

STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

14/0012/LRB

**REFUSAL OF PLANNING PERMISSION FOR THE
ERECTION OF A DWELLINGHOUSE, INSTALLATION
OF SEWAGE TREATMENT PLANT AND FORMATION
OF A NEW VEHICULAR ACCESS RELATIVE TO
PLANNING APPLICATION REFERENCE 14/00031/PP**

**LAND WEST OF SCARPAGH, HILLSIDE, BOWMORE,
ISLE OF ISLAY**

28/11/2014

STATEMENT OF CASE

The Planning Authority is Argyll and Bute Council (“the Council”). The appellant is Mr Donald Baker (“the appellant”) who has employed an agent Ms Kathryn MacDonald of Bowman Stewart Chartered Surveyors and Consulting Engineers to act upon his behalf (“the agent”).

Planning application 14/00031/PP, which proposed planning permission for the erection of a detached dwellinghouse, installation of a single septic tank, formation of a means of access and associated works was refused under delegated powers on the 17th September 2014.

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

DESCRIPTION OF SITE

The residential development of Hillside is located within the Bowmore settlement area but outwith the Bowmore conservation area. The site the subject of this Review relates to a small area of informal and undeveloped open space located immediately adjacent to the Gortan Vogie Road (a public highway) which currently serves Islay Hospital to the east and north of this road and a low density residential development of 10 detached single storey dwellinghouses to the south of this public road and served via two residential driveways, both named Hillside. The proposed site is open and exposed, being an area of unenclosed grassland immediately adjacent to two public roads.

SITE HISTORY

13/02250/PREAPP – Pre-application enquiry – Erection of 2 bedroom single storey dwellinghouse on site the subject of the current Review. – Advised following an officer’s site inspection that it is very unlikely that support would be forthcoming for new residential development on this site. The site is considered too small to successfully accommodate a new residential development whilst conforming to the existing settlement pattern and it is the opinion of the Planning Authority that the proposed development will be materially at odds with the existing density of development within the vicinity and would likely lead to the future subdivision of other existing residential plots in the area, resulting in an overall loss of amenity – 29th October 2013.

STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED

Section 25 of the Town & Country Planning (Scotland) Act 1997 provides that where, in making any determination under the planning Acts, regard is to be had to the development plan and determination shall be made in accordance with the development plan unless material considerations indicate otherwise. This is the test for this planning application.

STATEMENT OF CASE

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

- Whether it is considered that the proposed development would occupy a prominent and inappropriate site in terms of its restricted size and shape and consequent capacity to successfully absorb such development, and would therefore result in undesirable 'settlement cramming' within this area of informal open space between the existing low density residential development to the rear and the public road to the front. Consequently, whether such development would result in a materially harmful environmental impact; should it be held that the proposed development is of an unacceptable design, form and scale and one which does not accord with the existing settlement pattern or the character and local distinctiveness of the locality. The proposed development thus being contrary to the material considerations of the Development Plan, particularly policies STRAT DC 1, LP HOU 1 and LP ENV 1, together with Appendix A: 'Sustainable Siting and Design Principles', and whether such development would be likely to set an undesirable precedent for the subdivision of existing residential garden ground and, if so, whether this would have a further cumulative negative impact upon the established character and amenity of the area.
- Whether it can be held that the development of this part of Housing Allocation 10/4 at a density of approximately 22 dwellings per hectare and therefore substantially above the 'low density' development (defined within the Development Plan as between 0 and 11 dwellings per hectare) of the remainder of Housing Allocation 10/4 and agreed by the Council within the approved and adopted Argyll and Bute Local Plan (August 2009) would fundamentally undermine the strategic aims of the Council in bringing forward the sustainable development of the remainder of Housing Allocation 10/4 and would be likely to set an undesirable precedent leading to the further overdevelopment of the remaining allocation land.
- Whether the proposed development, which is intended to be served by a private drainage system consisting of a new septic tank and soakaway, would be contrary to the provisions of Policy LP SERV 1 of the Argyll and Bute Local Plan 2009 which sets out a requirement for new development to be served by connection to the public sewer unless specific exceptions are met. Whether these exceptions are or are not applicable to the current development and, consequent to that consideration, whether the proposed private sewage arrangements are, in fact, inappropriate and contrary to policy.

The Report of Handling (please refer to Appendix 1) sets out Planning and Regulatory Services assessment of the planning application in terms of policy within the current adopted Argyll and Bute Development Plan and all other material planning considerations.

REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING

The proposal constitutes a Local Development in accordance with the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, has no complex or challenging issues and has not been the subject of any third party representation. It is not considered that a Hearing is required.

COMMENT ON APPELLANTS' SUBMISSION

The appellants' agent has submitted a document dated 28th February 2014 and titled, 'Notice of Review Document no. 3 – Case for Development. This document was submitted during the life of the planning application to which this Review relates and has already been comprehensively addressed by the Council in their 'Report of Handling' and attached herewith as Appendix 1.

The appellant's agent has submitted a further document dated 21st October 2014 and titled, 'Notice of Review Document no. 4 – Reasons for Requesting the Review'. This document raises new and/or expanded issues not previously considered by the Council and is therefore commented on below. The arguments advanced by the appellant's agent are quoted/summarised behind 'bullet points' and the comments on behalf of the Council are in italics:

- Our client wishes to use this area of land in a useful way in order to accommodate a small dwelling for use in his retirement.

Comment: This would appear to undermine the agent's later arguments that the proposed development would, in some way, help to meet the Council's affordable housing targets. Even if one accepts that the proposed development meets the adopted criteria for affordable housing this statement demonstrates a lack of necessary safeguarding.

