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Argyll and Bute Council
Comhairle Earra Ghaidheal agus Bhoid

Corporate Services
Director: Nigel Stewart



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14 May 2008

NOTICE OF MEETING

A meeting of the **BUTE AND COWAL AREA COMMITTEE** will be held in the **SANDBANK VILLAGE HALL, SANDBANK, DUNOON** on **WEDNESDAY, 21 MAY 2008** at **2:00 PM**, which you are requested to attend.

Nigel Stewart
Director of Corporate Services

BUSINESS

1. **APOLOGIES**
2. **DECLARATIONS OF INTEREST**
3. **PLANNING APPLICATION 08/00550/DET, MR N BANCKS, LAND SOUTH EAST OF CLADDY HOUSE, SHORE ROAD, SANDBANK** (Pages 1 - 12)
 - (a) PAN 41 Hearing Procedure Note (Pages 13 - 16)

BUTE & COWAL AREA COMMITTEE

Councillor Robert Macintyre
Councillor Alister McAlister
Councillor James McQueen
Councillor Ron Simon
Councillor Dick Walsh

Councillor Bruce Marshall (Chair)
Councillor Alex McNaughton
Councillor Len Scoullar (Vice-Chair)
Councillor Isobel Strong

Contact: Shirley MacLeod, Area Corporate Services Manager

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**DEVELOPMENT SERVICES
PLANNING APPLICATION REPORT
BUTE & COWAL**

**Ward Number - Ward 6 Cowal
Date of Validity - 25th March 2008
Committee Date - 6th May 2008**

Reference Number: 08/00550/DET
Applicants Name: Mr N Bancks
Application Type: Detailed
Application Description: Erection of Dwellinghouse and Formation of Vehicular Access
Location: Land to the South East of Claddy House, Shore Road, Sandbank

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of Dwellinghouse
- Improvement works to vehicular access

(ii) Other specified operations.

- Connection to Public Water Main.
 - Connection to Public Sewer.
-

(B) RECOMMENDATION

Having due regard to the Development Plan and all other material considerations, it is recommended that detailed planning permission **be refused** for the reasons set out overleaf.

(C) SUMMARY OF DETERMINING ISSUES AND MATERIAL CONSIDERATIONS

(i) Development Plan Context:

Claddy House is located within the settlement of Sandbank which is identified as a 'Small Town' in the Finalised Draft Local Plan. STRAT DC 1 of the adopted Structure Plan encourages, within the small towns the development of up to medium scale development (between 1 and 30 dwellings) on appropriate infill, rounding-off and redevelopment sites, this is supported by Policy LP HOU1 of the Finalised Local Plan.

The Cowal Local Plan settlement strategy stresses the need for consolidation of the existing settlements and Policy POL HO 8 encourages the residential development of infill, rounding-off and redevelopment on appropriate sites within existing settlements.

For the reasons set out in this report this application is contrary to the established surrounding settlement pattern and therefore contrary to the development plan.

(ii) Representations:

Five letters of objection have been received.

(iii) Consideration of the Need for Non-Statutory or PAN 41 Hearing:

Representations have been received raising objections to this application but in this instance as the department is not recommending approval of the same, as a departure, there is no need for a hearing.

(iv) **Reasoned Justification for a Departure from the Provisions of the Development Plan.**

N/A

(v) **Is the Proposal a Schedule 1 or 2 EIA development:**

No.

(vi) **Does the Council have an interest in the site:**

No.

(vii) **Need and Reason for Notification to Scottish Ministers.**

No.

(viii) **Has a sustainability Checklist Been Submitted:**

No.

