

**Argyll and Bute Council**  
Comhairle Earra Ghaidheal agus Bhoid

Customer Services  
Executive Director: Douglas Hendry



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21 January 2011

## NOTICE OF MEETING

A meeting of the **ARGYLL AND BUTE LOCAL REVIEW BODY** will be held in the **MEMBERS' ROOM, KILMORY, LOCHGILPHEAD** on **FRIDAY, 28 JANUARY 2011** at **10:30 AM**, which you are requested to attend.

Douglas Hendry  
Executive Director - Customer Services

## BUSINESS

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST (IF ANY)**
3. **CONSIDER NOTICE OF REVIEW REQUEST: ARDTORNISH, CRANNAG A'MHINISTEIR, OBAN (REF: 10/0012/LRB)**
  - (a) Notice of Review and Supporting Papers (Pages 1 - 50)
  - (b) Responses from Interested Parties (Pages 51 - 68)
  - (c) Applicant's Response to Interested Party Comments (Pages 69 - 84)
4. **CONSIDER NOTICE OF REVIEW REQUEST: 7 GLEN HOUSES, DERVAIG, ISLE OF MULL (REF: 10/0013/LRB)**
  - (a) Notice of Review and Supporting Papers (Pages 85 - 90)
  - (b) Responses from Interested Parties (Pages 91 - 106)
  - (c) Applicant's Response to Interested Parties Comments (Pages 107 - 108)

## **ARGYLL AND BUTE LOCAL REVIEW BODY**

Councillor Daniel Kelly (Chair)  
Councillor Al Reay

Councillor Alister MacAlister  
Charles Reppke

Contact: Melissa Stewart

Tel. No. 01546 604331

Ref:  
AB1

**ARGYLL AND BUTE COUNCIL**  
[WWW.ARGYLL-BUTE.GOV.UK/\\*\\*](http://WWW.ARGYLL-BUTE.GOV.UK/**)

**OFFICIAL USE**

Date Received

**NOTICE OF REVIEW**

Notice of Request for Review under Section 43(a)8  
of the Town and Country Planning (Scotland) Act 1997 and the Town and  
Country Planning (Schemes of Delegation and Local Review Procedures  
(Scotland) Regulations 2008

**Important** – Please read the notes on how to complete this form and use  
Block Capitals. Further information is available on the Council's Website.  
You should, if you wish, seek advice from a Professional Advisor on how to  
complete this form.

(1) APPLICANT FOR REVIEW

Name

Address

Postcode

Tel. No.

Email

(2) AGENT (if any)

Name

Address

Postcode

Tel. No.

Email

(3) Do you wish correspondence to be sent to you  or your agent

(4) (a) Reference Number of Planning Application

(b) Date of Submission

(c) Date of Decision Notice (if applicable)

(5) Address of Appeal Property

(6) Description of Proposal

(7)

Please set out the detailed reasons for requesting the review:-

See attached Reasons for review.

If insufficient space please continue on a separate page. Is this is attached?  (Please tick to confirm)



(8) If the Local Review Body determines that it requires further information on “specified matters” please indicate which of the following procedure you would prefer to provide such information :-

- (a) Dealt with by written submission
- (b) Dealt with by Local Hearing
- (c) Dealt with by written submission and site inspection
- (d) Dealt with by local hearing and site inspection

*NB It is a matter solely for the Local Review Body to determine if further information is required and, if so, how it should be obtained.*

(9) Please list in the schedule all documentation submitted as part of the application for review ensuring that each document corresponds to the numbering in the sections below:-

Schedule of documents submitted with Notice of Review (**Note: 3 paper copies of each of the documents referred to in the schedule below must be attached**):

No.	Detail
1	Zip Folder...Site for dwelling house Ardtornish Revised Local Review
2	
3	
4	
5	
6	
7	
8	
9	
10	

If insufficient space please continue on a separate page. Is this is attached?  (Please tick to confirm)

Submitted by  
(Please Sign)

Ian Dougall

Dated

06/12/2010

### Important Notes for Guidance

1. All matters which the applicant intends to raise in the review must be set out in or accompany this Notice of Review
2. All documents, materials and evidence which the applicant intends to rely on in the Review must accompany the Notice of Review UNLESS further information is required under Regulation 15 or by authority of the Hearing Session Rules.
3. Guidance on the procedures can be found on the Council's website – [www.argyll-bute.gov.uk/](http://www.argyll-bute.gov.uk/)
4. If in doubt how to proceed please contact 01546 604331 or email [localreviewprocess@argyll-bute.gov.uk](mailto:localreviewprocess@argyll-bute.gov.uk)
5. Once completed this form can be either emailed to [localreviewprocess@argyll-bute.gov.uk](mailto:localreviewprocess@argyll-bute.gov.uk) or returned by post to *Committee Services (Local Review Board), Kilmory, Lochgilphead, Argyll, PA31 8RT*
6. You will receive an acknowledgement of this form, usually by electronic mail (if applicable), within 14 days of the receipt of your form and supporting documentation.

If you have any queries relating to the completion of this form please contact Committee Services on 01546 604331 or email [localreviewprocess@argyll-bute.gov.uk](mailto:localreviewprocess@argyll-bute.gov.uk)

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### For official use only

Date form issued

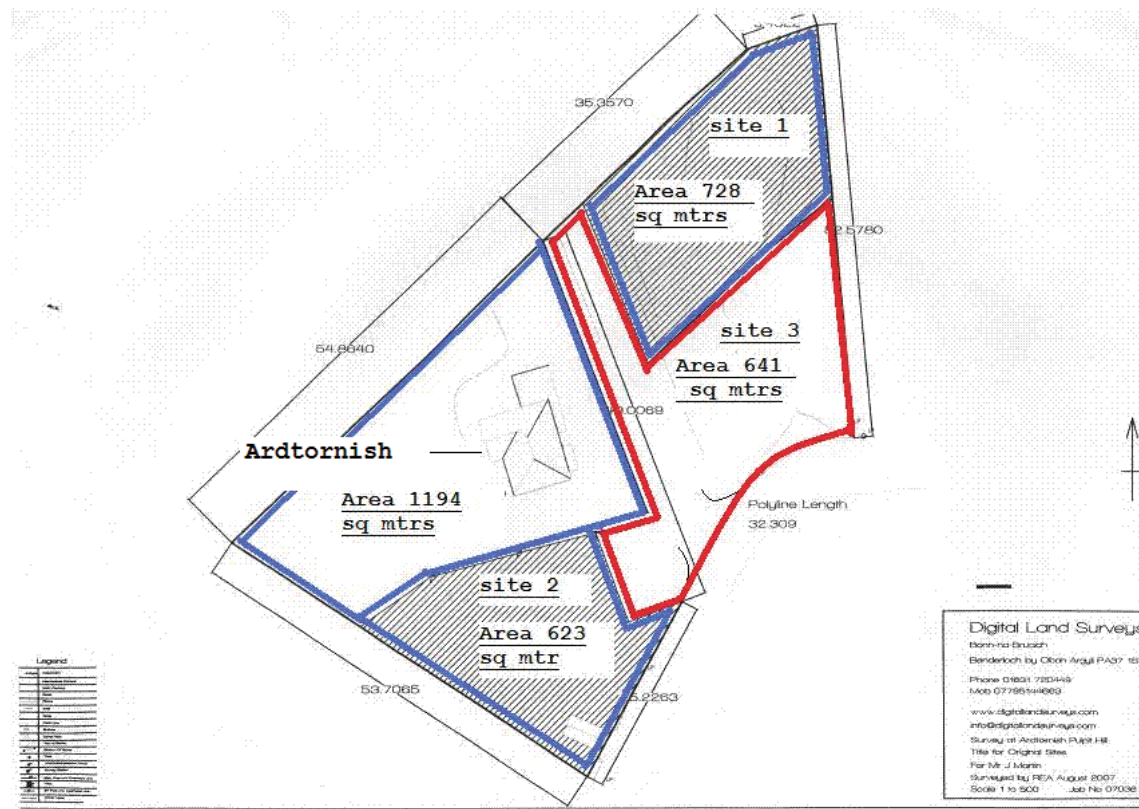
Issued by (please sign)

Reasons for seeking a review...

Further to the recent refusal of application 10/01144/PPP for a modest house in a well established residential area of Oban, I believe I have legitimate grounds for seeking a Local Review Hearing.

I respectfully suggest that the planning department have failed to correctly assess the significance of the determining influence that the recently set precedence, the 2008/9 approvals for this area of Oban, should have played in determining the application.

Site 1 and Site 2 below are the 2008/9 approvals. It is my belief that the application site in red, Site 3, represents rounding off potential for a modest dwelling house, consistent with guidance size and scale ratios and current policy.



I believe it is not unreasonable to suggest, that such a closely neighbouring and similar application, to the recently approved development on Site 1, would be considered on the face of it, to be compliant with policy and guidance.

The introduction of the opinion, that development on the application site would tip the balance of character and amenity of the area, seems contrary to the well established, diverse and mature nature of the area.

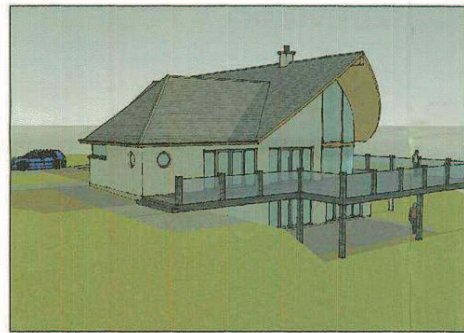
The issued refusal notice begins by describing the development site...

The site which is subject of this application slopes steeply down towards the public Gallanach Road and any development of the site would require either significant excavations or a dwellinghouse with a large area of underbuilding.

Statement from the 2008/9 approvals...

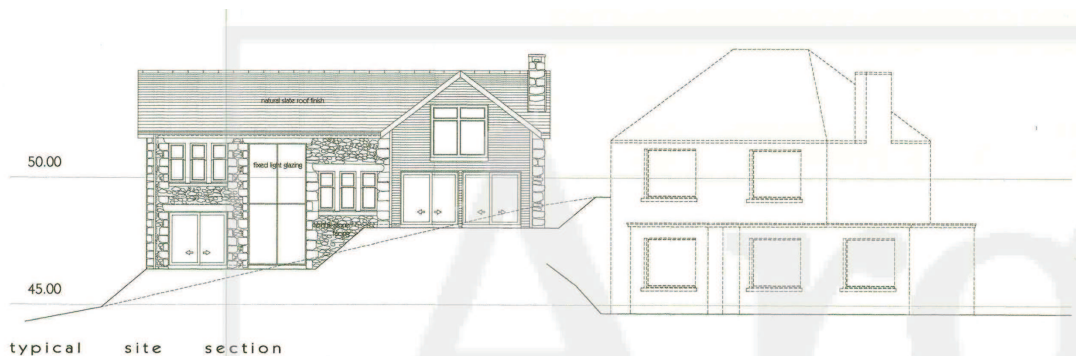
“Considerable ground works will be required to accommodate a house on this plot along with the required vehicle manoeuvring space but this practice is evident in existing development situations.”

The resulting dwelling houses approved, setting the physical interpretation of policy and guidance are illustrated below...



perspective views

Site 1



Site 2

Ardtornish(existing)

The refusal notice goes on to comment...

The development of the site proposed would, cumulatively with the loss of other open land to the development (as a result of permission having previously been granted for two dwellings within the grounds of Ardtornish), result in the loss of undeveloped land to the point at which the characteristics and amenity of the locality would be undermined by the extent of built development unrelieved by green space,

Comments from the 2008/9 approvals...

“This is a long established residential neighbourhood where there is considerable diversity in the scale, design and positioning of existing dwellings.”

“There is no clearly discernable pattern to the development on this area of Pulpit Hill apart from a loose orientation overlooking Oban Bay.”

“The wider residential area within which the site is set has a considerable diversity of plot/garden size ratio and in this particular area there is no clearly defined settlement pattern. Buildings are placed on both steeply sloping and relatively level ground.”

