.

Scottish Planning Policy confirms that the preservation of listed buildings and their setting is a material consideration in both the development planning and development management processes.

It is considered that siting a building of this scale and massing at the entrance to the listed building would obscure the views of the listed building, furthermore its design and

choice of materials are inappropriate and would distract from the listed building itself. The proposal therefore does not comply with this guidance.

(Q) Is the proposal consistent with the Development Plan: N

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

N/A

(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: N

Author of Report: Howard Young

Date: 30/04/2013

Reviewing Officer: Howard Young

Date: 30/03/2013

Angus Gilmour
Head of Planning

GROUNDS OF REFUSAL RELATIVE TO APPLICATION REF. NO. 12/002666/PP

The proposed building is situated within the curtilage of, and some 65 metres from, Knockderry House Hotel. This is a 19th century L-plan Arts and Crafts Category B Listed Building with alterations by William Leiper. The proposed building will be located in a plot to the west of Knockderry House Hotel and will be bounded by the entrance road to the listed building and the main road. This area is important to the setting of the listed building since it provides open aspects to it when travelling in an easterly direction. The proposed building has a footprint of approximately 165 square metres, combines a mix of hipped and roof pitches and has a mix of window styles. Siting a building of this massing, scale and design at this location would reduce the open aspect when approaching Knockderry House in an easterly direction, as well as obscuring views of the listed building, consequently affecting its setting. It is also considered that the design and choice of materials of the building are inappropriate for a development within the grounds of a listed building. It would result in a development which, given its position, massing, scale and design, would be visually intrusive, visually discordant and would unacceptably detract from the setting of Knockderry House Hotel. The proposal is therefore contrary to Policies STRAT DC 1 and STRAT DC 9 of the Argyll and Bute Structure Plan, Policies LP ENV1, LP ENV 13a and LP ENV19 and Appendix A of the Argyll and Bute Local Plan Adopted August 2009 and the Council's Design Guide. These require, inter alia, that in relation to any works affecting listed buildings or their setting, special attention is paid to siting and design in order that the building's character and setting is not eroded. Furthermore, the proposal would fail to accord with criteria contained within Scottish Planning Policy which confirms that the preservation of listed buildings and their setting is a material consideration in both the development planning and development management processes.

NOTE TO APPLICANT

For the purpose of clarity it is advised that this decision notice relates to the details specified on the application form dated 03/12/2012 and the refused drawing reference numbers KD 002 MJP AR 001 Rev C, KD 002 MJP AR 002 Rev C, KD 002 MJP AR 201 Rev C, KD 002 MJP AR 202 Rev C, KD 002 MJP AR 301 Rev C, KD 002 MJP AR 101 Rev C, KD 002 MJP AR 102 Rev C.

APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **12/02666/PP**

- (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?

N

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

The proposed building is situated within the curtilage of, and some 65 metres from, Knockderry House Hotel. This is a 19th century L-plan Arts and Crafts Category B Listed Building with alterations by William Leiper. The proposed building will be located in a plot to the west of Knockderry House Hotel and will be bounded by the entrance road to the listed building and the main road. This area is important to the setting of the listed building since it provides open aspects to it when travelling in an easterly direction. The proposed building has a footprint of approximately 165 square metres, combines a mix of hipped and roof pitches and has a mix of window styles. Siting a building of this massing, scale and design at this location would reduce the open aspect when approaching Knockderry House in an easterly direction, as well as obscuring views of the listed building, consequently affecting its setting. It is also considered that the design and choice of materials of the building are inappropriate for a development within the grounds of a listed building. It would result in a development which, given its position, massing, scale and design, would be visually intrusive, visually discordant and would unacceptably detract from the setting of Knockderry House Hotel. The proposal is therefore contrary to Policies STRAT DC 1 and STRAT DC 9 of the Argyll and Bute Structure Plan, Policies LP ENV1, LP ENV 13a and LP ENV19 and Appendix A of the Argyll and Bute Local Plan Adopted August 2009 and the Council’s Design Guide. These require, inter alia, that in relation to any works affecting listed buildings or their setting, special attention is paid to siting and design in order that the building’s character and setting is not eroded. Furthermore, the proposal would fail to accord with criteria contained within Scottish Planning Policy which confirms that the preservation of listed buildings and their setting is a material consideration in both the development planning and development management processes.