Angus J Gilmour
Head of Planning
28th April 2008

Author: John Irving, Tel: 01369708621
Reviewing Officer: David Eaglesham, Tel: 01369708608

Date: 11th April 2008
Date: 28th April 2008

NOTE: Committee Members, the applicant, agent and any other interested party should note that the consultation responses and letters of representation referred to in Appendix A, have been summarised and that the full consultation response or letter of representations are available on request. It should also be noted that the associated drawings, application forms, consultations, other correspondence and all letters of representations are available for viewing on the Council web site at www.argyll-bute.gov.uk

REASONS FOR REFUSAL RELATIVE TO APPLICATION: 08/00550/DET

1. Having regard to the character of the existing settlement pattern and density, which comprises large detached two-storey Victorian villas situated within proportionate generous curtilages, the proposed dwellinghouse would be at odds with the defining and established character of the area and would represent an incongruous feature, resulting in cramped development of the site. Accordingly the proposed development would be contrary to the provisions of Policy HO 8 and BE 9 of Cowal Local Plan 1993 (Adopted 1995), Policy STRAT SI 1 'Sustainable Development' and STRAT DC 1 'Development within Settlements' of the Approved Argyll & Bute Structure Plan 2002, Policy LP HOU 1 'General Housing Development' and Policy ENV 19 'Development Setting, Layout & Design' of the emerging Argyll & Bute Modified Finalised Draft Local Plan 2006 and the general principles of Scottish Planning Policy SPP3 "*Planning for Housing*" and Planning Advice Note 67 – "*Housing Quality*"
2. Having regard to the relative proximity of the proposed dwellinghouse to the rear elevation of Claddy House, the Lounge and Bedroom 2 windows located on the front elevation of the proposed dwellinghouse will interlock existing windows at Claddy House by 11 metres to the window on the single storey extension and 16 metres to the large rear dormer window, both distances fall below the minimum standard window to window distance of 18 metres as set out in Appendix A of the Argyll & Bute Modified Finalised Draft Local Plan 2006 . Accordingly this proposed development is contrary to the provisions of Policy LP ENV 19 '*Development Setting, Layout & Design*' of the Argyll & Bute Modified Finalised Draft Local Plan 2006.
3. Having regard to the relative proximity of the proposed dwellinhouse to Claddy House, by virtue of the window located on the side north western elevation of the dwellinghouse this will result in overlooking of the rear private garden ground associated with Claddy House. Accordingly this proposed development is contrary to the provisions of Policy LP ENV 19 '*Development Setting, Layout & Design*' of the Argyll & Bute Modified Finalised Draft Local Plan 2006.

4. APPENDIX A – RELATIVE TO APPLICATION NUMBER: 08/00550/DET

MATERIAL CONSIDERATIONS AND ADVICE

(i) POLICY OVERVIEW AND MATERIAL ADVICE

Argyll & Bute Structure Plan 2002

STRAT SI 1 - 'Sustainable Development' seeks to conserve the natural and built environment and avoid significant adverse impacts on built heritage resources and to respect the character of an area and the setting and character of settlements;

STRAT DC 1 - '*Development within Settlement*' supports the principle of up to 'medium scale' development with the 'Small Town' settlements such as Sandbank on appropriate infill, rounding-off and redevelopment sites.

Cowal Local Plan 1993

POL HO 8 – '*Infill, Rounding Off and Redevelopment Opportunities*' seeks to encourage infill, rounding off and redevelopment related to the existing built form.

POL BE9 – '*Layout and Design of Urban Development*' seeks to achieve a high standard of layout and design where new urban developments are proposed.

Argyll & Bute Modified Finalised Draft Local Plan 2006

LP HOU 1 '*General Housing Development*' establishes a presumption in favour of up to medium scale development in small towns of Argyll and Bute.

With the Settlement Zone there is a general presumption in favour or against is largely based on whether or not it is of an appropriate scale, i.e. small, medium or large scale.

LP ENV 19 '*Development Setting, Layout & Design*' sets out the requirements in respect of development setting, layout and design.

LP TRAN 4 '*New and Existing, Public Roads and Private Access Regimes*' sets out the requirements for development in respect of new and existing public roads and private access regimes.

