

STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

**REFUSAL OF PLANNING PERMISSION IN
PRINCIPLE FOR ERECTION OF DWELLINGHOUSE
ON LAND SOUTH OF DUGARRO, TAYNUILT**

**PLANNING PERMISSION REFERENCE NUMBER
13/02178/PPP**

12 JUNE 2014

STATEMENT OF CASE

The Planning Authority is Argyll and Bute Council ('the Council'). The appellant is Glen Lonan Estate ('the appellant').

Planning Permission in Principle Reference Number 13/02178/PPP for erection of a dwellinghouse to the south of Dugarro, Taynuilt ('the appeal site') was refused under delegated powers on 21 May 2014.

The planning application has been appealed and is subject of referral to a Local Review Body.

DESCRIPTION OF SITE

The site subject of the review is an elevated area of land situated adjacent to the Taynuilt – Glen Lonan public road, at a higher level. The site has extensive tree cover across most of the west and northern sections, with two oak trees which are particularly notable on the fringe of a small clear area near the eastern boundary. It is considered that the undeveloped nature of this site contributes to the amenity of the surrounding area which makes a positive contribution to the mix of development relieved by open green space.

The site lies in a peripheral area of Taynuilt where development is entering into a rural context, away from the more dense urbanised areas of the village centre. Development of the site with a dwellinghouse would result in the loss of an area of undeveloped land to the point where the characteristics and amenity of the locality would be undermined by the extent of built development unrelieved by green space. Furthermore the felling proposed to accommodate the development would remove a large portion of existing woodland and leave a dominant property overbearing on the neighbouring property 'Dugarro' resulting in adverse privacy impacts. Siting the building at the edge of falling ground levels along with the removal of trees currently occupying those sloping areas, would create an incongruous and dominant dwelling house that would not readily integrate with the pattern of development around the site.

The application was for Planning Permission in Principle only, with no detailed drawings submitted but an indicative position for the proposed dwellinghouse shown on the site plan, along with an indicative extent of woodland to be cleared.

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, 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 or not a dwellinghouse on the site would result in the loss of an open area which contributes to the amenity of the area; a development with poor levels of amenity; and the loss of trees and open space; all of which would render the application contrary to the Development Plan.

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 considered that no new information has been raised in the appellant's submission. Relevant issues were assessed in the Report of Handling which is contained in Appendix 1. As such it is considered that Members have all the information they need to determine the case. Given the above and that the proposal is small-scale, has no complex or challenging issues, and has not been the subject of any substantial public representation, it is not considered that a Hearing is required.

The appellant's request that a site visit is undertaken is supported by the Planning Service.

COMMENT ON APPELLANT'S SUBMISSION

In summary, the appellant contends that, whilst it is accepted that this part of the village has a more rural character, the site has the ability to accommodate a dwellinghouse which would have minimal impact on the overall character of the area, established tree cover and amenity of the neighbouring properties. The appellant contends that permission should be granted subject to appropriate conditions regarding the retention of trees, landscaping and ground levels.

Comment: *As detailed in the Report of Handling appended to this Statement of Case, whilst the acceptability of the principle of infill development within this area of Taynuilt is established by current policy, this is qualified by the requirement to avoid inappropriate densities or the loss of valuable open areas. It is considered that the development of the site with a dwellinghouse would be materially detrimental to the character and appearance of the wider landscape and represents an inappropriate infill proposal with inappropriate siting and an excessive and unnecessary impact on woodland that would create a dominant and elevated house which would adversely impact on the adjacent public road and privacy and amenity of adjacent housing.*

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.

Whilst the acceptability of the principle of infill development within this area of Taynult is supported by current policy, this is qualified by the requirement to avoid inappropriate densities or the loss of valuable open areas. In addition, the Council has a range of duties to recognise and protect the values that are gained from the presence of mature trees and woodland.

The proposed development, by virtue of its siting on a high point relative to the surrounding landform, compounded by the proposed tree felling on the slopes leading up to the higher land and a specimen oak, would be materially detrimental to the character and appearance of the wider landscape and represents an inappropriate infill proposal with inappropriate siting that would create a dominant and elevated house that would adversely impact on the adjacent public road and privacy and amenity of adjacent housing.

Taking account of the above, it is respectfully requested that the application for review be dismissed.

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: 13/02178/PPP

Planning Hierarchy: Local Development

Applicant: Glen Lonan Estate

Proposal: Site for Erection of Dwellinghouse

Site Address: Land South of Dugarro, Taynuilt

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 specified 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:

N/A

(D) CONSULTATIONS:

Area Roads Manager

Report dated 14/11/13 advising no objection to the proposed development subject to conditions regarding upgrade of the access, clearance of visibility splays and provision of an appropriate parking and turning area.

Scottish Water

Letter dated 05/11/13 advising no objection to the proposed development but providing advisory comments for the applicant.

West of Scotland Archaeology Service

E-mail dated 05/11/13 advising that, whilst on the periphery of an area of heightened archaeological sensitivity, the application is unlikely to raise any significant archaeological issue.