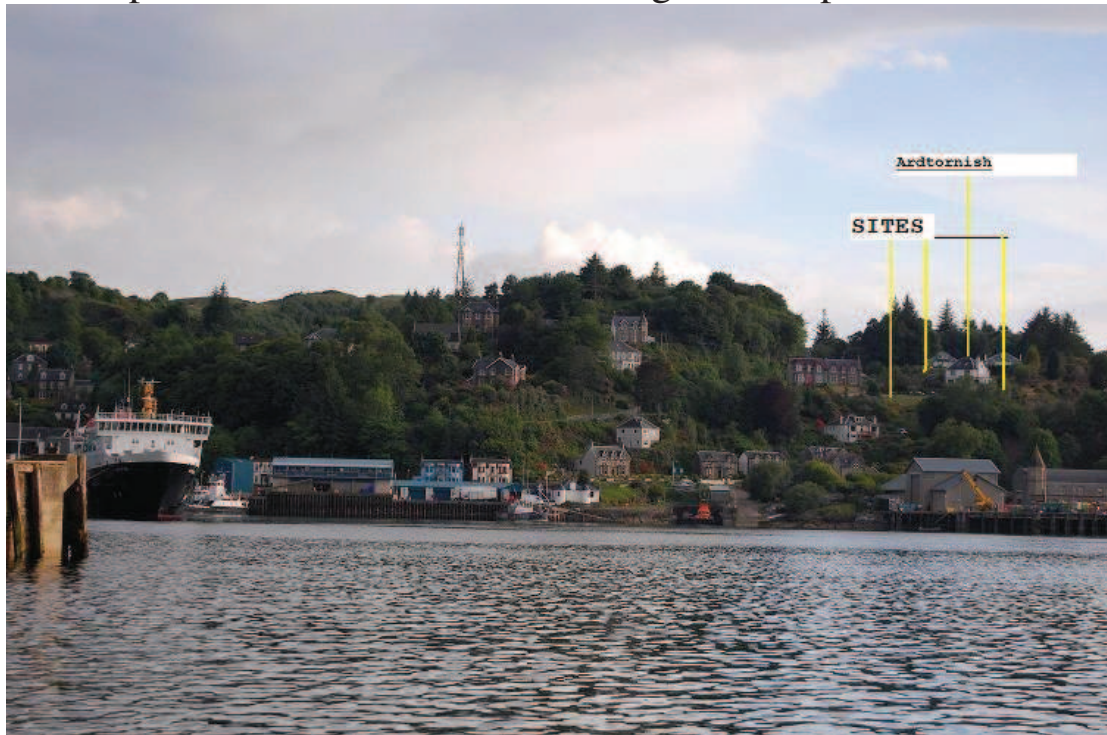
The pictures below visually illustrate and confirm the considerable diversity of the area, including green space relief, which will suffer no meaningful reduction as a result of the addition of a single modest dwelling house.

Development to the left of Pulpit Hill...





Development Sites 1, 2 and 3 to the right of Pulpit Hill...



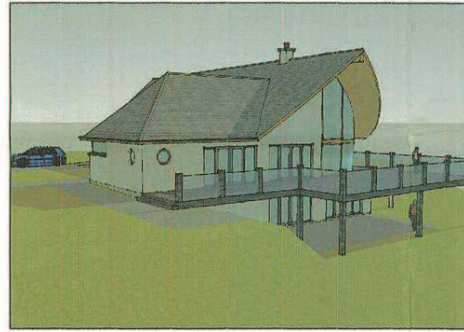
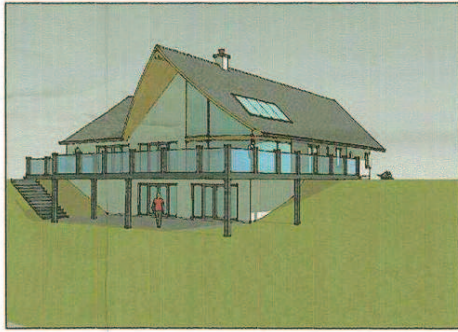
The refusal notice concludes...

Furthermore, it is unlikely that the site could accommodate a dwelling with its attendant access and parking requirements whilst also providing a suitable level of useable private amenity space, which would be contrary to advice contained within Policy LP ENV 19 and Appendix A, Sustainable Siting and Design Principles.

The 2008/9 approvals, challenge the opinion that steep slopes cannot accommodate dwellings...

The wider residential area within which the site is set has a considerable diversity of plot/garden size ratio and in this particular area there is no clearly defined settlement pattern. Buildings are placed on both steeply sloping and relatively level ground. The upper portion of the site will accommodate a small dwelling with parking provision; the incline on the remainder of the site is generally too steep to accommodate development.

The area described in the underlined portion of the statement above, later became the underbuilt frontage of Site 1's detailed approval, illustrated below. The opinion expressed at the time, "the site is generally too steep to accommodate development." was proven to be wrong then, and I respectfully suggest it is wrong now, with regard to Site 3.



perspective views

Precedence has the merit of promoting consistency in planning decisions. Precedence is in fact the benchmark for all planning decisions, drawing on the certainty of what has gone before rather than the uncertainty of opinion.

I also believe the planning department have left themselves open to the suggestion that they have also not acted impartially.

Stephen Fair, the recently appointed Area Team Leader, in his letter of November 4<sup>th</sup> (below), which was only secured after two interventions by the Scottish Ombudsman, has confirmed his case officer did not allow fuller discussions to take place.

The officer also withdrew the opportunity of withdrawing the application by rushing to a refusal notice only two days after advising of the option to withdraw and while efforts were being made to better understand the planning department's decision, in order to best advise my client.

In conclusion I respectfully request a Local Review Hearing as I believe this would be in the best interests for all concerned and would be seen and received as a fairer determination.

The community as a whole depends on planning departments demonstrating consistency in interpretation of planning policy and guidance while being, and seen to be, impartial.

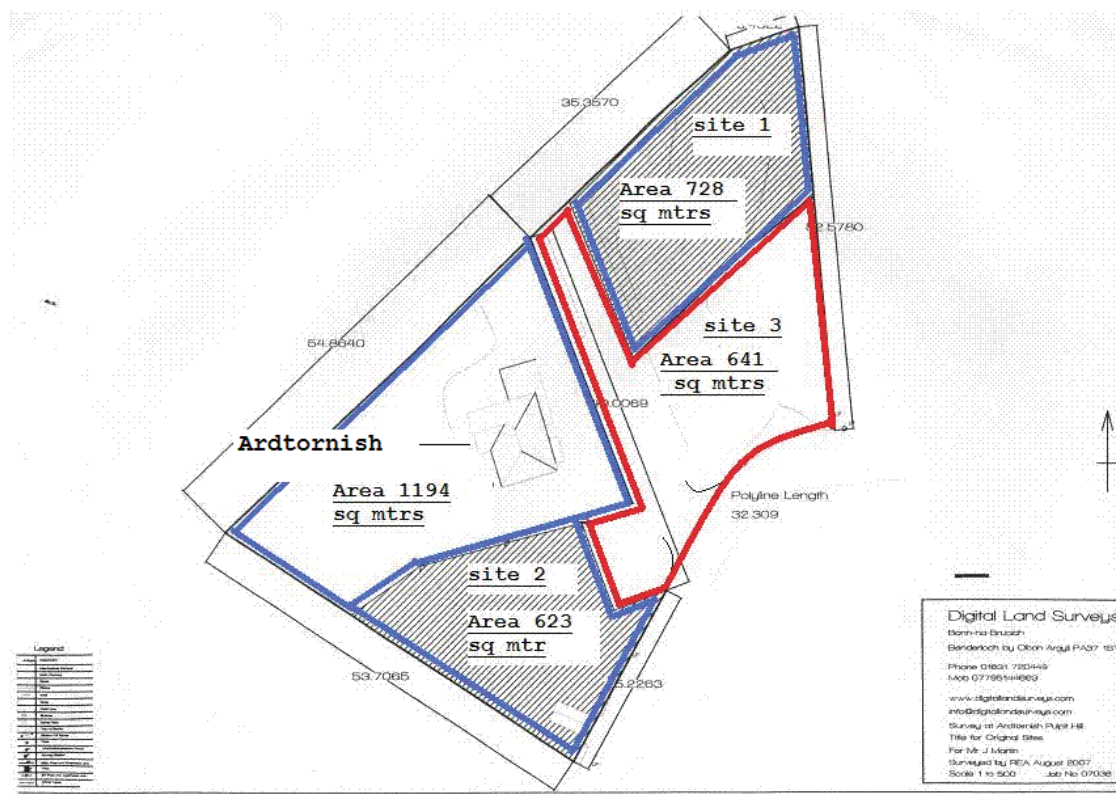
Application for Planning Permission in Principal  
for Site 3, Ardtornish, Pulpit Hill, Oban

Mrs Betty Martin owner of Ardtornish wishes to develop Site 3 to allow her to downsize from Ardtornish her present large and unmanageable family home.

Mrs Martin having lived in the family home for over 40 years would like to remain in the location and the development site identified offers the opportunity to do this.

Site 3 is the last development site of three attached to Ardtornish, Sites 1 and 2 have each gained detailed planning recently through delegated powers for substantial three and four bedroom houses which comply with size and scale requirements.

Site 3 would be similarly developed as Site's 1 and 2 complying with size and scale requirements with no overdevelopment ratios being created given the size and scale of each plot.



Site 3 is similar physically and in planning and development terms to Site 1 as described in [The Delegated Report Check List for Site 1](#);

The site is located within a section of the curtilage of Ardtornish to the north of that dwellinghouse and the escarpment that drops steeply to the public Gallanach Road. This is a long established residential neighbourhood where there is considerable diversity in the scale, design and positioning of existing dwellings.

This area of Oban is clearly within the settlement area as defined in both the adopted Lorn Local Plan and the Modified Finalised Draft Local Plan. Both plans indicate a presumption in favour of development within settlement areas



subject to compliance with the relevant local plan policies. Policy HOU 1 (general housing development) supports applications for dwellinghouses unless there is an unacceptable environmental, servicing or access impact. In this regard Policy LP ENV 1 (development impact on the general environment) assesses applications for planning permission for their impact on both the natural, human and built environment. The current application is in outline only but the submission gives an indication that any proposed house would be contemporary in design ensuring that the massing and scale of the building were appropriate to the site. The wider residential area within which the site is set has a considerable diversity of plot/garden size ratio and in this particular area there is no clearly defined settlement pattern. Buildings are placed on both steeply sloping and relatively level ground. The upper portion of the site will accommodate a small dwelling with parking provision; the incline on the remainder of the site is generally too steep to accommodate development. This site meets the current site area standards and any new dwelling that occupies the plot should not infringe the privacy of nearby properties. Reasonable ground works will be required to accommodate a house on this plot along with the required vehicle manoeuvring space but this practice is evident in existing development situations. It is considered therefore that the current proposal does not infringe the Council's policies as laid out in the emerging local plan.

It is worth noting that the house described was later changed in size and position to a large substantial 3 bedroom house with attached garage and utilised the area described as "too steep to accommodate development" with extensive underbuilding to allow development.

The report continues...

Representations were made on the following grounds:-

1. That the site works will cause instability within the adjacent ground and this could lead to damage to neighbouring properties.

*Comment: This is a civil legal matter between or amongst the parties concerned and it not a material planning consideration.*

2. That the groundworks, which will be necessary in order to properly develop the site, will be highly visible from viewpoints throughout Oban, from Oban Bay, from the public road and from nearby properties.

*Comment: The necessary siteworks will not be unduly prominent in the townscape because the visual impact will be mitigated by the irregular pattern and nature of development around Pulpit Hill.*

3. Any house to be built on the site should reflect the vernacular architecture of the surrounding houses.

*Comment: There is no obvious architectural style local to this part of Pulpit Hill where there are Victorian/Edwardian properties intermingled with more contemporary architecture. The proposal for the detailed design of the dwelling will require to take into account the Council's adopted Sustainable Design Guidance.*

4. The proposed development does not reflect the traditional and neighbouring settlement pattern and built form and should be viewed in conjunction with a proposed development on a nearby site.