Note (i): **The applicable elements of the above Policies have not been objected too or have no unresolved material planning issues and are therefore material planning considerations.**

Note (ii): **The Full Policies are available to view on the Council's Web Site at www.argyll-bute.gov.uk**

(ii) SITE HISTORY

Planning application 05/00920/OUT for the erection of a dwellinghouse and a detached garage at this application site was refused by the Area Committee on the 4th October 2005 for the following reasons:

1. '*Having regard to the character of the existing settlement pattern and density, which comprises of large detached two-storey Victorian villas that are situated within proportionate generous curtilages, the proposed two storey dwellinghouse would be at odds with the defining and established character of the area and would represent an incongruous feature, resulting in cramped development of the site. Accordingly the proposed development would be contrary to the provisions of Policy HO 8 and BE 9 of*

Cowal Local Plan 1993 (Adopted 1995), Policy STRAT SI 1 'Sustainable Development' and STRAT DC 1 'Development within Settlements' of the Approved Argyll & Bute Structure Plan 2002 and the general principles of Scottish Planning Policy SPP3 "Planning for Housing" and Planning Advice Note 67 – "Housing Quality"

2. *'Having regard to the proposed siting of the dwelling to the rear of Claddy House and the relative proximity to the boundary that has limited screening along the south western boundary, the proposed new dwellinghouse by virtue of upper storey windows that would be required will result in overlooking to the rear private garden areas of dwellings to the rear namely the Old Police Station and Clachaig diminishing the privacy and amenity that is currently enjoyed.'*

Planning application 05/02059/OUT for the erection of a dwellinghouse at this application site was submitted on 19th October 2005. However, the application was subsequently withdrawn on 7th February 2006.

(iii) CONSULTATIONS

Area Roads Manager (memo dated 26th March 2008): No objection subject to conditions concerning visibility splays, gradients, parking and turning and flood risk.

Scottish Water (letter dated 31st March 2008): No objection in principle. No known issues with water or waste water network.

Public Protection Service No objection to arrangements for water supply from public main and drainage to the public foul sewer.

(iv) PUBLICITY AND REPRESENTATIONS

Under Article 9 neighbour notification procedure and Potential Departure advertisement published 4th April 2008, expires 25th April 2008 six letters of objection have been received from the following:

- Michael Lewis (letter dated 1st April 2008), The Hillock, Cromlech Road, Sandbank, Dunoon, Argyll, PA23 8PX.
- Mr & Mrs Collier (letter dated 31st March 2008), Burnside Villa, Shore Road, Sandbank, Dunoon, Argyll, PA23 8QB.
- John Massey (letter dated 27th March 2008), Clachaig, 2 High Road, Sandbank, Dunoon, Argyll, PA23 8PX.
- Muir MacGrory (letter dated 31st March 2008), Upper Flat, Roadside Cottage, Rankins Brae, Sandbank, Dunoon, Argyll.
- Mrs S Kent (letter dated 30th March 2008), Old Police Station, Sandbank, Dunoon, Argyll, PA23 8PX.

The points raised are summarised below:

- i) The proposed house will overlook our property (Old Police Station, Burnside Villa), and rear garden area and will reduce existing levels of privacy. The site is on higher ground and there will be an infringement to the privacy afforded to properties on the other side of the burn.

Comment: See assessment below.

- ii) Although not directly overlooking the seafront we do have views of the water from the back garden. This proposal would ruin our view and outlook.

Comment: See assessment below.

- iii) Adverse impact on value of surrounding properties.

Comment: This is not a material planning consideration

- iv) Proposal is out of keeping with character of surrounding properties. A new build would not fit in with other houses built in the 1800's.

Comment: The design of the proposed dwellinghouse is considered to be consistent with the design principles set out in the Development Plan and on this basis the proposal design is acceptable.

- v) Proposal is out of keeping with surrounding settlement pattern. Contrary to policy POL HO 8 of the Cowal Local Plan 1993.

Comment: See assessment below.

- vi) The proposal represents overdevelopment. It is going to be a tight squeeze to fit another house within the garden and will make the whole place seem overcrowded.

Comment: See assessment below.

- vii) I am concerned from a flooding point of view. I worry that another property on an already struggling drainage system would put an unnecessary strain on the whole system. The Alt A Chromain burn is known to back up and flood at this location. Contrary to STRAT S1 1 of the adopted Structure Plan.

Comment: See assessment below.

- viii) Site access issue as the access is too narrow to allow site traffic; subsidence from this access could block the burn and cause more flooding.

Comment: See assessment below:

- ix) We feel the reasons for refusal on the previous application(s) are still valid.

Comment: See assessment below.