- Given that there are existing sewage treatment plants within the triangular area of ground where our treatment plant is proposed, we thought this would be the more cost effective and appropriate way of waste water treatment and discharge. As Scottish Water has suggested the use of the Bowmore Waste Water Treatment [Plant], we will now look at this as a viable option. If it is economic to do so we will connect to the Bowmore Waste Water Treatment [Plant].

Comment: Whilst this is welcomed and acceptable in principle it must be stated that Development Plan policy LP SERV 1 which sets out a presumption against development served by private sewage treatment plants within areas currently served by a public sewer requires the applicant to demonstrate why connection to an existing public sewer might not be feasible for technical or economic reasons. This has not, to date, been demonstrated. It is noted that existing residential development within the locale which is served by private foul drainage arrangements relate to planning permissions which pre-date the provision of a new waste water treatment works by Scottish Water at Bowmore; it is confirmed that a connection to the public sewerage system would be expected for any future development within Housing Allocation 10/4 / proposed PDA 3005.

- There were no objections to the proposed development either from adjacent proprietors or consultees.

Comment: This is accepted. Neither were there any representations supporting the development from third parties.

- The current local plan states that 5 dwelling units are to be permitted within H-AL 10/4. As the planner states, two developments have already been developed within the allocation area. It is true that these developments have a much larger site area than what we are proposing but as the local plan does not state what these developments are to be built to I do not believe that they can specifically dictate low density as a reason for refusal of this application.

Comment: The two developments referred to are two single dwellinghouses, 'Scarpagh' and '9 Hillside'. These two detached dwellings were developed following a detailed planning permission granted in June 2004. Subsequent to that a larger area of land, including that currently occupied by Scarpagh, 9 Hillside and the site the subject of this Review, has been adopted in August 2009 as Housing Allocation 10/4.

Housing Allocation 10/4 is clearly defined within the adopted Local Plan as having been designated for a development of 5 units with no requirement for affordability. Given that the site area of HA 10/4 is 0.61 hectares, this equates to a proposed density of 8.2 dwellings per hectare. 'Low Density' development is clearly defined within the adopted supplementary guidance technical note, 'Housing Density on Allocations and Potential Development Areas' as between 0 and 11 units per hectare. Therefore it can be unequivocally stated that the adopted Local Plan does, in fact, prescribe that development within HA 10/4 should be of low density. The proposed development the subject of this Review would be at a density equivalent to 22 dwellings per hectare. This is not disputed by the appellant. The figure of 22 dwellings per hectare falls within the 'High Density' range as specified within adopted supplementary guidance as between 21 and 30 units per hectare.

- It is true however that within the proposed local plans this area is designated as Potential Development Area 3005 and this does state that this area will be used for low density housing with 25% affordability. But it is my understanding that this has not, as yet, been approved but is being given material consideration when approving planning applications at the moment.

Comment: The emerging Local Development Plan (LDP) is at an advanced stage having been through extensive public consultation and approval by Members. It is estimated that member's permission to adopt the LDP will be sought in January 2015 with adoption following up to four months after.

Proposed PDA 3005 covers part of the combined area of two existing housing allocations, the entirety of HA 10/4 referred to above and part of an adjoining allocation HA 10/3, forming a new PDA with an area of 1.21 hectares and a requirement that this be developed at low density (0 to 11 units per hectare) and with 25% affordability. The LDP is the emerging settlement strategy and special framework for how the Council wants to see Argyll and Bute develop to 2024 and beyond. It is at an advanced stage and should therefore be afforded material weight.

- There are currently approximately 5 dwellings per hectare within the Hillside development. The addition of this one dwelling would increase the density of

dwellings to 6 dwellings per hectare which would still be within the Council's low density specification.

Comment: The debate regarding specific site densities relates solely to the requirements for future residential development within housing allocation HA 10/4 (and, when adopted, within PDA 3005). The majority of the existing Hillside development falls outwith these areas whilst the site the subject of this Review forms part of HA 10/4 (and, eventually, PDA 3005). The comment advanced by the agent here is irrelevant and does not make the proposed development any more acceptable. Adding a single unacceptable and high density development onto the edge of an existing well-planned and substantially larger low density development will not, of course, increase the overall density of the combined area to any significant degree. That fact alone however cannot and does not make the proposed development any more or less acceptable. The argument can be distilled to two fundamental questions: 1) Is the proposed development acceptable in terms of its impact on the site and its surroundings and does it adequately reflect the settlement pattern and local distinctiveness of the area as required by the provisions of the Development Plan? And, 2) Does the proposed development accord with the specific policy requirements for the development of this housing allocation of which it and two other existing dwellings are a part and the majority of Hillside is not? These are two separate questions and it is for that reason that the Council has separated its refusal reasons into two distinct parts. These refusal reasons are contained in full in Appendix 1 below.

- We do not believe that using the argument of this development not fitting with the settlement pattern is valid in this instance as within Hillside the current settlement pattern is quite scattered. We agree that the settlement pattern for some of the dwellings is fronting the private Hillside road, such as Scarpagh and 9 Hillside, but this is not the case for all. Cridhe Samhach has the back of the dwelling facing the road. 7 Hillside is also sited very far back from the road compared to the other developments, therefore creating a slightly scattered settlement pattern across this Hillside area.
- I do understand that in a perfect world the preferred option would have been to site this dwelling closer to the private Hillside road to tie in with the existing line of dwellings along this side of the road but in this case this was not a satisfactory approach in order to gain the necessary access provision and to allow the client's requested amenity space. But we do not believe this to cause an adverse effect on the current settlement pattern. We feel it also allows a new line of dwellings to be created along the front of Gortan Vogie Road. If preferable to planners it may be possible to include more windows within this elevation to create a more attractive appearance off Gorton Vogie Road. The reason the dwelling was turned away from this road was to prevent overlooking from and into the nearby Islay Hospital and the fear that this may be an issue for the planners.