*Comment: There is no clearly discernable pattern to the development on this area of Pulpit Hill apart from a loose orientation overlooking Oban Bay. The current proposal "fits-in" with the neighbouring built form.*

5. The proposed development will increase surface water run-off from the site.  
*Comment: The disposal of surface water is a matter more properly controlled under the Building Standards Regulations.*

6. A ground investigation survey should be carried out to show that the proposed development/groundworks will not impact on the surrounding properties, land and existing utilities.

*Comment: The stability and suitability of the ground within the site for development is a matter more properly addressed through the Building Standards Regulations. It is not a material planning consideration.*

7. Terms and conditions as stated in the title deeds would be breached by such a proposal.

*Comment: This is not a material planning consideration.*

8. That the proposed development on this site should not prejudice future development at Ard-Ghillean a property lying close to but not adjacent to the application site.

*Comment: The erection of a dwelling on the application site will in no way prejudice future proposals within the grounds of Ard-Ghillean.*

9. That any new house should be restricted to one storey above current ground level.

*Comment: The height of the building will be appropriately controlled by the imposition of suitable conditions and any new dwelling would require to respect the heights of buildings in the vicinity in accordance with the Council's adopted sustainable design guidance.*

**Recommend that outline planning permission be granted subject to the standard conditions and reasons and the following conditions and reasons.**

The subsequent changed detailed plans(see Site 1.jpeg) were put forward for detailed planning and were approved with conditions through delegated powers.

Extract from Report of Handling for detailed planning Site 1;

**(i) Summary of issues raised**

- An adequate drainage system should be put in place to deal with sewage for the proposed development.

*Comment: The application indicates a standard pumped drainage system connecting into the public sewer. The system incorporate an alarm which sounds if the system fails and is also designed to have a minimum of 24 hours storage. Scottish Water raised no objection to the proposal.*

- Approval needs to be granted for access to the public sewer by the affected landowner as advised by Scottish Water, this has not been submitted.

*Comment: This is a separate legal matter between the applicant, appropriate landowner and Scottish Water.*

- There are historical problems with surface water within this area and therefore an adequate system should be put in place to deal with surface water drainage.

*Comment: This is a matter which will be dealt with in more detail at Building Standards stage. However, a condition is to be imposed requiring full details of a SUDS scheme to be submitted for the proposed development.*

- A flood risk assessment should be considered as part of the application to deal with the surface water drainage.

*Comment: The site is not within an identified flood risk area and therefore this is not considered necessary for this proposal. As detailed above, a condition is to be imposed requiring full details of a SUDS scheme to be submitted for the proposed development.*

- The scale and mass of the proposed dwellinghouse will have an adverse impact on the privacy and amenity of neighbouring properties.

*Comment: Given the orientation of the dwellinghouse within the site, the positioning of windows of habitable rooms and the difference in levels between the site and neighbouring properties, it is not considered that the proposal will impact on the current level of privacy and amenity currently experienced by neighbouring properties.*

- The ratio of house to garden ground is inappropriate and the site will appear overdeveloped.

*Comment:* The dwellinghouse covers approximately 31% of the overall site which is consistent with guidance contained within the adopted Local Plan.

- The design of the dwellinghouse is not sympathetic to the existing built environment.

*Comment: There is no obvious architectural style local to this part of Pulpit Hill where there are period properties intermingled with more contemporary architecture. The dwellinghouse proposed is considered to represent a good example of modern architecture.*

- The house design would appear to require extensive underbuilding works and therefore satisfactory building engineering and construction reports should be provided and a condition imposed to ensure that no subsidence will result from building the dwellinghouse.

*Comment: This is a matter for Building Standards. Any application for Building Warrant would require to incorporate details from a suitably qualified person regarding the engineering and construction operations proposed on site.*

- The visual impact of the house will be detrimental to the skyline of Oban.

*Comment: The proposed dwellinghouse will sit lower in the landscape than the donor house 'Ardtornish' and will not result in 'skyline' development.*

- A condition should be attached requiring a suitable landscaping scheme to be implemented on site to minimise the impact of the development on the surrounding area.

*Comment: A landscaping condition is proposed.*

- The gradients and contours on the drawings are unreadable and give a false impression on the location of neighbouring properties.

*Comment: The drawings submitted with the application are considered acceptable to allow for determination of the application. It should be noted that a site visit is undertaken for every application submitted to give a full appreciation of its context.*

- Issues over the large scale glazing and the impact it will have when lit at night when viewed from around Oban and its possible conflict with existing local features such as Dunollie Castle which is floodlit.

*Comment: The dwellinghouse is proposed within an established residential area in Oban and it is not considered that it will have a significant increase in light pollution within this area and when viewed from elsewhere.*

- The roof mass leads to speculation for future development of the roofspace with further accommodation.

*Comment: Internal alterations within the roofspace do not require planning permission. However the installation of dormer windows do require permission and would require the submission of an application for planning permission which would be dealt with on its own merits. With regards to velux windows, which can be installed without planning permission, it should be noted that a condition is proposed to remove permitted development rights and therefore this is not an issued.*

- Speculation as to the possible use of the music room for commercial musical activities. This would lead to an increase in vehicular/pedestrian movements and noise nuisance to surrounding properties. Any permission should include a condition for effective sound proofing of the music room.

*Comment: The dwellinghouse falls within Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 and can be used for domestic use only. As the music room is part of the dwellinghouse, this use applies. Any use of the premises for any commercial activity would require the submission of an application for change of use.*

- Why did the amended scheme not require the submission of a revised planning application.

*Comment: The amendments to the proposal were all contained within the existing site edged red and were not significant enough to require the submission of a revised proposal.*

- The granting of planning permission for the dwellinghouse should not have any adverse effect on the possibility of obtaining planning permission for the area of ground to the south of the application site.

*Comment: Due to the positioning of the dwellinghouse on the site, it is not considered that the granting of planning permission would sterilise the area of ground to the south. However, any application for planning permission on the adjacent site would be dealt with on its own merits.*

The area to the South described above is Site 3 which with a considerably smaller house proposed rounds off the area and sits well with the wider residential area which has various sized properties with no defined pattern with houses utilising the sloping elevated positions on the hillside.

Site 3 is also similar physically and in planning and development terms to Site 2 as described in The Delegated Report Check List for Site 2;

The site is located within a section of the curtilage of Ardtornish between that dwellinghouse and the public road Crannaig a' Mhinisteir. This is a long established residential neighbourhood where there is considerable diversity in the scale and design of existing dwellings.

This area of Oban is clearly within the settlement area as defined in both the adopted Lorn Local Plan and the Modified Finalised Draft Local Plan. Both plans indicate a presumption in favour of development within settlement areas subject to compliance with the relevant local plan policies. Policy HOU 1 (general housing development) supports applications for dwellinghouses unless there is an unacceptable environmental, servicing or access impact. In this regard Policy LP ENV 1 (development impact on the general environment) assesses applications for planning permission for their impact on both the natural, human and built environment. The current application is in outline only but the submission gives an indication that any proposed house would be contemporary in design ensuring that the massing and scale of the building were appropriate to the site. The wider residential area within which the site is set has a considerable diversity of plot/garden size ratio and in this particular area there is no clearly defined settlement pattern. Buildings are placed on both steeply sloping and relatively level ground. This site meets the

current site area standards and any new dwelling that occupies the plot should not infringe the privacy of nearby properties. Considerable ground works will be required to accommodate a house on this plot along with the required vehicle manoeuvring space but this practice is evident in existing development situations.

It is considered therefore that the current proposal does not infringe the Council's policies as laid out in the emerging local plan.

Representations were made on the following grounds:-

1. That the site works will cause instability within the adjacent ground and this could lead to damage to neighbouring properties.

*Comment: This is a civil legal matter between or amongst the parties concerned and it not a material planning consideration.*

2. That the groundworks, which will be necessary in order to properly develop the site, will be highly visible from viewpoints throughout Oban, from Oban Bay, from the public road and from nearby properties.

*Comment: The necessary siteworks will not be unduly prominent in the townscape because the visual impact will be mitigated by the irregular pattern and nature of development around Pulpit Hill.*

3. Large trees on the site have been felled during the bird breeding season, without permission.

*Comment: The felling of trees at this location is not a material planning consideration.*

4. The area allocated to on site parking provision is inadequate.

*Comment: The Area Roads Manager has raised no objection to the proposal with regard to inadequacy of parking provision. Parking commensurate with the size of the proposed dwelling will require to be provided on site and it is considered that there is sufficient ground under the control of the applicant to provide parking to the required standards.*

5. The proposed development does not reflect the traditional and neighbouring settlement pattern and built form and should be viewed in conjunction with a proposed development on a nearby site.

*Comment: There is no clearly discernable pattern to the development on this area of Pulpit Hill apart from a loose orientation overlooking Oban Bay. The current proposal "fits-in" with the neighbouring built form.*

6. The submitted plans do not show the comparative ground levels with ground levels of adjacent sites and the indicated levels do not indicate if this is Ordnance datum.

*Comment: The juxtaposition of properties is evaluated and examined during the site inspection and levels indicated on plans do not require to be tied to Ordnance Datum.*

7. The vehicular access is unsuitable to serve the proposed development in terms of visibility and layout.

*Comment: The Area Roads Manager has raised no objections to the proposed access in terms of inadequate visibility and layout.*

8. The proposed dwellinghouse exceeds the Council's guidance that detached houses should only occupy 33% of their site, and it is not in context with the setting of existing development on Pulpit Hill.

*Comment: The house plan is indicative only and any subsequent detailed planning application will require to comply with relevant Council planning*



*policies. There are mixed plot ratios in this area of Pulpit Hill and the proposal is not radically different in terms of density from other residential properties in this area.*

9. The proposed development will increase surface water run-off from the site.  
*Comment: The disposal of surface water is a matter more properly controlled under the Building Standards Regulations.*

10. The form and layout of the proposed development does not complement the area, and will not integrate into its surroundings.  
*Comment: The proposed development is considered to be appropriate in this developed area of Pulpit Hill and will not be out-of-keeping in terms of density and siting. The design, scale, exact siting and massing of the proposed new building will be reserved for subsequent approval, through the imposition of appropriate conditions on any consent that might be granted.*

11. Concerns about accuracy of land ownership information.  
*Comment: The applicant's agent has signed the application form and the appropriate land ownership certificates. If there is a dispute over ownership boundaries this is deemed to be a civil legal matter and not a planning issue.*

12. A ground investigation survey should be carried out to show that the proposed development/groundworks will not impact on the surrounding properties, land and existing utilities.  
*Comment: The stability and suitability of the ground within the site for development is a matter more properly addressed through the Building Standards Regulations. It is not a material planning consideration.*

13. Terms and conditions as stated in the title deeds would be breached by such a proposal.  
*Comment: This is not a material planning consideration.*