(v) Applicants Supporting Information

The applicant has submitted a detailed statement and associated documents which they consider addresses the reasons the previous planning application was refused. This includes sketches which show the impact of the proposal on the settlement pattern, building lines and plot frontages. An indicative sketch/perspective drawing of the proposed dwelling has also been submitted which shows the setting of the building in relation to existing neighbouring dwellinghouses.

APPENDIX B – RELATIVE TO APPLICATION NUMBER: 08/00550/DET

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

Claddy House is 1 and a ½ storey villa in use as 2 flats located within the settlement of Sandbank which is identified as a 'Small Town' by the finalised draft local plan. STRAT DC 1 of the adopted structure plan encourages, within the small towns the development of up to medium scale development (between 1 and 30 dwellings) on appropriate infill, rounding-off and redevelopment sites, this is supported by Policy LP HOU1 of the Finalised Local Plan.

The Cowal Local Plan settlement strategy stresses the need for consolidation of the existing settlements and Policy POL HO 8 encourages the residential development of infill, rounding-off and redevelopment on appropriate sites within existing settlements.

The surrounding area, particularly along *Shore Road, Sandbank* between *Rankin's Brae* and *Ferguslie Street* is characterised by a single tier of two storey large villas situated within very generous curtilages. That is the defining and established character. These properties are positioned and set back from the road with extensive curtilage areas to both the front and rear. There is one exception that does not strictly follow the established settlement pattern namely *Burnside House* that is located to the rear of *Burnside Villa* and *Kiloran* but this is a consequence of the historical development of *Sandbank* and even that property is situated within quite generous and well proportioned grounds.

The proposed dwelling would be set back from the established front roadside tier of villas, indeed to the rear of *Claddy House*, and would be at odds within the defining characteristics of the area that is one of large dwellings positioned in large curtilages set well back from the road. In this case the proposed dwelling would be sandwiched between *Claddy House* and the burn, removing a large part of the garden area of *Claddy House*, the large garden area of *Claddy House* going hand in hand with the large villa. In the process this would provide for a building footprint that would have limited commensurate proportions with the surrounding villas being decidedly smaller, as well as siting uncomfortably in terms of its close proximity to *Claddy House*. The generous separation distances that is such a defining feature of the area between gardens areas and the villas would be removed by the erection of the proposed two storey dwelling.

Should permission be granted the overall impression would be that of a dwelling that has been squeezed or cramped into the site without any cognisance of the character of the area and which would not have commensurate proportions in terms of scale and massing and also in terms of positioning and spacing.

The proposal is therefore considered to be contrary to the provisions of Policy STRAT DC 1 of the Structure Plan, Policy LP HOU 1 of the Finalised Local Plan and Policy POL HO 8 of the adopted Local Plan.

B. Location, Nature and Design of Proposed Development

The position of the proposed dwellinghouse would be set behind the notional rear building line of *Claddy House*. The dwelling would be positioned in relative close proximity to *Claddy House*, around 7 metres from an attached single storey extension of *Claddy House*. The garden ground is on a raised platform at a higher level than *Claddy House* which lies between *Claddy House* and the *Alt a Chromain* burn. The application site backs onto land to the rear of the properties of *Old Police Station* and *Clachaig* (residential). There is also a church located to the rear of the application site.

It is proposed to erect a one and a half storey dwellinghouse upon this parcel of garden ground. The proposed dwellinghouse boasts dormer windows and entrance porch on the front elevation, timber windows and doors throughout, a natural slate roof and the walls will be

finished in a white roughcast render. A single storey garage will be attached to the south-eastern gable end of the dwellinghouse. The design of the proposal is considered to be acceptable and consistent with the development plan. However, while the design may be acceptable, this does not override the fact that the principle of residential development at this site cannot be established by virtue of the assessment detailed in Section A detailed above.

The proposal will not only result in the removal of a large section of garden ground which belongs to Claddy House, but will result in overlooking from the proposed dwellinghouse into the remaining rear garden ground of Claddy House by virtue of the gable end window located on the north east elevation of the proposed dwellinghouse. In addition, the emerging local plan stipulates a minimum window to window distance of 18 metres between habitable room windows on the proposed dwellinghouses and that of existing neighbouring properties windows. The lounge and bedroom 2 windows on the front elevation of the proposed dwellinghouse will interlook existing windows at Claddy House at 11 metres (single storey extension window) and 16 metres (large dormer window). The proposal is therefore contrary to the guidance set out in appendix A of the emerging local plan.