Comment: The fact that the existing development comprising Hillside is 'quite scattered' is surely the point... The prevailing residential settlement pattern in this part of Bowmore, at the edge of the settlement, is of moderately large

detached dwellinghouses constructed within correspondingly large and well landscaped plots and surrounded on three sides by expansive open and undeveloped land, thus promoting a general feeling of space and separation. The plot sizes of the existing dwellings comprising Hillside range from approximately 1,350 square metres to 2,400 square metres being a loose cluster of ten dwellings with areas of informal open space, particularly adjacent to the Gorton Vogie Road. The site the subject of this Review, by stark contrast, would be on part of the existing informal open space and would have a plot size of just 454 square metres, the overwhelming majority of which would be covered by the dwelling itself and by its internal driveways, parking and turning areas.

The suggestion of a future development consisting of ‘a line of dwellings to be created along the front of Gorton Vogie Road’ is likely to be similarly detrimental to the existing settlement pattern. Nor would it comply with the requirements for development within housing allocations H-AL 10/4 and H-AL 10/3 (or the emerging PDA 3005). This comment shows a fundamental lack of understanding of what the settlement strategy and spatial framework of the Development Plan is trying to achieve and highlights the Council’s concerns that the proposed development would be likely to set an undesirable precedent for similar inappropriately harmful development in the area.

Whilst the suggestion that the design of the proposed dwellinghouse might be altered to include more windows within the main elevation fronting Gorton Vogie Road is welcomed, this will not make the overall development acceptable nor will it overcome the fundamental conflict with the provisions of the adopted Development Plan. In addition, it should be noted that the Islay Hospital building is located some 40 metres to the north and west of the proposed development site and is separated from it by a public road, by a high stone wall and by mature landscaping. There is no likelihood of unacceptable overlooking between the proposed development and the hospital site and the Council have never suggested otherwise.

- The planner’s argument for refusal of this application due to being unable to provide the sewage treatment plant within the site I believe is unwarranted as this happens very often across many sites in Argyll and Bute and I find this an unacceptable reason for refusal.

Comment: The location of the proposed sewage treatment plant was never a reason for refusal. Refusal reason 3 concerns itself not with the location or design of the proposed sewage treatment plant but, rather, with the fact that Development Plan policy LP SERV 1 requires developers to connect to existing public sewers where available. Comment was made within the Council’s report of handling to the effect that ‘the site is so cramped that there is insufficient room within it to provide for the proposed septic tank and soakaway’ and that, consequently, this is ‘proposed to be accommodated on land on the opposite side of the existing estate road’. This was, and remains, a statement of fact.

- The main concern with the housing sites at Hillside is that they are not within everyone's affordability due to the house sizes and large expansive gardens. Although some of these sites at Hillside are catered for that particular buyer or market, we believe the construction industry should be building developments that cater for buyers on a lower budget as well; who may require a smaller dwelling and do not require the same large garden size as others, which I believe complies with Policy LP HOU 2 – 'Provision of Housing to Meet Local Needs including Affordable Housing Provision.'
- But there is a slight conflict within the current and new local plans regarding providing affordable housing within this Housing Allocation/Potential Development Area. The current local plan states that there should be no affordable housing within this area whereas the proposed local plan states that 25% of the development within the PDA should be affordable. I can only assume that this change is due to some further need for affordable housing within Bowmore. As far as I can see many of the current allocated sites within Islay for affordable housing are located in Bowmore, noted as PDA 10/1, PDA 10/2, PDA 10/3 and PDA 10/34. If these allocations are not being fulfilled I can understand why this housing allocation is being altered to allow more affordable housing to be constructed. I therefore request that this development be looked at again in this respect.

Comment: The adopted Local Plan includes for proper provision of affordable housing, including within the designated 'Bowmore North' housing allocation, H-AL 10/2, which provides for 16 new dwellings with 25% affordability plus PDA 10/1, PDA 10/2, PDA 10/3 and PDA 10/34 all of which are located in Bowmore. Planning permission has recently been granted to ACHA for a development of affordable units in Bowmore and talks are at an advanced stage with a local Estate towards the provision of more new affordable homes within Bowmore. The reason housing allocations H-AL 10/3 and H-AL 10/4 contain no requirement for affordability is because these will be low density developments of just 4 and 5 new units respectively; located at the edge of the settlement and in an area characterised by its existing low density/high quality development.

- It is also noted within the proposed Local Development Plan supplementary guidance document that, "Affordable housing can be delivered by a variety of means including social rented housing, mid-market rented housing, the payment of commuted sums and also the building of houses/apartments designed to meet the needs of first time buyers (Provided these are available at affordable levels as defined by the Council's Housing Need and Demand Assessment and within the lower quartile of the housing market of their respective housing market area."
- According to information found on Zoopla on 27th October 2014, similar housing within Bowmore has sold in the region between £90,000 to £225,000. Based on £1,000 per square metre, the construction cost of this dwelling could be in the region of £100,000 and therefore the market value for this property may be slightly more than this, which I believe meets the criteria of

affordable housing, based on rough estimation terms. This dwelling could therefore be judged as future provision of affordable housing.

Comment: The Council disagree with this assessment. Whilst there is a proven need for affordable housing within Bowmore (and within Islay as a whole) the Development Plan is currently providing for this need. Whilst the emerging LDP has identified the proposed development site as forming a very small part of a wider PDA for low density development with a 25% affordability quota there are many different ways to deliver such affordability and such a requirement would only become apparent once the LDP has been adopted. Even then, the consideration of this part of the proposed PDA would be required to be considered through the submission and approval of a 'Masterplan' for the whole PDA area. Such a masterplan has not been submitted and would, in any event, be considered premature at this time.