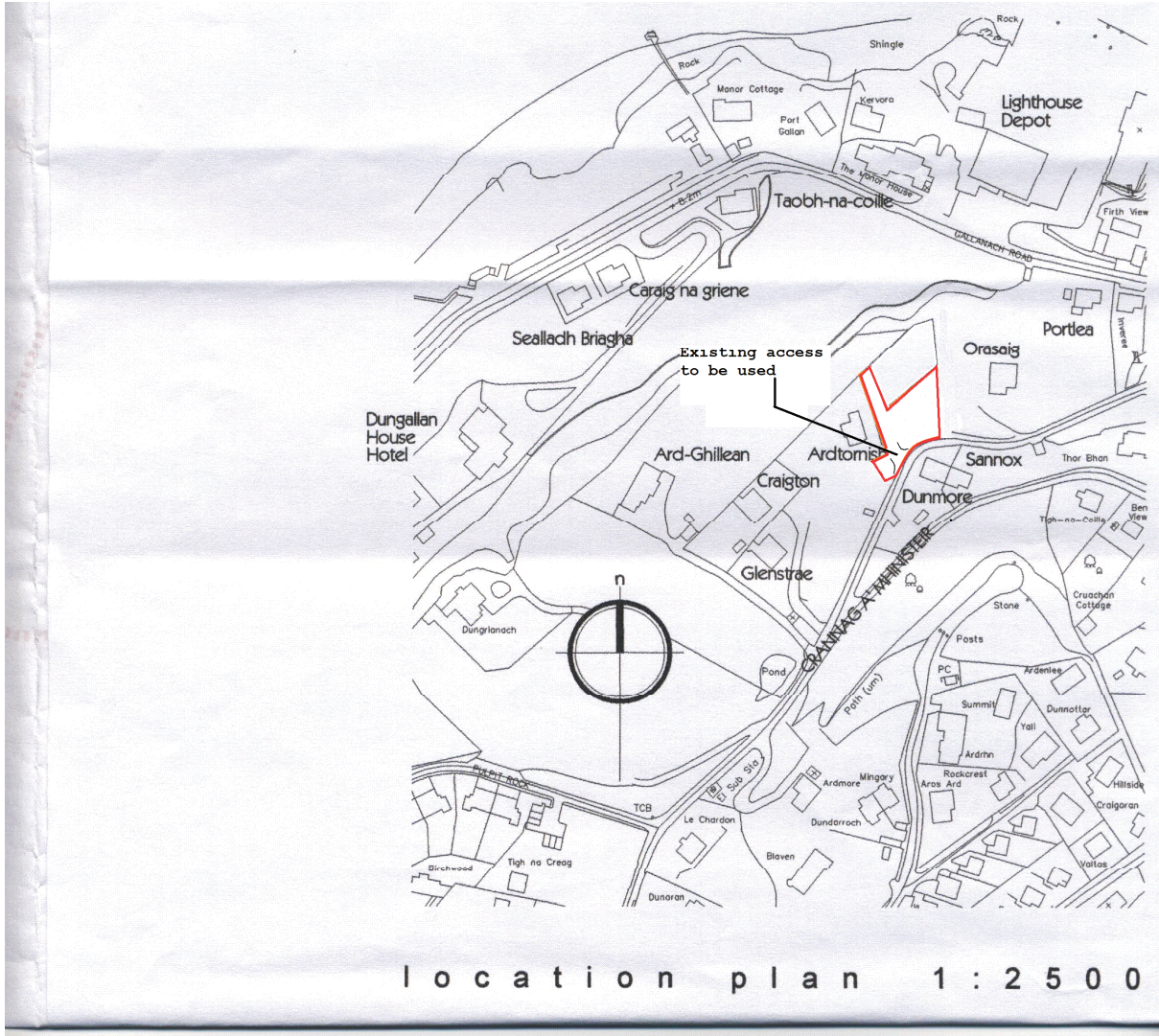
14. That the proposed development on this site should not prejudice future development at Ard-Ghillean a property lying close to but not adjacent to the application site.  
*Comment: The erection of a dwelling on the application site will in no way prejudice future proposals within the grounds of Ard-Ghillean.*

15. That any new house should be restricted to one storey above current ground level.  
*Comment: The height of the building will be appropriately controlled by the imposition of suitable conditions and any new dwelling would require to respect the heights of buildings in the vicinity in accordance with the Council's adopted sustainable design guidance.*

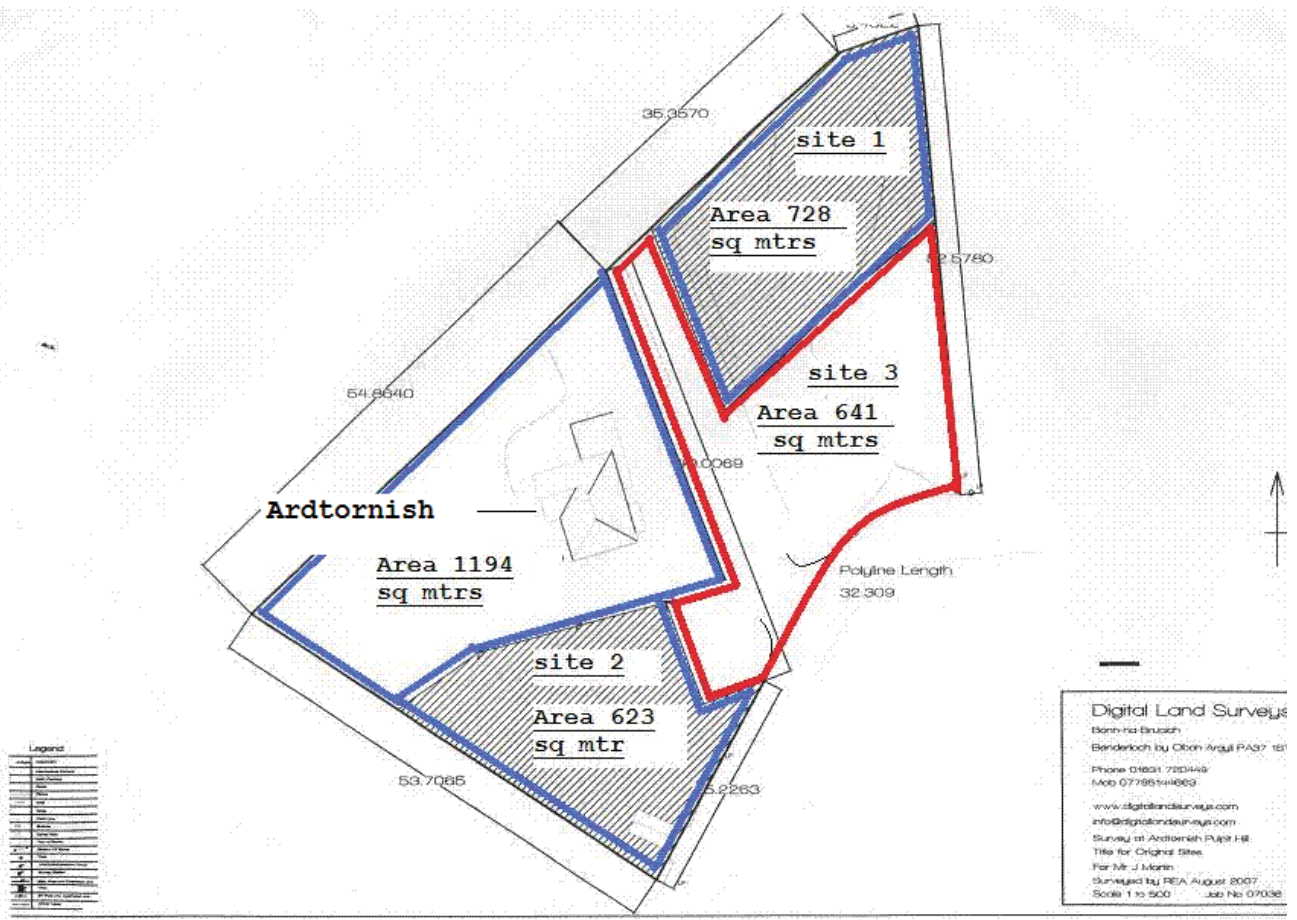
**Recommend that outline planning permission be granted subject to the standard conditions and reasons and the following conditions and reasons.**

The subsequent changed detailed plans (see Site 2.jpeg) were put forward for detailed planning and were approved with conditions through delegated powers.

In conclusion, with Site 3 being consistent with the two neighbouring Sites 1 and 2, also compliant with policy and guidance along with the two neighbouring Sites 1 and 2, I would respectfully suggest your support for this application should be given.







water drainage will be taken to the mains

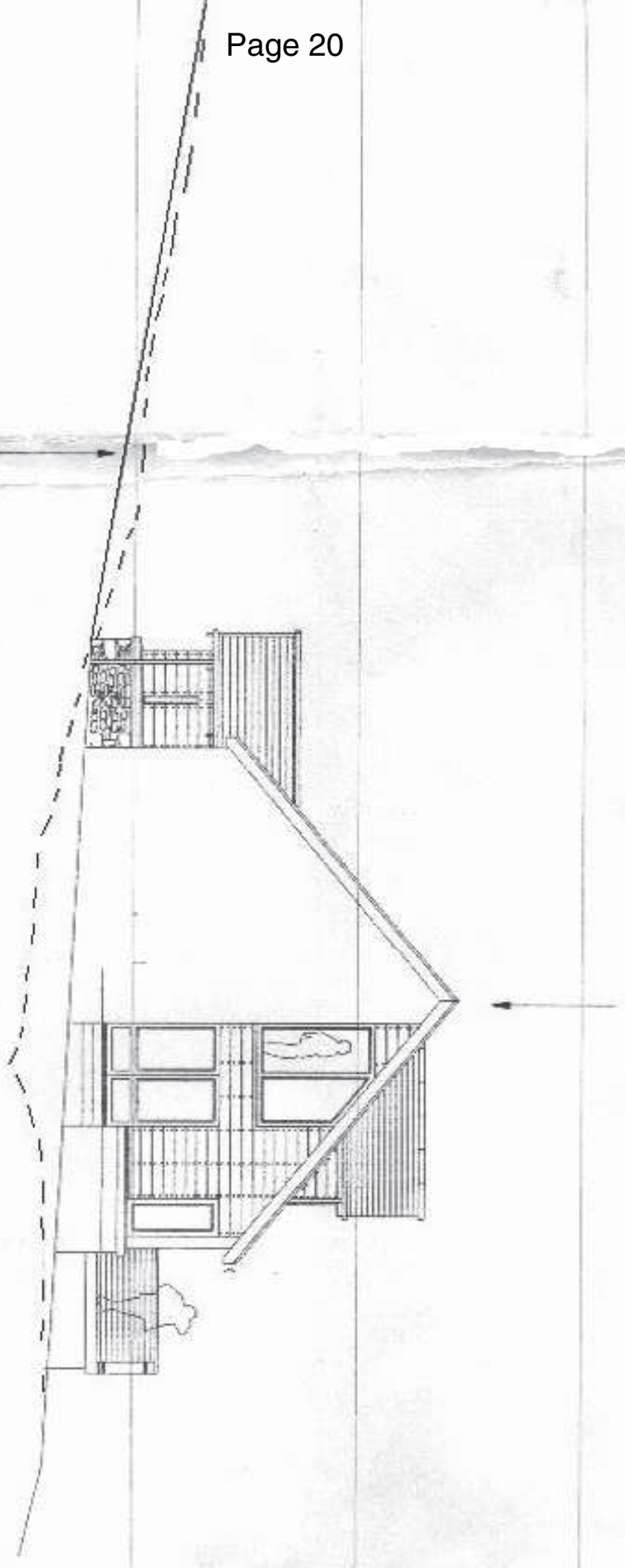
By:  
valuable  
ke.

ection a - a


proposed ground level shown thus

existing ground level shown dotted

house type is indicative only





		<b>Development Services</b>  <b>Delegated Report Checklist</b>
<b>(A) Reference Number</b>	08/01135/OUT      Site for the erection of a dwellinghouse, North East of Ardtornish, Crannag a' Mhinisteir, Oban.	
<b>(B) Consistent With Policy</b>	Yes.	
<b>(C) Consultees</b>	ROADS: [11.07.2008] No objections subject to conditions. Notes. SCOTTISH WATER: [30.06.2008] No objections. Notes.	
<b>(D) Planning History</b>	No recent history.	
<b>(E) Publicity</b>	<b>Advert Type:</b>  <b>Closing Date:</b>  <b>Representations:</b>	Article 9 – Vacant land  17.07.2008  3 representations received:- 1. Lorne B. MacLeod, Orasaig Crannaig a' Mhinister. Oban. PA34 4LU 2. Mr Martin Dunne and Mrs Iseabal Dunne, Glenstrae, Crannaig a' Mhinister, Oban. PA34 4LU 3. Mrs J.M. McDougall, per MacArthur Stewart, Boswell House, Argyll Square, Oban. PA34 4BD (Ard-Ghillean, Crannaig a' Mhinister, Oban, PA34 4LU) Details of the representations are included within the comments section below.
<b>(F) Comments:</b>	<p>The site is located within a section of the curtilage of Ardtornish to the north of that dwellinghouse and the escarpment that drops steeply to the public Gallanach Road. This is a long established residential neighbourhood where there is considerable diversity in the scale, design and positioning of existing dwellings.</p> <p>This area of Oban is clearly within the settlement area as defined in both the adopted Lorn Local Plan and the Modified Finalised Draft Local Plan. Both plans indicate a presumption in favour of development within settlement areas subject to compliance with the relevant local plan policies. Policy HOU 1 (general housing development) supports applications for dwellinghouses unless there is an unacceptable environmental, servicing or access impact. In this regard Policy LP ENV 1 (development impact on the general</p>	

environment) assesses applications for planning permission for their impact on both the natural, human and built environment. The current application is in outline only but the submission gives an indication that any proposed house would be contemporary in design ensuring that the massing and scale of the building were appropriate to the site. The wider residential area within which the site is set has a considerable diversity of plot/garden size ratio and in this particular area there is no clearly defined settlement pattern. Buildings are placed on both steeply sloping and relatively level ground. The upper portion of the site will accommodate a small dwelling with parking provision; the incline on the remainder of the site is generally too steep to accommodate development. This site meets the current site area standards and any new dwelling that occupies the plot should not infringe the privacy of nearby properties. Reasonable ground works will be required to accommodate a house on this plot along with the required vehicle manoeuvring space but this practice is evident in existing development situations.