It is considered that no other neighbouring properties are affected by this proposal in terms of interlooking from windows on the proposed dwellinghouse as they are outwith the minimum standard of 18 metres.

Representations have been received that the proposal will result in overlooking into neighbouring gardens beyond that of Claddy House. The main outlook from the proposed dwellinghouse is from the northeast front elevation, the rear elevation only boasts roof light windows, which given the angle of outlook and distance from the rear boundary (12 metres) the department does not consider there to be an adverse impact in this regard. Furthermore, the properties located beyond the eastern boundary of the site are separated by a watercourse and natural screening and are at a distance in excess of 10 metres. Given there are no windows in the south eastern gable and the angle of outlook from the front, north eastern elevation it is not considered that there is an adverse impact.

It could be argued that there is an adverse impact if a resident of the proposed dwellinghouse was to stand on a joint boundary and overlook a neighbouring garden. However, this could be done by an occupier of Claddy House as it is currently garden ground belonging to this property. For this reason it is not considered to be a valid objection to this application.

The proposal is therefore contrary to the provisions of Policy ENV 19 and Appendix A of the Finalised Local Plan.

C. Road Network, Parking and Associated Transport Matters.

The site is to be accessed from the A815 from an existing access which runs parallel with Allt A Chromain Burn. It is proposed to upgrade this access and provide the requisite parking and turning area to serve the dwellinghouse. The Area Roads Manager has raised no objection to this proposal subject to a variety of conditions concerning visibility splays, gradients and access provision.

The proposal is therefore consistent with the provisions of Policy TRAN 4 of the Finalised Local Plan.

D. Flooding

The Area Roads Manager has recommended the submission of a technical assessment to ensure the retaining wall parallel to the proposed access is structurally sound and a Flood Risk Assessment for the adjacent watercourse. Given the other adverse issues raised in this report and the proposed recommendation the department has not considered it expedient to pursue the submission of this information prior to the determination of this application.

E. Infrastructure

It is proposed to connect to both the public water main and public sewer. Scottish Water has raised no objection to this proposal subject to advisory information being attached to the grant of planning permission.

The proposal is therefore consistent with the provisions of Policies SERV 1 and 4 of the Finalised Draft Plan.

F. Other Scottish Executive Advice

Relevant national planning guidance states the following:

Scottish Planning Policy SPP3 – “Planning for Housing”

“Good housing in the right locations makes an important contribution to achieving Scottish Executive policy objectives.”

“The planning system should therefore seek to create quality residential environments and guide development to the right places.”

“Infill sites can often make a useful contribution to the supply of housing land. Planning authorities should ensure that infill development respects the scale, form and density of its surroundings and enhances rather than detracts from the character and amenity of existing residential areas. Care should be taken that the individual and cumulative effects of infill can be sustained by the social and economic infrastructure and do not lead to over-development. These principles apply equally to development in the gardens or grounds of existing houses or on backland sites in urban, suburban or village locations”.

Planning Advice Note 67 - ‘Housing Quality’