(E) PUBLICITY:

The proposal has been advertised in terms of Regulation 20 procedures, closing date 05/12/13.

(F) REPRESENTATIONS:

Five objections have been received regarding the proposed development:

Lorne Brown, Baressan, Taynuilt, PA35 1HY (25/11/13)
Dr J. Wilkinson & Ms G. Mcinally, Tullich, Taynuilt, PA35 1JY (25/11/13)
Mrs Etive Sinclair Brown, Baressan, Taynuilt, PA35 1HY (26/11/13)
Professor Keith Davidson, Criffel, Glen Lonan, Taynuilt (25/11/13)
Mrs F. Anderson, 42 Achlonan, Taynuilt, PA35 1JJ (21/11/13)

Summary of issues raised

- The site is a beautiful unspoilt area providing a break from the close packed ribbon development on the Lonan Road.

Comment: This view is shared by the planning assessment.

- The site benefits from natural regeneration and two semi-mature Sessile Oaks which should be allowed to grow to maturity.

Comment: This view is shared by the planning assessment.

- Red squirrels were seen on the site in Spring 2013.

Comment: This is noted, however as the application is not being supported, needs no further investigation at this time. Red squirrels are a Biodiversity Action Plan species.

- Building a house on this high point would adversely affect the satellite tv signal reaching 'Criffel' (noted in uniform maps as 'Cearnag').

Comment: This is noted, however as the application is not being supported, needs no further investigation at this time. Impact on tv reception can be a material planning consideration.

- Road/pedestrian safety issues.

Comment: The Area Roads Authority was consulted on the proposal and in their response raised no objection on road or pedestrian safety grounds subject to conditions regarding the upgrade of the access and clearance of visibility splays.

- The water supply to Baressan passes through the site, and perhaps, the mains drain.

Comment: The placement or protection of a private water supply pipe is a civil matter between affected parties. With regards to the mains supply or mains drainage, Scottish Water was consulted on the proposal and raised no objection.

- The plan shows the old public road which passes Baressan as being included in the site. This road is a right of way for the local residents and the crofters and is written into title deeds.

Comment: There is no record of a designated Right of Way passing through the site. However, if this is written into title deeds, this would be a civil matter between affected parties.

- Neighbour notification was not served on 'Tullich' which has land in close proximity to the site.

Comment: Neighbour notification was undertaken to all properties within 20 metres of the application site. 'Tullich' is outwith the requisite neighbour notification distance and as such, direct notification was not required. A Regulation 20 Advert for vacant land was published in the Oban Times to allow other interested parties to comment on the proposal.

- The land may form part of the common grazing and it is unclear if the land has been de-crofted. It is considered that the application is premature.

Comment: This is not a material consideration in the determination of this planning application. The adopted Argyll and Bute Local Plan has identified the site as being within the Settlement Zone of Taynuilt, suitable for development, subject to compliance with relevant policies.

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:

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| (i) | Environmental Statement: | No |
| (ii) | An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: | No |
| (iii) | A design or design/access statement: | No |
| (iv) | A report on the impact of the proposed development e.g. retail impact, transport impact, noise impact, flood risk, drainage impact etc: | No |
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(H) PLANNING OBLIGATIONS

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| (i) | Is a Section 75 agreement required: | No |
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| (I) | Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: | No |
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- (J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application**

- (i) List of all Development Plan Policy considerations taken into account in assessment of the application.**

Argyll and Bute Structure Plan 2002

STRAT DC 1 – Development within the Settlements

Argyll and Bute Local Plan 2009

LP ENV 1 – Impact on the General Environment

LP ENV 7 – Impact on Tree/Woodland

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

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| (K) | Is the proposal a Schedule 2 Development not requiring an | No |
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Environmental Impact Assessment:

(L)	Has the application been the subject of statutory pre-application consultation (PAC):	No
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(M)	Has a sustainability check list been submitted:	No
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(N)	Does the Council have an interest in the site:	No
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(O)	Requirement for a hearing:	No
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(P) Assessment and summary of determining issues and material considerations

Planning permission in principle is sought for erection of a dwellinghouse on an area of land to the south of 'Dugarro', Taynuilt.

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

Policy LP HOU 1 gives encouragement to housing development in settlements provided it will not result in an unacceptable environmental, servicing or access impact with Policy LP ENV 1 requiring 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.

Whilst the principle of residential development within this area of Taynuilt is compatible with policy, this is qualified by a requirement to ensure developments do not result in an unacceptable environmental, servicing or access impact. Development proposals that involve inappropriate densities or over-development shall be resisted. Projects must also be evaluated in landscape terms within Settlement Zones, and take account of material considerations.

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

Whilst the acceptability of the principle of infill development within this area of Taynuilt is supported by current policy, this is qualified by the requirement to avoid inappropriate densities or the loss of valuable open areas. In addition, the Council has a range of duties to recognise and protect the values that are gained from the presence of mature trees and woodland.