It is considered therefore that the current proposal does not infringe the Council's policies as laid out in the emerging local plan.

Representations were made on the following grounds:-

1. That the site works will cause instability within the adjacent ground and this could lead to damage to neighbouring properties.

*Comment: This is a civil legal matter between or amongst the parties concerned and it not a material planning consideration.*

2. That the groundworks, which will be necessary in order to properly develop the site, will be highly visible from viewpoints throughout Oban, from Oban Bay, from the public road and from nearby properties.

*Comment: The necessary siteworks will not be unduly prominent in the townscape because the visual impact will be mitigated by the irregular pattern and nature of development around Pulpit Hill.*

3. Any house to be built on the site should reflect the vernacular architecture of the surrounding houses.

*Comment: There is no obvious architectural style local to this part of Pulpit Hill where there are Victorian/Edwardian properties intermingled with more contemporary architecture. The proposal for the detailed design of the dwelling will require to take into account the Council's adopted Sustainable Design Guidance.*

4. The proposed development does not reflect the traditional and neighbouring settlement pattern and built form and should be viewed in conjunction with a proposed development on a nearby site.

*Comment: There is no clearly discernable pattern to the development on this area of Pulpit Hill apart from a loose orientation overlooking Oban Bay. The current proposal "fits-in" with the neighbouring built form.*

5. The proposed development will increase surface water run-off from the site.

*Comment: The disposal of surface water is a matter more properly controlled under the Building Standards Regulations.*

6. A ground investigation survey should be carried out to show that the proposed development/groundworks will not impact on the surrounding properties, land and existing utilities.

*Comment: The stability and suitability of the ground within the site for development is a matter more properly addressed through the Building Standards Regulations. It is not a material planning consideration.*

7. Terms and conditions as stated in the title deeds would be breached by such a proposal.

*Comment: This is not a material planning consideration.*

8. That the proposed development on this site should not prejudice

	<p>future development at Ard-Ghilleán a property lying close to but not adjacent to the application site.  <i>Comment: The erection of a dwelling on the application site will in no way prejudice future proposals within the grounds of Ard-Ghilleán.</i></p> <p>9. That any new house should be restricted to one storey above current ground level.  <i>Comment: The height of the building will be appropriately controlled by the imposition of suitable conditions and any new dwelling would require to respect the heights of buildings in the vicinity in accordance with the Council's adopted sustainable design guidance.</i></p>
<p><b>(G) Recommendation:</b></p>	<p><b>Recommend that outline planning permission be granted subject to the standard conditions and reasons and the following conditions and reasons.</b></p>
<p><b>Signature Caseload Officer:</b> ..... Date: 09.09.2008</p> <p><b>Signature Senior Planning Officer:</b> ..... Date: .....</p>	

**CONDITIONS AND REASONS RELATIVE TO APPLICATION**

**08/01135/OUT**

1. This permission is granted under the provision of Article 4 of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992 on the basis of an outline application for planning permission and that the further approval of Argyll and Bute Council or of the Scottish Executive on appeal shall be required with respect to the undermentioned reserved matters before any development is commenced.

- a. The siting, design and external appearance of the proposed development.
- b. The landscaping of the site of the proposed development.
- c. Details of the access arrangements.
- d. Details of the proposed water supply and drainage arrangements.

*Reason: To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997*

2. In the case of the reserved matters specified in (1) above, an application for approval of the reserved matters in terms of Article 6 of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992 must be made to Argyll and Bute Council no later than the expiration of 3 years beginning with the date of this permission.

*Reason: To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997.*

3. That the development to which this permission relates must be begun not later than the expiration of 5 years from the date of this permission or within the expiration of 2 years from the final approval of all reserved matters, whichever is the later.

*Reason: To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997*

4. Any details pursuant to condition (1) above shall incorporate the following elements:-
- i) finished in white coloured wet dash render.
  - ii) with roof coverings of natural slate or good quality slate substitute.
  - iii) shall be single or one and a half storey in height..
  - iv) incorporate windows with a strong vertical emphasis.
  - v) a roof pitch of not less than 40 degrees and not greater than 45 degrees.
  - vi) which is predominantly rectangular in shape with traditional gable ends.

*Reason: In the interests of visual amenity and in order to integrate the proposed dwelling house with its surroundings.*

5. Prior to work starting on site the vehicular access with the public road shall be formed in accordance with the Council's Highway Drawing No. NA/32/05/2a with the bellmouth area surfaced in tar macadam or similar hardbound material for a distance of 5 metres back from the nearside edge of the road carriageway.

*Reason: In the interests of road safety.*

6. The proposed access shall be formed in accordance with the Council's Highway Drawing No. NA/32/05/2a and shall have visibility splays of 35 X 2 metres in each direction formed from the centre line of the proposed access. Prior to work starting on site these visibility splays shall be cleared of all obstructions over one metre in height above the level of the adjoining carriageway and thereafter shall be maintained clear of all obstructions over one metre in height to the satisfaction of the Planning Authority.

*Reason: In the interests of road safety.*



7. The access to the development site shall be improved to ensure that no surface water is discharged to the public highway to the satisfaction of the Planning Authority.

*Reason: In the interests of road safety.*

8. Prior to work starting on site full details of a turning area and parking provision for cars within the curtilage of each dwellinghouse drawn up in consultation with the Area Roads Manager shall be submitted to and approved in writing by the Planning Authority. The parking and turning area shall be provided prior to the occupation of each dwellinghouses and shall be commensurate with the size of the dwellinghouse.

*Reason: In the interests of road safety.*

**NOTE TO APPLICANT RELATIVE TO APPLICATION 08/01135/OUT**

**Scottish Water** has advised as follows:

You are advised to contact them direct to discuss this matter

Scottish Water  
Developer Services  
Clyde House  
419 Balmore Road  
Glasgow  
G22 6NU  
Tel: 0845 601 8855

The Council's **Area Roads Manager** has advised as follows:

*Road openings permit required.*

You are advised to contact them direct to discuss this matter:

Area Roads Engineer  
Operational Services  
Argyll and Bute Council  
Kilbowie House  
Gallanach Road  
Oban Tel: 01631 562125

**NB Reserved Matters or Detailed application submission:**

Detailed cross sections of the application site shall be submitted with levels clearly shown and related to existing levels on surrounding land/road.



**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**

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**Reference No:** 09/00938/DET

**Planning Hierarchy:** Local Development

**Applicant:** Colin MacNiven

**Proposal:** Erection of Dwellinghouse

**Site Address:** Ardtornish, Crannaig A' Mhinisteir, Oban

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**DECISION ROUTE**

**(i) Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997 (as amended)**

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**(A) THE APPLICATION**

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

- Erection of dwellinghouse

**(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 planning permission be granted subject to the conditions and reasons appended to this report.

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**(C) HISTORY:**

08/01135/OUT  
Site for erection of dwellinghouse – approved 14/10/08

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**(D) CONSULTATIONS:**

Area Roads Manager

E-mail dated 13/11/09 – advise no objection subject to the conditions and reasons imposed on the outline permission.

Scottish Water

Letter dated 28/07/09 advises no objection to the proposal but provides advisory comments for the applicant.

Scottish Civic Trust

Letter dated 29/09/09 – objects to the application.

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**(E) PUBLICITY:**

The proposal was advertised in terms of Article 9 Vacant Land procedures, closing date 26/07/09.

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**(F) REPRESENTATIONS:**

Three individual representations have been received regarding the proposed development.

Mr Lorne MacLeod, Orasaig, Crannaig a Mhinisteir, Oban, PA34 4LU  
(letter 17/07/09, e-mail 22/08/09, letter, 14/09/09, letter 19/09/09, e-mail 22/09/09)

Jane L. C. Terris, Portlea, Gallanach Road, Oban, PA34 4LS  
(e-mail 08/07/09, letter 30/07/09, e-mail 11/09/09, e-mail 15/09/09, letter 21/09/09)

Elizabeth Martin, Ardtornish, Pulpit Hill, Oban, PA34 4LU  
(e-mail 25/08/09, e-mail 01/09/09, letter 14/09/09)

**(i) Summary of issues raised**

- An adequate drainage system should be put in place to deal with sewage for the proposed development.

*Comment: The application indicates a standard pumped drainage system connecting into the public sewer. The system incorporate an alarm which sounds if the system fails and is also designed to have a minimum of 24 hours storage. Scottish Water raised no objection to the proposal.*

- Approval needs to be granted for access to the public sewer by the affected landowner as advised by Scottish Water, this has not been submitted.

*Comment: This is a separate legal matter between the applicant, appropriate landowner and Scottish Water.*

- There are historical problems with surface water within this area and therefore an adequate system should be put in place to deal with surface water drainage.

*Comment: This is a matter which will be dealt with in more detail at Building Standards stage. However, a condition is to be imposed requiring full details of a SUDS scheme to be submitted for the proposed development.*

- A flood risk assessment should be considered as part of the application to deal with the surface water drainage.

*Comment: The site is not within an identified flood risk area and therefore this is not considered necessary for this proposal. As detailed above, a condition is to be imposed requiring full details of a SUDS scheme to be submitted for the proposed development.*

- The scale and mass of the proposed dwellinghouse will have an adverse impact on the privacy and amenity of neighbouring properties.

*Comment: Given the orientation of the dwellinghouse within the site, the positioning of windows of habitable rooms and the difference in levels between the site and neighbouring properties, it is not considered that the proposal will impact on the current level of privacy and amenity currently experienced by neighbouring properties.*

- The ratio of house to garden ground is inappropriate and the site will appear overdeveloped.

*Comment:* The dwellinghouse covers approximately 31% of the overall site which is consistent with guidance contained within the adopted Local Plan.

- The design of the dwellinghouse is not sympathetic to the existing built environment.

*Comment: There is no obvious architectural style local to this part of Pulpit Hill where there are period properties intermingled with more contemporary architecture. The dwellinghouse proposed is considered to represent a good example of modern architecture.*

- The house design would appear to require extensive underbuilding works and therefore satisfactory building engineering and construction reports should be provided and a condition imposed to ensure that no subsidence will result from building the dwellinghouse.

*Comment: This is a matter for Building Standards. Any application for Building Warrant would require to incorporate details from a suitably qualified person regarding the engineering and construction operations proposed on site.*

- The visual impact of the house will be detrimental to the skyline of Oban.

*Comment: The proposed dwellinghouse will sit lower in the landscape than the donor house 'Ardtornish' and will not result in 'skyline' development.*

- A condition should be attached requiring a suitable landscaping scheme to be implemented on site to minimise the impact of the development on the surrounding area.