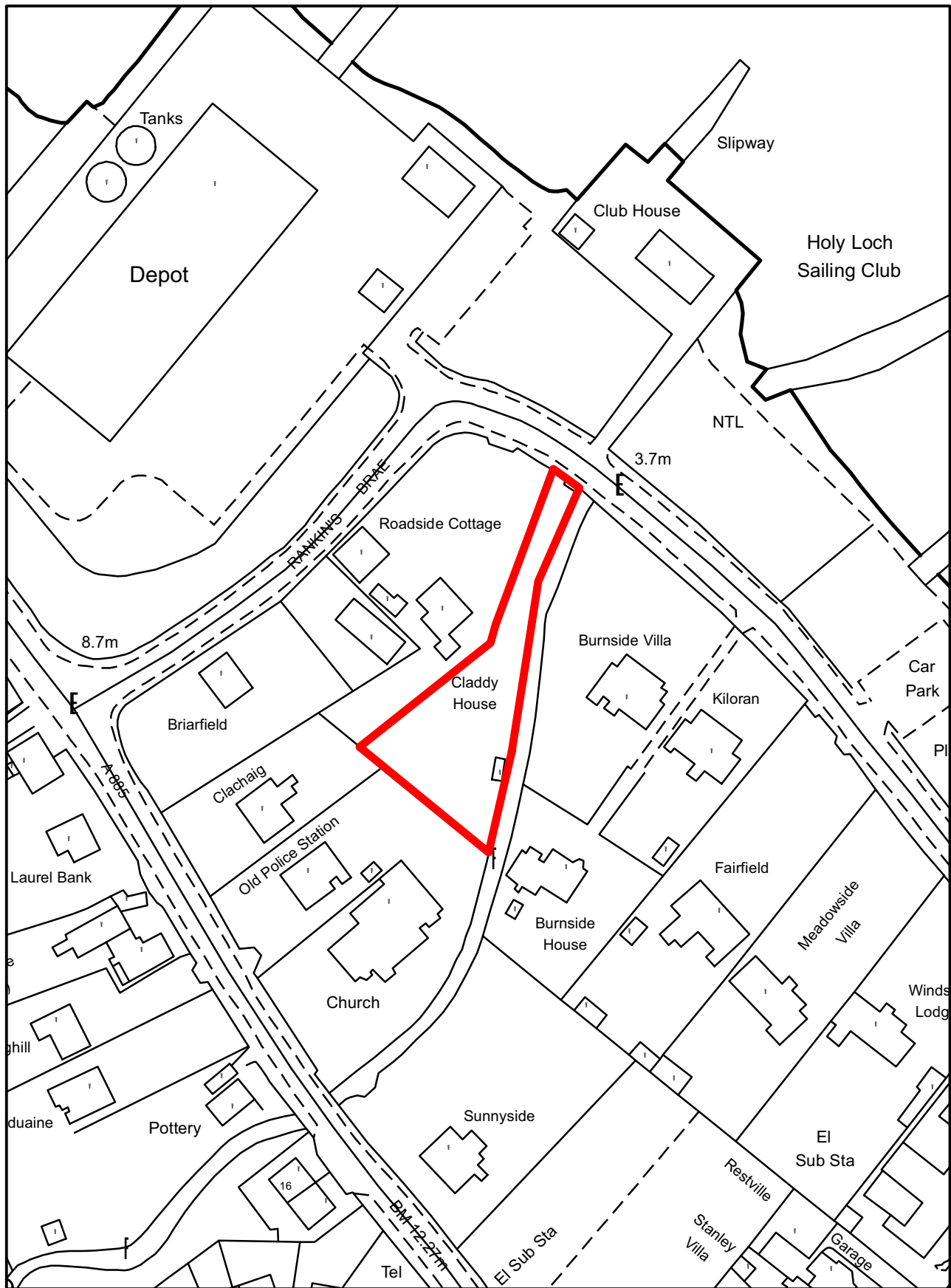
“the design of a successful place will begin with understanding how new housing can be connected to the settlement patterns of an area. The combination of layout of buildings, streets and spaces should create local identity, and contribute positively to the character of towns and villages.”

“new housing should take account of the wider context and be integrated into its wider neighbourhood, where issues to consider include the topography of the site and its relationship to adjacent sites and natural and built features.”

G. Conclusion.

A previous application was refused by the Planning Authority on the basis that as a matter of principle, irrespective of any design issues, development of this nature should be resisted at this location. While the design of the proposed dwellinghouse has been modified the department does not consider the site to be capable of facilitating any type of residential development without having an unacceptable impact on the establish settlement pattern and the setting of Claddy House. For this reason, regardless of any change to the footprint size and location, massing or design of the proposed dwellinghouse, this application is contrary to development plan policy and should therefore be refused.