The site subject of the application is an elevated area of land situated adjacent to the Taynuilt – Glen Lonan public road at a higher level. The site has extensive tree cover across most of the west and northern sections, with two oak trees which are particularly notable on the fringe of a small clear area near the eastern boundary. It is considered that the undeveloped nature of this site contributes to the amenity of the surrounding area which makes a positive contribution to the mix of development relieved by open green space. The site lies in a peripheral area of Taynuilt where development is entering into a rural context, away from the more dense urbanised areas of the village centre. Development of the site with a dwellinghouse would result in the loss of an area of undeveloped land to the point where the characteristics and amenity of the locality would be undermined by the extent of built development unrelieved by green space. Furthermore the felling proposed to accommodate the development would leave a dominant property overbearing on the neighbouring property 'Dugarro' resulting in adverse privacy impacts. Siting the building at the edge of falling ground levels along with the removal of trees currently occupying those sloping areas, would create an incongruous and dominant dwelling house that would not readily integrate with the pattern of development around the site.

The two oak trees in particular merit retention. Although a tree report has been submitted indicating that a house could be fitted in with the loss of just one of those trees, there is no justification behind the proposed tree felling. Further, the second mature oak would be very close to the proposed house and over time, would either threaten the proposed house or come under threat for removal because of the house being situated immediately alongside. There is no overriding reason to site a house in the proposed location and as such, tree felling at the site cannot be supported.

The application proposes to utilise the existing vehicular access from the public Glen Lonan road to serve the proposed development. The Area Roads Authority was consulted on the proposal and in their response raised no objection subject to conditions regarding the construction of the access, clearance of visibility splays and provision of an appropriate parking and turning area.

The application shows water and drainage via connection to the public systems. Scottish Water was consulted on the proposed development and raised no objection to connection to the public drainage system but advised that there was limited capacity at the water treatment works. They also advised that augmentation of the systems at the developer's expense may be required.

Concerns that the site houses red squirrel have not been investigated at this stage, because the application is being resisted for other reasons.

The proposed development would result in an unacceptable environmental impact through the loss of mature trees and result in a development which does not give regard to the surrounding landscape because it would be in an elevated position where it would dominate the land and adjacent lower lying housing. Despite the house site being within the Settlement Zone, these factors render the proposal contrary to the detailed provisions of Development Plan Policies STRAT DC 1, LP

ENV 1, LP ENV 7, LP ENV 19, LP HOU 1 and Appendix A and it is recommended that the application be refused for the reasons appended to this report.

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

(R) Reasons why planning permission should be refused

See reasons for refusal recommended below.

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

N/A

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

Author of Report: **Fiona Scott** **Date:** 13/05/14

Reviewing Officer: **Stephen Fair** **Date:** 20/05/14

Angus Gilmour
Head of Planning

REASONS FOR REFUSAL RELATIVE TO APPLICATION REFERENCE 13/02178/PPP:

1. Impact on trees and loss of open space: The adopted Argyll and Bute Local Plan allocates the site as Settlement Zone subject to Policy STRAT DC 1 of the approved Argyll and Bute Structure Plan 2002 and Policy LP HOU 1 of the adopted Argyll and Bute Local Plan 2009, which apply a presumption in favour of housing development within settlements, provided it is of a scale and form compatible with the surrounding area and does not result in inappropriate densities or the loss of valuable open areas, and is acceptable in terms of siting and compatibility with the established settlement pattern.

The undeveloped nature of the site makes a positive contribution to the mix of development relieved by open green space at this edge of settlement location where

development is characterised by a rural character. Development of the site with a dwellinghouse would result in the loss of an area of undeveloped land to the point at which the characteristics and amenity of the locality would be undermined by the extent of built development unrelieved by green space.

The proposal would also result in the unjustified loss of an area of significant tree cover, including two mature oak trees which have significant amenity and nature conservation value.

The proposal is therefore considered to be contrary to Local Plan policies LP ENV 1, LP ENV 7, LP ENV 19, LP HOU 1 and the design and siting principles contained within Local Plan Appendix A – Sustainable Siting and Design Principles.

2. Inappropriate siting and dominance in landscape: It is considered that the proposed development, by virtue of its siting on a high point relative to the surrounding landform, compounded by the proposed tree felling on the slopes leading up to the higher land, would be materially detrimental to the character and appearance of the wider landscape and represents an inappropriate infill proposal with inappropriate siting that would create a dominant and elevated house that would adversely impact on the adjacent public road and adjacent housing. The proposal is therefore considered to be contrary to Structure Plan policy STRAT DC 1 and to Local Plan policies LP ENV 1, LP ENV 19, LP HOU 1 and the design and siting principles contained within Local Plan Appendix A – Sustainable Siting and Design Principles.
3. Privacy impacts on and dominance over 'Dugarro': Provision of a house on the site and felling of the existing trees would provide a dominant property with an overbearing impact on the neighbouring house 'Dugarro', resulting in adverse privacy and amenity impacts. The proposal is therefore considered to be contrary to Local Plan policies LP ENV 1, LP ENV 19, LP HOU 1 and the design and siting principles contained within Local Plan Appendix A – Sustainable Siting and Design Principles.