*Comment: A landscaping condition is proposed.*

- The gradients and contours on the drawings are unreadable and give a false impression on the location of neighbouring properties.

*Comment: The drawings submitted with the application are considered acceptable to allow for determination of the application. It should be noted that a site visit is undertaken for every application submitted to give a full appreciation of its context.*

- Issues over the large scale glazing and the impact it will have when lit at night when viewed from around Oban and its possible conflict with existing local features such as Dunollie Castle which is floodlit.

*Comment: The dwellinghouse is proposed within an established residential area in Oban and it is not considered that it will have a significant increase in light pollution within this area and when viewed from elsewhere.*

- The roof mass leads to speculation for future development of the roofspace with further accommodation.

*Comment: Internal alterations within the roofspace do not require planning permission. However the installation of dormer windows do require permission and would require the submission of an application for planning permission which would be dealt with on its own merits. With regards to velux windows, which can be installed without planning permission, it should be noted that a condition is proposed to remove permitted development rights and therefore this is not an issued.*

- Speculation as to the possible use of the music room for commercial musical activities. This would lead to an increase in vehicular/pedestrian movements and noise nuisance to surrounding properties. Any permission should include a condition for effective sound proofing of the music room.

*Comment: The dwellinghouse falls within Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 and can be used for domestic use only. As the music room is part of the dwellinghouse, this use applies. Any use of the premises for any commercial activity would require the submission of an application for change of use.*

- Why did the amended scheme not require the submission of a revised planning application.

*Comment: The amendments to the proposal were all contained within the existing site edged red and were not significant enough to require the submission of a revised proposal.*

- The granting of planning permission for the dwellinghouse should not have any adverse effect on the possibility of obtaining planning permission for the area of ground to the south of the application site.

*Comment: Due to the positioning of the dwellinghouse on the site, it is not considered that the granting of planning permission would sterilise the area of ground to the south. However, any application for planning permission on the adjacent site would be dealt with on its own merits.*

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**(G) SUPPORTING INFORMATION**

**Has the application been the subject of:**

(i)	<b>Environmental Statement</b>	<b>No</b>
(ii)	<b>An appropriate assessment under the Conservation</b>	<b>No</b>
(iii)	<b>A design or design/access statement</b>	<b>No</b>
(iv)	<b>A report on the impact of the proposed development</b>	<b>No</b>
<hr/> <b>(H) PLANNING OBLIGATIONS</b>		
(i)	<b>Is a Section 75 agreement required</b>	<b>No</b>
<hr/> <b>(I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32</b>		
<hr/> <b>(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</b>		
(i)	<b>List of all Development Plan Policy considerations taken into account in assessment of the application.</b>	
	<u>Argyll and Bute Structure Plan 2002</u>	
	<i>STRAT DC 1 Settlement Zone</i>	
	Supports the general principle of development within the Settlement Zones on appropriate infill, rounding off and redevelopment sites.	
	<u>Argyll and Bute Local Plan 2009</u>	
	<i>LP ENV 1 Development Impact on the General Environment</i>	
	Requires that all developments are assessed for their impact on both the natural, human and built environment.	
	<i>LP ENV 19 Development Setting, Layout and Design</i>	
	Requires that the Council will require developers and their agents to execute a high standard of design which shall accord with the design principles set out in 'Appendix A' of the Argyll and Bute Local Plan 2009.	
	<i>LP HOU 1 General Housing Development</i>	

Establishes a presumption in favour of development unless there is an unacceptable environmental, servicing or access impact.

*LP TRAN 4*

*New & Existing Public Roads & Private Access Regimes*

Sets out specific criteria in respect of access requirements to developments.

- (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.**

N/A

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

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

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

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

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

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

Background

Outline planning permission reference 08/01135/OUT was granted on 14/10/08 for erection of a dwellinghouse within the garden ground of Ardtornish, Crannaig A' Mhinisteir, Oban.

Application

This current application represents the details and proposes a single storey dwellinghouse incorporating a basement area. The dwellinghouse is a good example of high quality contemporary architecture and incorporates finishes such as smooth render, natural stone, timber cladding and natural slate.

The dwellinghouse is an 'L' shaped structure which is orientated with its main elevation facing northeast towards Oban Bay. The site falls away steeply to the northeast towards Gallanach Road and it is considered that this drop in level will ensure that there are no

significant privacy or amenity issues with the neighbouring properties of Orasaig and Portlea.

The southeast elevation which faces towards the garden ground of Ardtornish does not have any windows from public rooms which would cause any adverse privacy or amenity issues.

The northwest elevation faces onto the very bottom area of the garden ground of Ard Ghillean and this elevation has been amended to remove the rear bedroom window, replace the French doors to the study with a window and reduce the size of the decking in order to prevent any adverse privacy or amenity issues.

The remaining rear elevation (southwest) contains one window to a bedroom and 3 windows to the garage, all of which look onto the access road and therefore raise no privacy or amenity issues.

Representations were received from three individuals in respect of the application. These points are summarised and fully addressed in Section F above.

In addition to the amendments mentioned above, the applicant's agent revised the site plan to show the actual external walls as the buildings footprint as opposed to the roof plan which shows that the dwellinghouse does not occupy as much of the site as was initially thought.

It is considered that the proposed dwellinghouse is of a suitable scale and form and incorporates materials which are considered acceptable within this location and therefore complies with the terms of Policy LP ENV 19 and Appendix A.

### Roads and Parking

There is currently a vehicular access which serves the donor house and it is proposed to use this existing access to serve the new dwellinghouse. The Area Roads Manager has raised no objections to this.

In this regard, it is considered that the proposal complies with Policy LP TRAN 4 which seeks to ensure that developments are served by an appropriate means of vehicular access.

### Servicing and Infrastructure

With regards to drainage and water supply for the proposed development, the application proposes connection to the public systems to which Scottish Water has raised no objections but does provide advisory comments for the applicant. Due to the level of the proposed house it is most probable that a pumped system will be utilised for the development.

In this regard, it is considered that the proposal complies with the terms of Policy LP ENV 1 which seeks to ensure the availability of suitable infrastructure to serve proposed developments.

### Summary

To summarise, the principle of development has been established on this site by the granting of outline planning permission 08/01135/OUT.

The contemporary design and finishes of the dwellinghouse detailed in this application are considered acceptable within this location and that the positioning and orientation of

the dwellinghouse within the site ensures that there are no significant adverse privacy or amenity issues with neighbouring properties.

Furthermore there are no infrastructural constraints which would preclude the development of this site.

In light of the above I have no objection to planning permission being granted subject to the conditions appended to this report.

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

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**(R) Reasons why Planning Permission should be granted**

1. The proposed development is in keeping with the established character of the area and is of a suitable scale, form and design which will not detract from this character consistent with the terms of Policy ENV 1 which seeks to protect, restore or where possible enhance the established character and local distinctiveness of the local landscape in terms of location and scale.
2. The proposed development is compatible with the surrounding area and is of a design which is considered compatible with existing development and therefore accords with the provisions of Policy ENV 19 which seeks to ensure a high standard of design.
3. There are no infrastructural constraints which would preclude development of this site and therefore the proposal is consistent with Policy ENV 1 which seeks to ensure availability of suitable infrastructure and an appropriate means of access.
4. There will be no adverse environmental, servicing or access impact resulting from the proposed development and therefore it is consistent with Policy LP HOU 1 which gives a general presumption in favour of housing developments provided there is no unacceptable impact relating to the aforementioned.
5. The proposal conforms to the relevant development plan policies and that there are no other material considerations, including issues raised by third parties, which would warrant anything other than the application being determined in accordance with the provisions of the development plan.

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

N/A

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

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**Author of Report: Fiona Scott**

**Date: 30/10/09**

**Reviewing Officer: Howard Young**

**Date: 30/10/09**

**Angus Gilmour  
Head of Planning**

**CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 09/00938/DET**

1. That the development to which this permission relates must be begun within three years from the date of this permission.

*Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended).*

2. Prior to work starting on site the vehicular access with the public road shall be formed in accordance with Operational Services Drawing No. SD 08/002 with the bellmouth area surfaced in tar macadam or similar hardbound material for a distance of 5 metres back from the nearside edge of the road carriageway.

*Reason: In the interests of road safety.*

3. The proposed on-site vehicular parking and turning areas shall be formed in accordance with the approved plans and brought into use prior to the first occupation of the dwellinghouse hereby approved.

*Reason: To enable vehicles to park clear of the access road in the interests of road safety by maintaining unimpeded vehicular access over that road and to accord with Policy TRAN 6 of the adopted Argyll and Bute Local Plan.*

4. The proposed access shall be formed in accordance with Operational Services Drawing No. SD 08/002 and shall have visibility splays of 35 X 2 metres in each direction formed from the centre line of the proposed access. Prior to work starting on site these visibility splays shall be cleared of all obstructions over one metre in height above the level of the adjoining carriageway and thereafter shall be maintained clear of all obstructions over one metre in height to the satisfaction of the Planning Authority.

*Reason: In the interests of road safety.*

5. Prior to work starting on site, full details of all external finishing materials shall be submitted to and approved in writing by the Planning Authority. The development shall thereafter be constructed in accordance with the approved details unless otherwise agreed in writing by the Planning Authority.

*Reason: In the interests of visual amenity, in order to ensure that the development integrates with its surroundings and maintains the landscape character of the area.*

6. Prior to work starting on site, details of the scheme of hard and soft landscaping works shall be submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:

- i) location and design, including materials, of walls, fences and gates
- ii) soft and hard landscaping works, including the location, type and size of each individual tree and/or shrub
- iii) programme for completion and subsequent on-going maintenance.

All the hard and soft landscaping works shall be carried out in accordance with the scheme approved in writing by the Planning Authority. All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting and seeding seasons following the commencement of the development unless otherwise agreed in writing with the Planning Authority.

Any trees or plants which within a period of ten years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species, unless otherwise agreed in writing with the Planning Authority

*Reason: To ensure the implementation of a satisfactory scheme of landscaping which will in due course improve the environmental quality of the development and allow the buildings to integrate with the landscape.*

7. Prior to work starting on site, full details, in plan form, of the land drainage design for the site shall be submitted to and approved in writing by the Planning Authority. Such details shall show a drainage system designed in accordance with the Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland : March 2000 and Planning Advice Note 61 : Planning and Sustainable Urban Drainage Systems.

*Reason: In order to safeguard the development from the possibility of flooding.*

8. Notwithstanding the provisions of Article 3, Part 1, Classes 1, 3 and 4 of Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) (or any Order re-enacting or revoking that Order with or without revision), no extensions to the dwellinghouse, outbuildings, swimming or other pools, or hardstandings shall be built on the site which is the subject of this application. Construction of extensions to the dwellinghouse, outbuildings, swimming or other pools, or hardstandings cannot be carried out without planning permission being granted on an application made to the planning authority.

*Reason: In the interests of visual amenity, to protect the visual qualities of the area and the setting of the proposed dwellinghouse from unsympathetic siting and design of developments normally carried out without planning permission, these normally being permitted under Article 3 of the Town and Country (General Permitted Development) (Scotland) Order 1992.*

9. The development shall be implemented in accordance with the details specified on the application form dated 25/06/09 and the approved drawing reference numbers:

Drawing Number 0867 L(--)-04

unless the prior written approval of the planning authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997 (as amended).

*Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.*

**NOTE TO APPLICANT**

- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 (as amended) it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.
- The Area Roads Manager has advised that a Roads Opening Permit (S56) is required for the proposed development, please contact him direct on 01631 562125 to discuss the matter further.
- Please note the advice contained within the attached letter from Scottish Water. Please contact them direct to discuss any of the issues raised.

**APPENDIX TO DECISION APPROVAL NOTICE**

Appendix relative to application 09/00938/DET

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- (A)** Has the application required an obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended).

**No**

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- (B)** Has the application been the subject of any non-material amendments in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing.