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**COMMITTEE LOCATION PLAN
RELEVANT TO APPLICATION: 08/00550/DET**



1:1,250

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PROCEDURE NOTE**PAN 41 HEARING**

1. On any occasion when the Council decides that a PAN 41 discretionary hearing is required.
2. The Committee Clerk will thereafter notify the applicant, all representees and objectors of the Council's decision to hold a discretionary hearing and to indicate the date on which the hearing will take place. The hearing will proceed on that day, unless the Council otherwise decides, whether or not some or all of the parties are represented or not.
3. The Committee Clerk will give a minimum of 7 days notice of the date, time and venue for the proposed Hearing to all parties.
4. At the hearing the Director of Development Services staff will present their recommendations to the Committee on how the matter should be disposed of.
5. The applicants will be given an opportunity to present their case for approval of the proposal and shall include in their submission any relevant points made by representees supporting the application.
6. The consultees, supporters and objectors (see notes 1 and 2), will be given the opportunity to state their case to the Council.
7. All parties to the proceedings i.e. the applicant, the Director of Development Services, the consultees, the supporters and objectors shall be given a period of time to state their case (see note 3). In exceptional circumstances and on good case shown the Committee shall be able to extend the time for a presentation by any of the parties to the hearing at their sole discretion.
8. Statutory consultees (including Community Councils) should be invited to attend the meeting to provide a verbal presentation on their written submissions to the Committee, if they so wish.
9. The Members of the Committee only will then be given the opportunity to put questions to the Director of Development Services' representative, the applicant, the consultees, the supporters and the objectors.

10. At the conclusion of the question session the Director of Development Services' representative, the applicant, any consultees present and each of the supporters and the objectors will be given an opportunity to comment and sum up on any particular information given by any other party after they had made their original submission, with the Director of Development Services' representative first then the applicant, then the consultees, and then each of the supporters, and then each of the objectors as may be, in turn. The Committee will then debate the merits of the case and shall reach a decision on the planning application. No new information can be introduced at this stage.
11. A summary of the proceedings of the Committee in regard to this hearing will be recorded by the Committee Services Officer.
12. If it appears to the Chairman that any of the parties to the hearing is speaking for an excessive length of time he will invite them to conclude their presentation forthwith.

NOTE

- (1) Objectors who intend to be present and speak at a hearing are encouraged to appoint one or a small number of spokespersons to present their views to concentrate on the matters of main concern to them and to avoid repetition. To assist this process the Council will provide a full list of the names and addresses of all objectors.
- (2) Supporters who intend to be present and speak at a hearing are encouraged to appoint one or a small number of spokespersons to present their views to concentrate on the matters of main concern to them and to avoid repetition. To assist this process the Council will provide a full list of the names and addresses of all supporters.
- (3) Recognising the level of representation the following time periods have been allocated to the parties involved in the Hearing.

The Applicant - not more than half an hour.
The Consultees - not more than half an hour.
The Supporters - not more than half an hour.
The Objectors - not more than half an hour.
- (4) The purpose of the meeting is to ensure that all relevant information is before the Committee and this is usually best achieved when people with similar views co-operate in making their submissions.
- (5) Everyone properly qualified, as a representee on the application report who wishes to be given an opportunity to speak will be given such opportunity.

PLANNING HEARING

PROCEDURE

1. The Head of Planning's representative (David Eaglesham) will be asked to present his recommendations to the Area Committee.
2. The Applicant/Agent will be asked to present his case to the Area Committee.
3. The statutory Consultees as shown below have been invited to provide a verbal presentation on their written submissions to the Area Committee.

Mr Paul Farrell, Operational Services, - Nothing further to add.
Ms Jo Rains, Senior Environmental Health Officer - apology
Scottish Water

4. The Committee is aware that two spokesperson wish to speak on behalf of the Objectors to the application. The order of speaking will be determined at the opening of the Hearing.

The Objectors have a period of not more than thirty minutes in which to make their presentation to the Committee.

Mr. Massey
Mr & Mrs Collier

5. Area Committee Members will have the opportunity to ask any questions of the Head of Planning's representative, the Applicant, the Consultees, and Objectors.
6. When there are no further questions the Chair will **ask all parties if they wish to comment and sum up on any particular information given by any other party.**

STARTING WITH

- the Head of Planning's representative
- the Applicant
- the Consultees
- the Objectors

7. The Chairman will ask if everyone is satisfied that they have had a fair hearing.
8. The Area Committee will then debate the merits of the case and reach a decision on the planning application.

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