Notwithstanding the above, it is not considered that the development the subject of this Review meets the necessary criteria for affordable housing in any event. Categories of affordable housing have been defined in the Scottish Planning Policy (SPP) and in Planning Advice Note 2/2010 as falling within one of four groups: 'Social rented' is housing provided at an affordable rent and usually managed by a registered social landlord (RSL), a local authority or other regulated housing body. The development the subject of this Review is a private dwelling for occupation by the appellant on his retirement. It is not proposed that it be available to rent through any regulated housing body and there are no mechanisms proposed or in place for securing this method of affordable housing if it were to be so offered.

'Subsidised low cost housing' can be either, i) a subsidised dwelling sold at an affordable level and can include discounted serviced plots for self-build. A legal agreement or rural housing burden would normally be used to ensure that this method of affordable housing is secured for subsequent buyers. Again, the appellant's agent has clearly stated that the proposed dwelling is for her client's ownership and occupation upon his retirement. There is no indication that the dwelling is to be offered for sale at a discount and there are no mechanisms proposed or in place for securing this method of affordable housing if it were to be so offered;

Or, ii) 'Shared ownership', whereby the owner purchases part of the dwelling and pays an occupancy payment to a RSL on the remainder. It is not proposed that the development the subject of this Review be available on a shared ownership basis through a RSL or any other regulated housing body and there are no mechanisms proposed or in place for securing this method of affordable housing if it were to be so offered;

Or, iii) 'Shared equity', whereby the owner pays for the majority share in the property with the RSL, local authority or Scottish Government holding the remaining share under a shared equity agreement. It is not proposed that the development the subject of this Review be available on a shared equity basis through a RSL or any other regulated housing body and there are no

mechanisms proposed or in place for securing this method of affordable housing if it were to be so offered.

'Unsubsidised low cost housing for sale' can consist or either, 'Entry level housing for sale' which can be defined as a dwelling without public subsidy sold at an affordable level usually secured by appropriate legal agreement and with conditions attached to the missives in order to maintain the house as an affordable unit to subsequent purchasers, or 'Shared equity' whereby the owner purchases part of the dwelling with the remaining stake held by a developer. This category of affordable housing appears to be the closest to what the appellant's agent seems to be suggesting. However, this suggestion conflicts with the earlier assertion that the proposed dwelling is for her client's ownership and occupation upon his retirement and, again, no mechanism is proposed or in place for securing the development as affordable housing on this basis.

'Mid-market or intermediate rented' where private rented accommodation is available at rents below market rent levels in the area and which may be provided either over the medium or long term. – There has been no suggestion that the development the subject of this Review is to be made available on a subsidised rental basis and there are no mechanisms proposed or in place for securing this method of affordable housing if it were to be so offered.

Finally, and notwithstanding the above, even if the appellant manages to demonstrate that his intention is, after all, to provide the proposed dwelling as some form of affordable housing and even if all of the necessary safeguarding measures can be put in place to secure this in the long-term, the proposed development would still need to comply with the other relevant provisions of the Development Plan foremost of which are policies STRAT DC 1, LP HOU 1 and LP ENV 1, together with Appendix A: 'Sustainable Siting and Design Principles'. The Council contends and strongly maintains that the proposed development would materially conflict with those policies for the reasons stated within its Report of Handling contained herein as Appendix 1.

CONCLUSION

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

The reasons for refusal of planning application 14/00031/PP:

- 1. It is considered that the proposed development would occupy a prominent and inappropriate site in terms of its restricted size and shape and consequent capacity to successfully absorb such development, and would result in undesirable 'settlement cramming' within this area of informal open space between the existing low density residential development to the rear and the public road to the front. This would, in the opinion of the Local*

Planning Authority, result in a materially harmful environmental impact; the proposed development being of an unacceptable design, form and scale and one which does not accord with the existing settlement pattern or the character and local distinctiveness of the locality. The proposed development is considered poorly designed with a virtually blank flank wall positioned to face the public Gortan Vogie Road which immediately adjoins the application site to the north and at a distance of less than 10 metres. Due to the restricted size and shape of the plot and the need to take its access directly off the public road, there is little or no scope to soften the appearance of the development with appropriate landscaping and/or boundary treatment. The proposed development is therefore considered contrary to the material considerations of the Development Plan, particularly policies STRAT DC 1, LP HOU 1 and LP ENV 1, together with Appendix A: 'Sustainable Siting and Design Principles', and would be likely to set an undesirable precedent for the subdivision of existing residential garden ground which would have a further cumulative negative impact upon the established character and amenity of the area. It is not considered that the material harm caused by the proposed development could be lessened to any acceptable extent by the use of appropriate planning conditions or unilateral undertakings.

- 2. It is further considered that the development of this part of Housing Allocation 10/4 at a density of approximately 22 dwellings per hectare and therefore substantially above the 'low density' development (defined within the Development Plan as between 0 and 11 dwellings per hectare) of the remainder of Housing Allocation 10/4 and agreed by the Council within the approved and adopted Argyll and Bute Local Plan (August 2009) would fundamentally undermine the strategic aims of the Council in bringing forward the sustainable development of the remainder of Housing Allocation 10/4 and would be likely to set an undesirable precedent leading to the further overdevelopment of the remaining allocation land.*
- 3. The proposed development is intended to be served by a private drainage system consisting of a new septic tank and soakaway. This aspect of the proposal is contrary to the provisions of Policy LP SERV 1 of the Argyll and Bute Local Plan 2009 which sets out a requirement for new development to be served by connection to the public sewer unless specific exceptions are met. These exceptions are not applicable to the current development and the proposed private sewage arrangements are therefore considered inappropriate.*

Whilst the Council now accepts that refusal reason 3 is capable of being addressed through the deletion of the proposed private sewage treatment plant and soakaway and the connection to the existing public sewer, the proposed development remains contrary to the adopted Development Plan for the remaining reasons 1 and 2 above. There are no material considerations identified of sufficient weight that alter that assessment or justify the proposal as a departure from the provisions of the Development Plan.