**Yes**

Site plan amended to show the actual external walls of the dwellinghouse as the footprint rather than the roof plan.

Window of rear bedroom in northwest elevation removed.

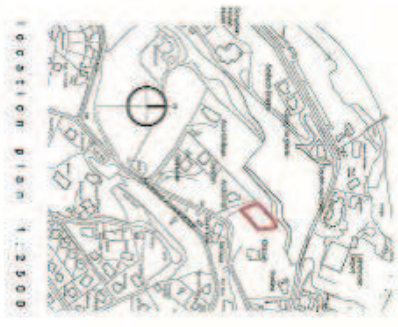
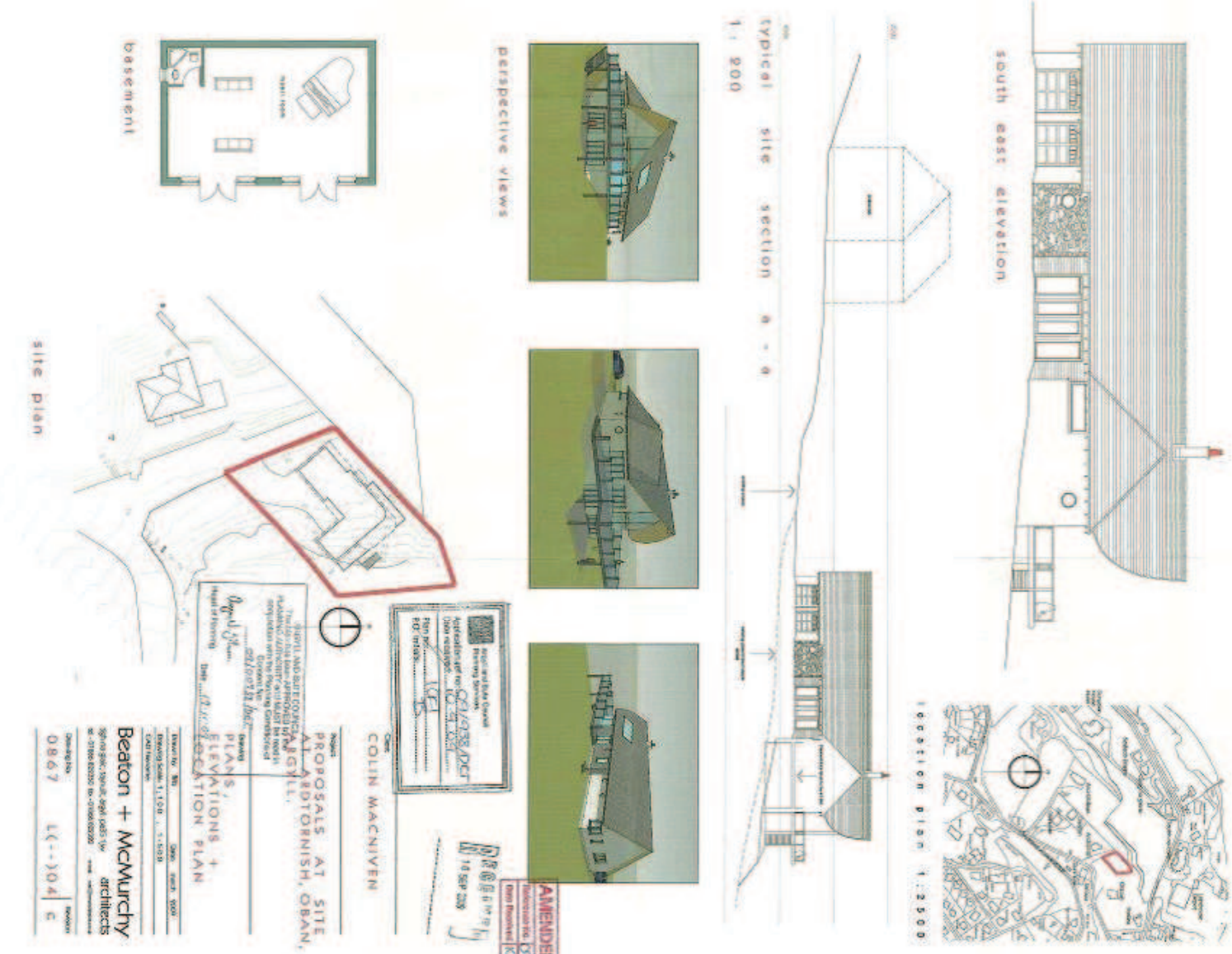
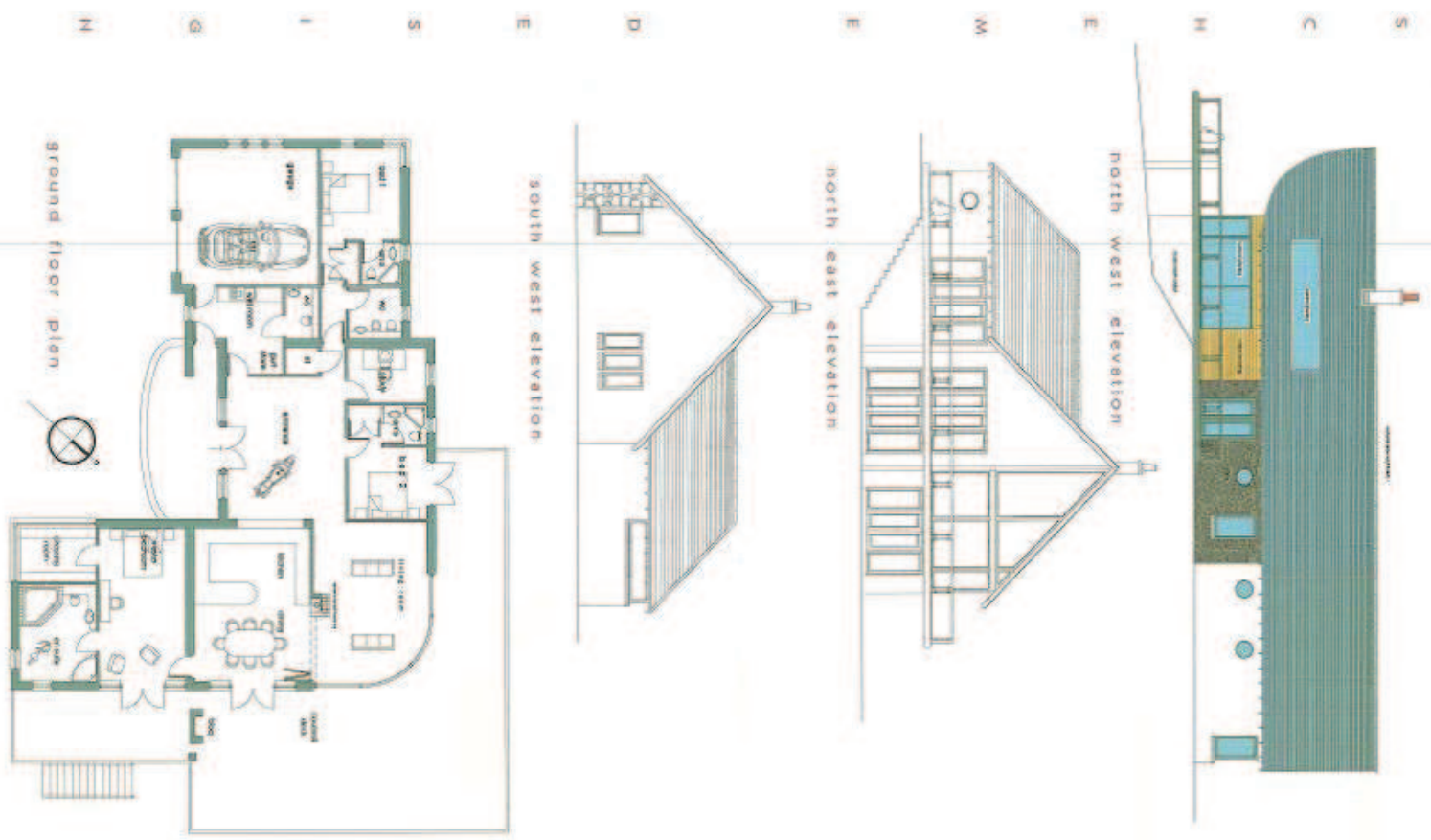
French doors of study in northwest elevation replaced with a window.

Decking on northwest elevation reduced in size.

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- (C)** The reason why planning permission has been approved.

1. The proposed development is in keeping with the established character of the area and is of a suitable scale, form and design which will not detract from this character consistent with the terms of Policy ENV 1 which seeks to protect, restore or where possible enhance the established character and local distinctiveness of the local landscape in terms of location and scale.
2. The proposed development is compatible with the surrounding area and is of a design which is considered compatible with existing development and therefore accords with the provisions of Policy ENV 19 which seeks to ensure a high standard of design.
3. There are no infrastructural constraints which would preclude development of this site and therefore the proposal is consistent with Policy ENV 1 which seeks to ensure availability of suitable infrastructure and an appropriate means of access.
4. There will be no adverse environmental, servicing or access impact resulting from the proposed development and therefore it is consistent with Policy LP HOU 1 which gives a general presumption in favour of housing developments provided there is no unacceptable impact relating to the aforementioned.
5. The proposal conforms to the relevant development plan policies and that there are no other material considerations, including issues raised by third parties, which would warrant anything other than the application being determined in accordance with the provisions of the development plan.



Architect and B.A. Council  
 Registered Architect  
 Registration No. 123456789  
 Designation: ARCHITECT  
 Date of registration: 1998  
 Firm name: COLIN MACNIVEN  
 Firm address: 123 Main Street, Glasgow, Scotland

**AMENDED PLAN**  
 Prepared for: COLIN MACNIVEN  
 Date: 10/10/2004

Notes:  
 1. PROPOSALS AT SITE AT AROTHORNISH, OBAN.  
 2. PLANS, ELEVATIONS + SECTION PLAN  
 3. PREPARED BY COLIN MACNIVEN  
 4. DATE: 10/10/2004

Beaton + McMurchy  
 architects  
 0867 441045  
 10/10/2004



ISSUE EARLIEST: Upon Member Clearance

ISSUE LATEST: .....



## Development Services

### Delegated Report Checklist

<b>(A) Reference Number</b>	08/01128/OUT      Site for the erection of a dwellinghouse, South East of Ardtornish, Crannag a' Mhinisteir, Oban.	
<b>(B) Consistent With Policy</b>	Yes.	
<b>(C) Consultees</b>	ROADS: [11.07.2008] No objections subject to conditions. Notes. SCOTTISH WATER: [30.06.2008] No objections. Notes.	
<b>(D) Planning History</b>	No recent history.	
<b>(E) Publicity</b>	<b>Advert Type:</b>  <b>Closing Date:</b>  <b>Representations:</b>	Article 9 – Vacant land  17.07.2008  3 representations received:- 1. Mrs M.H. Preston, Craighton, Crannaig a' Mhinister. Oban. PA34 4LU 2. Mr martin Dunne and Mrs Iseabal Dunne, Glenstrae, Crannaig a' Mhinister, Oban. PA34 4LU 3. Mrs J.M. McDougall, per MacArthur Stewart, Boswell House, Argyll Square, Oban. PA34 4BD (Ard-Ghillean, Crannaig a' Mhinister, Oban, PA34 4LU) Details of the representations are included within the comments section below.
<b>(F) Comments:</b>	<p>The site is located within a section of the curtilage of Ardtornish between that dwellinghouse and the public road Crannaig a' Mhinisteir. This is a long established residential neighbourhood where there is considerable diversity in the scale and design of existing dwellings.</p> <p>This area of Oban is clearly within the settlement area as defined in both the adopted Lorn Local Plan and the Modified Finalised Draft Local Plan. Both plans indicate a presumption in favour of development within settlement areas subject to compliance with the relevant local plan policies. Policy HOU 1 (general housing development) supports applications for dwellinghouses unless there is an unacceptable environmental, servicing or access impact. In this regard Policy LP ENV 1 (development impact on the general</p>	

environment) assesses applications for planning permission for their impact on both the natural, human and built environment. The current application is in outline only but the submission gives an indication that any proposed house would be contemporary in design ensuring that the massing and scale of the building were appropriate to the site. The wider residential area within which the site is set has a considerable diversity of plot/garden size ratio and in this particular area there is no clearly defined settlement pattern. Buildings are placed on both steeply sloping and relatively level ground. This site meets the current site area standards and any new dwelling that occupies the plot should not infringe the privacy of nearby properties. Considerable ground works will be required to accommodate a house on this plot along with the required vehicle manoeuvring space but this practice is evident in existing development situations.