It is respectfully requested that the review be dismissed and the refusal be upheld

Appendix 1

Argyll and Bute Council
Development & Infrastructure Services

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 14/00031/PP
Planning Hierarchy: Local
Applicant: Mr Donald Baker
Proposal: Erection of dwellinghouse, installation of sewage treatment plant and formation of new vehicular access. (As amended by plan received 27th February 2014)

Site Address: Land West of Scarpagh Hillside, Bowmore, Isle of Islay

DECISION ROUTE

Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of detached single storey dwellinghouse
- Formation of new vehicular access onto a classified road
- Installation of septic tank

(ii) Other specified operations

- Connection to public water supply.
-

(B) RECOMMENDATION:

That permission be Refused for the reasons contained in this report.

(C) CONSULTATIONS:

Area Roads Mid Argyll Kintyre And Islay	18.06.2014	No objection to amended plan subject to conditions.
Highlands And Islands Airports	31.01.2014	No objection.

Limited

Scottish Water 17.02.2014 No objection.

Environmental Health 29.01.2014 No objection.
- MAKI

(D) HISTORY:

13/02250/PREAPP – Pre-application enquiry – Erection of 2 bedroom single storey dwellinghouse on site the subject of the current planning application. – Advised following an officer’s site inspection that it is very unlikely that support would be forthcoming for new residential development on this site. The site is considered too small to successfully accommodate a new residential development whilst conforming to the existing settlement pattern and it is the opinion of the Planning Authority that the proposed development will be materially at odds with the existing density of development within the vicinity and would likely lead to the future subdivision of other existing residential plots in the area, resulting in an overall loss of amenity – 29th October 2013.

(E) PUBLICITY:

ADVERT TYPE:
Regulation 20 Advert Local Application
EXPIRY DATE: 20.02.2014

(F) REPRESENTATIONS:

(i) Representations received from:

- No representations received

(ii) Summary of issues raised:

- N/A
-

(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 brief design statement. |

- (iv) A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc: No
-

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: No

- (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 SERV 1 – Private Sewage Treatment Plants and Wastewater Systems

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 E – Allocations, Potential Development Area Schedules and Areas for Action Schedules

- (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 and Bute proposed Local Development Plan (Feb 2013)
 - Scottish Planning Policy (SPP)
-

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

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

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

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

(O) Requirement for a hearing (PAN41 or other): No

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

This detailed planning application relates to a small area of informal and undeveloped open space located immediately adjacent to the Gortan Vogie Road (a public highway) which currently serves Islay Hospital to the east and north of this road and a low density residential development of 10 detached single storey dwellinghouses to the south of this public road and served via two residential driveways, both named Hillside. The proposed site is open and exposed, being an area of unenclosed grassland immediately adjacent to two public roads.

This site was subject of a pre-application enquiry made by the current Agent and on behalf of the current Applicant. Informal advice was given on 29th October 2013 that the proposed development of this site was very unlikely to receive support from the Planning Authority, the site being considered too small to satisfactorily accommodate a new residential development whilst respecting the existing settlement pattern and the character and local distinctiveness of the locality; thus being materially harmful and contrary to the provisions of the adopted Development Plan. Notwithstanding this advice, the current application was lodged on the 20th December 2013 and made valid on 16th January 2014.

The residential development of Hillside is located within the Bowmore settlement area but outwith the Bowmore conservation area. The two westernmost dwellinghouses, Scarpagh and 9 Hillside were a later addition to the original Hillside development and were developed following a detailed planning permission granted in June 2004 (application reference 04/00488/DET). These two dwellinghouses are also located within the settlement area but encroach upon a larger site that has subsequently been adopted within the current Development Plan as Housing Allocation 10/4 – a site allocated for the future development of a new residential scheme of 5 dwellings (two of which have already been built following the June 2004 permission). It is proposed within the emerging Local Development Plan (LDP) to re-designate Housing Allocation 10/4 and part of an adjoining housing allocation (10/3) to form a new ‘Potential Development Area’, PDA 3005 to be set aside for a potential future low density housing development (defined within the Development Plan as between 0 and 11 dwellings per hectare).

Whilst settlement strategy policy STRAT DC 1 and Local Plan policy LP HOU 1 would offer support in principle for new residential development within the defined settlements, policy STRAT DC 1 makes it clear that such encouragement is ‘subject to capacity assessments’ and that such development should be limited to ‘appropriate’ sites that avoids development resulting in ‘excessively high development densities’ and/or ‘settlement cramming’ (defined in the Structure Plan as ‘over developing valuable open space within settlements’).

Similarly, Local Plan policy LP HOU 1 states that any demonstrated general presumption in favour of housing development will be removed (unsupported) where

there is 'an unacceptable environmental, servicing or access impact'. This refers back to the key first policy within the adopted Local Plan, *Policy LP ENV 1 – Development Impact on the General Environment* which states that,

"In all development control zones, the Council will assess applications for planning permission for their impact on the natural, human and built environment, and will resist development proposals which would not take the following considerations:

- (A) The development is of a form, location and scale consistent with Structure Plan policies STRAT DC 1 to 6;
- (B) Likely impacts, including cumulative impacts on amenity...and the environment...;
- (C) All developments should protect, restore or where possible enhance the established character and local distinctiveness of the landscape in terms of its location, scale, form and design;
- (D) The location and nature of the proposed development, including land use, layout, design, external appearance, density, landscaping, open space...;
- (H) Current Government guidance, other policies in the Argyll and Bute Structure and Local Plan and particularly those relating to the proposed type of development."

The application site is small, particularly when compared to the plot sizes of the existing adjacent dwellinghouses. Whilst it is physically possible to accommodate the proposed modest two bedroom detached bungalow and its required parking and turning areas within the development site, this would result in a development that has an unacceptable and harmful appearance given the character and density of its surroundings and would leave little space for any usable private garden ground with the proposed dwelling being sited just 1.25 metres from the rear boundary of the site and between 10cm and 1 metre back from the proposed driveway hardstandings at both the front and the north eastern end of the dwelling (this driveway arrangement being necessary in order to accommodate parking and turning for two vehicles within the site). The only garden ground immediately adjacent to the dwelling would be a short strip of land adjoining the south western end gable of the dwelling and being between 4.8 and 5.9 metres deep.

The development site is so cramped that there is insufficient room within it to provide for the proposed septic tank and soakaway. This is consequently proposed to be accommodated on land on the opposite site of the existing estate road 'Hillside'; separated by a public road and on open ground that would not form part of the functional curtilage of the proposed dwelling.

The proposed plot size would be just 454 square metres; the overwhelming majority of which would be covered by the dwelling itself and its internal driveways, parking and turning areas. This plot size is substantially smaller than any of the existing plots surrounding it, with the immediately adjoining Scarpagh having a plot size of approximately 1,600 square metres; the adjacent 9 Hillside having a plot size of approximately 1,350 square metres, the adjacent dwelling Cridhe Samhach having a plot size of some 2,200 square metres; and the properties 7 Hillside and Thornlea having approximate plot sizes of 2,400 and 1,500 square metres respectively.

In terms of residential densities, the proposed development would equate to a density

of approximately 22 dwellings per hectare whereas the adjacent dwelling Scarpagh has been developed at an approximate density of just 6.25 dwellings per hectare; 9 Hillside at 7.4 per hectare and Cridhe Samhach at 4.5 dwellings per hectare.

The application site falls within the north eastern corner of Housing Allocation 10/4 which has been included within the adopted Local Plan as a site to accommodate 5 low density dwellinghouses. 'Low density' is defined in the Development Plan as between 0 and 11 dwellings per hectare. Two of these dwellings have already been developed (Scarpagh and 9 Hillside) and this existing development, as has been seen above, has a residential density of between 6.5 and 7.4 dwellings per hectare; comfortably within the 'low density' threshold required by the Development Plan. The proposed development, however, would represent a residential density of approximately 22 dwellings per hectare which is significantly higher than the upper density threshold for the remainder of HA 10/4 identified within the approved and adopted Development Plan. It is considered that the development of part of HA 10/4 in the manner proposed would constitute an unacceptable overdevelopment of this part of the housing allocation and would be likely to set an undesirable precedent for the further overdevelopment of the remaining allocation land (estimated to be approximately two thirds undeveloped). This would seriously undermine the strategic housing aims of the Council and would have a materially harmful impact upon the character and amenity of this low density residential development at the edge of the Bowmore settlement.

In support of the proposed development the applicant's Agent has stated the following:

- The site is located within a settlement zone as defined by the Local Plan. It is within a Housing Allocation Area that is allocated for 5 housing developments [sic – presumably 5 dwellings]

Comment: The site is indeed within the defined settlement of Bowmore. However the area of the site is very small and its size and shape is such that it is not considered that the ground can be developed to an appropriate standard or that the character and form of the development would accord with the local settlement pattern or the character and local distinctiveness of the area as required by the provisions of the Development Plan.

Whilst the site does form part of Housing Allocation 10/4, that allocation requires that the area be developed at a low density; defined within the Development Plan as being between 0 and 11 dwellings per hectare. The density of the development currently proposed is some 22 dwellings per hectare.

- The development adds a mixture of density to this area and provides choice in housing terms as it has smaller accommodation than some of the surrounding properties: it houses 2 bedrooms whereas most of the housing within the area looks to provide larger bedroom capacities.

Comment: The strategic aims of the Council for this part of Bowmore, occupying an area towards the edge of the defined settlement boundary, is to sympathetically develop those areas allocated for new residential development at low densities in order to reflect the existing settlement pattern and to protect the character and local distinctiveness of the area. Higher density residential development is to be found in abundance within the more centrally located areas of the settlement and it is considered that there is

ample existing choice in terms of housing types, sizes and cost points. The proposed dwelling occupies almost all of the 'developable' area of the site and, whilst smaller than its neighbours, fills (particularly when assessed alongside its necessary driveways, parking spaces and vehicle turning areas) its site to a significantly greater proportion than that of the surrounding residential development. This gives the proposed development an unacceptably cramped and contrived appearance at odds with the existing character and quality of the area.

- The dwelling fronts the road in a similar fashion to existing dwellings within Bowmore and Hillside. The siting of the dwelling at 90 degrees to existing Hillside dwellings creates a transition from the frontage of Gortan Vogie Road into the private road at Hillside. This initial dwelling could encourage further development fronting Gortan Vogie Road in the future which would allow the Housing Allocation areas 10/4 and 10/3 to be established further.

Comment: The proposed dwelling occupies an attractive area of informal open green space that runs alongside this part of Gortan Vogie Road. All but one of the existing dwellings that comprise the existing Hillside development are set back from the public road and it is considered that the proposed development would erode part of this open space by introducing a contrived form of development at a density substantially higher than existing dwellinghouses and much higher than the expected future residential densities planned for the adjacent housing allocation land. It is not accepted that the proposed development would constitute any form of appropriate 'transition' between Gortan Vogie Road and Hillside; instead it is considered that the proposed development would be materially harmful to the character and appearance of the area due to its unacceptable 'settlement cramming' and its inappropriate design which effectively 'turns its back' onto the public road which runs adjacent to the front (long axis) of the site.

Comment: The Planning Authority would not wish to 'encourage further development' of this type in the future; certainly not in this area which is characterised by low density residential development and significant green spaces. The housing allocations referred to have been proposed and adopted within the Development Plan for a small number of new dwellings at a low density of development and not at anywhere near the high densities characterised by the current proposals.

- There has been mention that there is not enough room in the site to accommodate this dwelling. I disagree with this assumption as it meets the requirements within the local plan for density: the site area is 454 square metres and the dwelling is 100 square metres, therefore the dwelling occupies 22% of the site area, much less than the 33% that is the Local Plan's limit. Other developments within Hillside include:
 - No. 1 Hillside, this development takes approximately 17% of the site area.
 - Celandine also occupies 17% of the site area.I therefore do not believe this development will adversely affect the siting and development potential of the area.

Comment: The Planning Authority does not accept even the basic premise of the argument advanced above. The 'Local Plan requirements' quoted here are taken from Paragraph 4.2 of Appendix A of the Local Plan, 'Design of New Housing in Settlements'. This section of Appendix A seeks to outline some general design principles for new residential proposals in the settlement

areas. Appendix A is for supplementary guidance only and, whilst material to the consideration of any planning application, does not constitute planning policy. Regardless of this, it is clear that the applicant's Agent has 'cherry picked' just one small part of Paragraph 4.2 to suit her own argument and has ignored the fundamental 'message' of these stated design principles, neatly encapsulated within the very first principle quoted in Paragraph 4.2:

"New housing must reflect or recreate the traditional building pattern or built form and be sympathetic to the setting, landmarks, historical features or views of the local landscape".

This statement directly corresponds with the requirements of the Development Plan, notably policies STRAT DC 1, LP HOU 1 and LP ENV 1. It is maintained that the proposed development, due to its small site area and its unusual shape resulting in the need for a much greater proportion of it to be given over to the provision of driveways, parking and turning areas would result in a development that is poorly designed with respect to its appearance from the Gortan Vogie Road and materially at odds with the prevailing built form of development and clearly unsympathetic to its setting.

The quoted part of Paragraph 4.2 relates to the design principle headed 'Open Space/Density'. This principle, in full, reads:

"All development should have some private open space (ideally a minimum of 100 square metres). Semi-detached/detached houses (and any extensions) should only occupy a maximum of 33% of their site, although this may rise to around 45% for terrace and courtyard developments."

Whilst it is accepted that, if one looks solely at building to plot size ratios, the proposed dwelling does indeed occupy 22% of its plot size, this totally ignores the fundamental need (as clearly expressed in planning policy encapsulated within the adopted Development Plan) for development to accord with the existing settlement pattern and with the character and local distinctiveness of the locality. It also ignores the fact that, due to the constrained size and shape of the proposed plot, a very high proportion of the remaining land would be taken up by the development of hardstandings in order to provide the necessary access, parking and turning areas needed in order to meet the minimum access and servicing criteria. The area of the site actually remaining and available to provide private open space is small (about 63 square metres of reasonably useable open space positioned adjacent to the dwelling with an approximately similar area of undeveloped site scattered in and around the various necessary driveways and parking/turning areas). Nevertheless, the fundamental issue here is not whether the development can be made to fit a set of minimum standards, irrespective of character and appearance of the area within which it would sit, but whether it would be appropriate when considered within its context. This it clearly and demonstrably is not.

Reference is made to two existing dwellings within the vicinity of the application site. Both of these dwellings are sited between 120 metres and 135 metres to the north east of the application site and are beyond the immediate containment of this part of Hillside. Also, of the ten existing dwellings that comprise both parts of Hillside, the applicant's Agent has highlighted just two – it is no coincidence that these are also the two smallest plots within Hillside (indeed the two smallest plots within a significant distance of the application site). Nevertheless, although the plot size of the application

site is just 454 square metres (not including the additional and separate land required for the proposed septic tank and soakaway; and even the applicant's Agent does not include this additional land within her justification statement) the two highlighted existing properties, 1 Hillside and Celandine, have plot sizes of approximately 1,000 square metres and 950 square metres respectively. Thus even the smallest existing plot anywhere within the vicinity of the application site has a site area some 52% larger than currently proposed and accommodates built development that occupies just 17% of its total site area.

- My client also owns the land adjacent to the site, where the sewage treatment plant is to be located; therefore this could be classified as open space to meet planning policy if required.

Comment: The application site and the land to the opposite side of the Hillside road already constitutes informal public open space within the wider residential development, although it is accepted that this land is privately owned.

- The proposed dwelling is also single storey and ties in with the surrounding dwelling at Hillside. Many of the design features of this dwelling have been detailed with the concept of retaining the existing fabric and design of the area. Predominantly features such as the bay window, the window design. The bay window was designed to act as a smaller scale protrusion from the main house as can be seen in existence at [the adjacent dwelling, Scarpagh, Hillside]. The external finishes are to remain consistent throughout the Hillside development area. Although the main length of the house fronts the road it is our view that the frontage of the house is actually facing northeast as this is where our main living area is situated. This would then overlook the Hillside private road in keeping with the existing pattern of housing at Hillside.

Comment: It is accepted that the overall form of the proposed dwelling is generally in keeping with the form of the existing buildings within Hillside, in that it is a single storey building with a relatively shallow gable ended roof and a rectangular footprint. The design treatment of the proposed elevations, however, is considered wholly inappropriate for the area in that the main elevation fronting the public road (Gortan Vogie Road) is entirely blank except for a small kitchen window and an even smaller and obscure glazed bathroom window. This elevation would also contain a proposed air-source heat exchange unit of a decidedly 'industrial' appearance. This would be the 'long elevation' of the building due to the restricted size and shape of the plot and would be located immediately adjacent to the public road with no scope to soften its appearance through the use of landscaping or screen fencing due to the cramped site and the proposed positioning of the vehicular access point and driveway configuration between the dwelling and the public road.

- My client has a key focus on sustainability and renewables and therefore has decided to proceed with an air source heat pump heating system for the dwelling.

Comment: This is noted.

It is considered that the proposed development would occupy a prominent and inappropriate site in terms of its restricted size and shape and consequent capacity to successfully absorb such development, and would result in undesirable 'settlement

cramming' within this area of informal open space between the existing low density residential development to the rear and the public road to the front. This would, in the opinion of the Local Planning Authority, result in a materially harmful environmental impact; the proposed development being of an unacceptable design, form and scale and one which does not accord with the existing settlement pattern or the character and local distinctiveness of the locality. The proposed development is considered poorly designed with a virtually blank flank wall positioned to face the public Gortan Vogie Road which immediately adjoins the application site to the north and at a distance of less than 10 metres. Due to the restricted size and shape of the plot and the need to take its access directly off the public road, there is little or no scope to soften the appearance of the development with appropriate landscaping and/or boundary treatment. The proposed development is therefore considered contrary to the material considerations of the Development Plan, particularly policies STRAT DC 1, LP HOU 1 and LP ENV 1, together with Appendix A: 'Sustainable Siting and Design Principles', and would be likely to set an undesirable precedent for the subdivision of existing residential garden ground which would have a further cumulative negative impact upon the established character and amenity of the area. It is not considered that the material harm caused by the proposed development could be lessened to any acceptable extent by the use of appropriate planning conditions or unilateral undertakings.

It is further considered that the development of this part of Housing Allocation 10/4 at a density of approximately 22 dwellings per hectare and therefore substantially above the 'low density' development (defined within the Development Plan as between 0 and 11 dwellings per hectare) of the remainder of Housing Allocation 10/4 and agreed by the Council within the approved and adopted Argyll and Bute Local Plan (August 2009) would fundamentally undermine the strategic aims of the Council in bringing forward the sustainable development of the remainder of Housing Allocation 10/4 and would be likely to set an undesirable precedent leading to the further overdevelopment of the remaining allocation land.

Furthermore, it is noted that Scottish Water have advised that the Bowmore Waste Water Treatment Works has capacity to accommodate the proposed development. In this respect, in the absence of any evidence being offered to suggest that a connection is not feasible, for technical or economic reasons, the proposal is also contrary to the provisions of policy LP SERV 1 which sets out a presumption against development served by private drainage systems within areas served by a public sewer. Whilst it is accepted that some (if not all) of the existing properties in Hillside are currently served by private sewage treatment plants this existing development predates the upgraded Bowmore Waste Water Treatment Works and was not therefore bound by the provisions of policy LP SERV 1 at the time.

Having regard to the emergent Argyll and Bute proposed Local Development Plan (pLDP), it is noted that the Council does not intend to revisit the zoning of the application site or its surrounds and that the relevant provisions of proposed policies LDP DM1 and LDP 9 and proposed Supplementary Guidance SG LDP HOU 1, SG LDP SERV 1, SG LDP TRAN 4 and SG LDP TRAN 6 would operate in the same manner as the provisions of the adopted Local Plan.

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

(R) Reasons why Planning Permission or Planning Permission in Principle Should

be Refused:

It is considered that the proposed development would occupy a prominent and inappropriate site in terms of its restricted size and shape and consequent capacity to successfully absorb such development, and would result in undesirable 'settlement cramming' within this area of informal open space between the existing low density residential development to the rear and the public road to the front. This would, in the opinion of the Local Planning Authority, result in a materially harmful environmental impact; the proposed development being of an unacceptable design, form and scale and one which does not accord with the existing settlement pattern or the character and local distinctiveness of the locality. The proposed development is considered poorly designed with a virtually blank flank wall positioned to face the public Gortan Vogie Road which immediately adjoins the application site to the north and at a distance of less than 10 metres. Due to the restricted size and shape of the plot and the need to take its access directly off the public road, there is little or no scope to soften the appearance of the development with appropriate landscaping and/or boundary treatment. The proposed development is therefore considered contrary to the material considerations of the Development Plan, particularly policies STRAT DC 1, LP HOU 1 and LP ENV 1, together with Appendix A: 'Sustainable Siting and Design Principles', and would be likely to set an undesirable precedent for the subdivision of existing residential garden ground which would have a further cumulative negative impact upon the established character and amenity of the area. It is not considered that the material harm caused by the proposed development could be lessened to any acceptable extent by the use of appropriate planning conditions or unilateral undertakings.

It is further considered that the development of this part of Housing Allocation 10/4 at a density of approximately 22 dwellings per hectare and therefore substantially above the 'low density' development (defined within the Development Plan as between 0 and 11 dwellings per hectare) of the remainder of Housing Allocation 10/4 and agreed by the Council within the approved and adopted Argyll and Bute Local Plan (August 2009) would fundamentally undermine the strategic aims of the Council in bringing forward the sustainable development of the remainder of Housing Allocation 10/4 and would be likely to set an undesirable precedent leading to the further overdevelopment of the remaining allocation land.

The proposed development is intended to be served by a private drainage system consisting of a new septic tank and soakaway. This aspect of the proposal is contrary to the provisions of Policy LP SERV 1 of the Argyll and Bute Local Plan 2009 which sets out a requirement for new development to be served by connection to the public sewer unless specific exceptions are met. These exceptions are not applicable to the current development and the proposed private sewage arrangements are therefore considered inappropriate.

(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: Tim Williams

Date: 9th September 2014

Reviewing Officer:

Date: 16th September 2014

A handwritten signature in black ink, appearing to read 'A. Gilmour', is positioned below the 'Reviewing Officer:' label.

Angus Gilmour
Head of Planning & Regulatory Services