It is considered therefore that the current proposal does not infringe the Council's policies as laid out in the emerging local plan.

Representations were made on the following grounds:-

1. That the site works will cause instability within the adjacent ground and this could lead to damage to neighbouring properties.

*Comment: This is a civil legal matter between or amongst the parties concerned and it not a material planning consideration.*

2. That the groundworks, which will be necessary in order to properly develop the site, will be highly visible from viewpoints throughout Oban, from Oban Bay, from the public road and from nearby properties.

*Comment: The necessary siteworks will not be unduly prominent in the townscape because the visual impact will be mitigated by the irregular pattern and nature of development around Pulpit Hill.*

3. Large trees on the site have been felled during the bird breeding season, without permission.

*Comment: The felling of trees at this location is not a material planning consideration.*

4. The area allocated to on site parking provision is inadequate.

*Comment: The Area Roads Manager has raised no objection to the proposal with regard to inadequacy of parking provision. Parking commensurate with the size of the proposed dwelling will require to be provided on site and it is considered that there is sufficient ground under the control of the applicant to provide parking to the required standards.*

5. The proposed development does not reflect the traditional and neighbouring settlement pattern and built form and should be viewed in conjunction with a proposed development on a nearby site.

*Comment: There is no clearly discernable pattern to the development on this area of Pulpit Hill apart from a loose orientation overlooking Oban Bay. The current proposal "fits-in" with the neighbouring built form.*

6. The submitted plans do not show the comparative ground levels with ground levels of adjacent sites and the indicated levels do not indicate if this is Ordnance datum.

*Comment: The juxtaposition of properties is evaluated and examined during the site inspection and levels indicated on plans do not require to be tied to Ordnance Datum.*

7. The vehicular access is unsuitable to serve the proposed development in terms of visibility and layout.

*Comment: The Area Roads Manager has raised no objections to the proposed access in terms of inadequate visibility and layout.*

8. The proposed dwellinghouse exceeds the Council's guidance that detached houses should only occupy 33% of their site, and it is not in context with the setting of existing development on Pulpit Hill.

	<p><i>Comment: The house plan is indicative only and any subsequent detailed planning application will require to comply with relevant Council planning policies. There are mixed plot ratios in this area of Pulpit Hill and the proposal is not radically different in terms of density from other residential properties in this area.</i></p> <p>9. The proposed development will increase surface water run-off from the site.  <i>Comment: The disposal of surface water is a matter more properly controlled under the Building Standards Regulations.</i></p> <p>10. The form and layout of the proposed development does not complement the area, and will not integrate into its surroundings.  <i>Comment: The proposed development is considered to be appropriate in this developed area of Pulpit Hill and will not be out-of-keeping in terms of density and siting. The design, scale, exact siting and massing of the proposed new building will be reserved for subsequent approval, through the imposition of appropriate conditions on any consent that might be granted.</i></p> <p>11. Concerns about accuracy of land ownership information.  <i>Comment: The applicant's agent has signed the application form and the appropriate land ownership certificates. If there is a dispute over ownership boundaries this is deemed to be a civil legal matter and not a planning issue.</i></p> <p>12. A ground investigation survey should be carried out to show that the proposed development/groundworks will not impact on the surrounding properties, land and existing utilities.  <i>Comment: The stability and suitability of the ground within the site for development is a matter more properly addressed through the Building Standards Regulations. It is not a material planning consideration.</i></p> <p>13. Terms and conditions as stated in the title deeds would be breached by such a proposal.  <i>Comment: This is not a material planning consideration.</i></p> <p>14. That the proposed development on this site should not prejudice future development at Ard-Ghillean a property lying close to but not adjacent to the application site.  <i>Comment: The erection of a dwelling on the application site will in no way prejudice future proposals within the grounds of Ard-Ghillean.</i></p> <p>15. That any new house should be restricted to one storey above current ground level.  <i>Comment: The height of the building will be appropriately controlled by the imposition of suitable conditions and any new dwelling would require to respect the heights of buildings in the vicinity in accordance with the Council's adopted sustainable design guidance.</i></p>
<p><b>(G) Recommendation:</b></p>	<p><b>Recommend that outline planning permission be granted subject to the standard conditions and reasons and the following conditions and reasons.</b></p>
<p><b>Signature Caseload Officer:</b> ..... Date: 09.09.2008</p> <p><b>Signature Senior Planning Officer:</b> ..... Date: .....</p>	

**CONDITIONS AND REASONS RELATIVE TO APPLICATION**

**08/01128/OUT**

1. This permission is granted under the provision of Article 4 of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992 on the basis of an outline application for planning permission and that the further approval of Argyll and Bute Council or of the Scottish Executive on appeal shall be required with respect to the undermentioned reserved matters before any development is commenced.

- a. The siting, design and external appearance of the proposed development.
- b. The landscaping of the site of the proposed development.
- c. Details of the access arrangements.
- d. Details of the proposed water supply and drainage arrangements.

*Reason: To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997*

2. In the case of the reserved matters specified in (1) above, an application for approval of the reserved matters in terms of Article 6 of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992 must be made to Argyll and Bute Council no later than the expiration of 3 years beginning with the date of this permission.

*Reason: To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997.*

3. That the development to which this permission relates must be begun not later than the expiration of 5 years from the date of this permission or within the expiration of 2 years from the final approval of all reserved matters, whichever is the later.

*Reason: To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997*

4. Any details pursuant to condition (1) above shall incorporate the following elements:-
- i) finished in white coloured wet dash render.
  - ii) with roof coverings of natural slate or good quality slate substitute.
  - iii) shall be single or one and a half storey in height..
  - iv) incorporate windows with a strong vertical emphasis.
  - v) a roof pitch of not less than 40 degrees and not greater than 45 degrees.
  - vi) which is predominantly rectangular in shape with traditional gable ends.

*Reason: In the interests of visual amenity and in order to integrate the proposed dwelling house with its surroundings.*

5. Prior to work starting on site the vehicular access with the public road shall be formed in accordance with the Council's Highway Drawing No. NA/32/05/2a with the bellmouth area surfaced in tar macadam or similar hardbound material for a distance of 5 metres back from the nearside edge of the road carriageway.

*Reason: In the interests of road safety.*

6. The proposed access shall be formed in accordance with the Council's Highway Drawing No. NA/32/05/2a and shall have visibility splays of 35 X 2 metres in each direction formed from the centre line of the proposed access. Prior to work starting on site these visibility splays shall be cleared of all obstructions over one metre in height above the level of the adjoining carriageway and thereafter shall be maintained clear of all obstructions over one metre in height to the satisfaction of the Planning Authority.

*Reason: In the interests of road safety.*

7. The access to the development site shall be improved to ensure that no surface water is discharged to the public highway to the satisfaction of the Planning Authority.

*Reason: In the interests of road safety.*

8. Prior to work starting on site full details of a turning area and parking provision for cars within the curtilage of each dwellinghouse drawn up in consultation with the Area Roads Manager shall be submitted to and approved in writing by the Planning Authority. The parking and turning area shall be provided prior to the occupation of each dwellinghouses and shall be commensurate with the size of the dwellinghouse.

*Reason: In the interests of road safety.*

**NOTE TO APPLICANT RELATIVE TO APPLICATION 08/01128/OUT**

**Scottish Water** has advised as follows:

You are advised to contact them direct to discuss this matter

Scottish Water  
Developer Services  
Clyde House  
419 Balmore Road  
Glasgow  
G22 6NU  
Tel: 0845 601 8855

The Council's **Area Roads Manager** has advised as follows:

*Road openings permit required.*

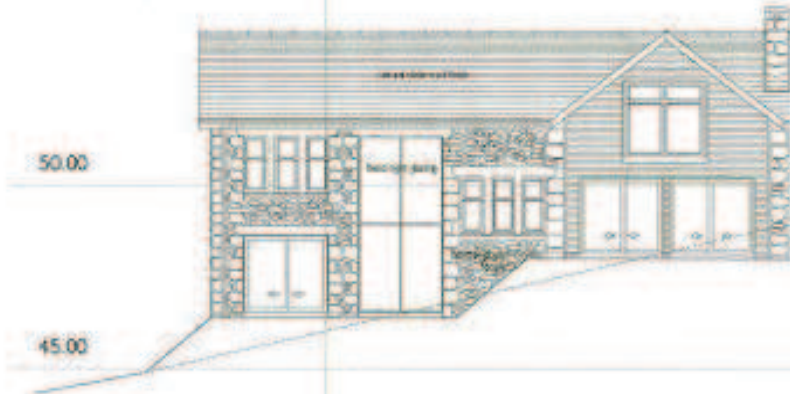
You are advised to contact them direct to discuss this matter:

Area Roads Engineer  
Operational Services  
Argyll and Bute Council  
Kilbowie House  
Gallanach Road  
Oban Tel: 01631 562125

**NB Reserved Matters or Detailed application submission:**

Detailed cross sections of the application site shall be submitted with levels clearly shown and related to existing levels on surrounding land/road.

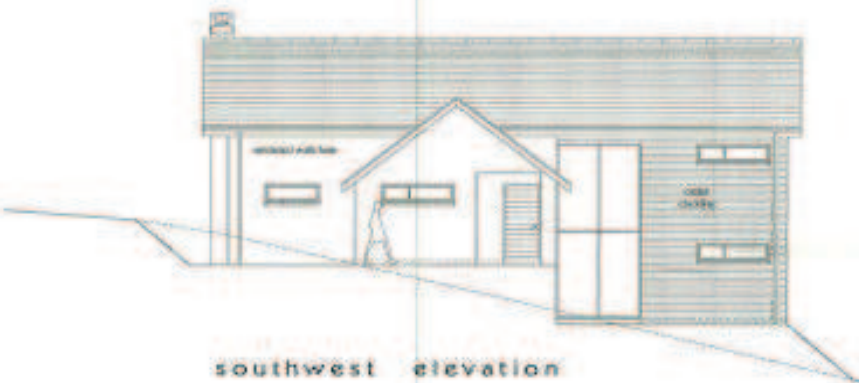




typical site section



ground floor plan



southwest elevation



first floor plan



northwest elevation



site plan 1:800



southeast elevation



Mr Ian Dougall  
West Highland Estates Office  
Raschoille  
Glenshellach Road  
Oban  
PA34 4PP

**Development and Infrastructure Services**  
**Lorn House, Albany Street, Oban, Argyll, PA34 4AR**  
**Tel:** (01631) 567951 **Fax:** (01631) 570366  
**e mail :** stephen.fair@argyll-bute.gov.uk  
**Website:** www.argyll-bute.gov.uk

**Ask For:** Stephen Fair  
**Our Ref:** 10/01144/PPP  
**Your Ref:**  
**Date:** 4 November 2010

Dear Mr Dougall

**101000074700**  
**SITE FOR THE ERECTION OF A DWELLINGHOUSE**  
**LAND EAST OF ARDTORNISH, CRANNAG A'MHINISTEIR, OBAN**

Thank you for your email of 17<sup>th</sup> September 2010 to which I have been asked to respond. I have investigated the matter fully prior to providing this response. Please accept my apology for the delay in responding.

I originally investigated this matter on 23<sup>rd</sup> September 2010, but concluded that no further action was required. I understood at that time that your complaint related to the lack of response from Fiona Scott to your email of 14<sup>th</sup> September 2010, but by the time I investigated the matter she had already replied (email of 20<sup>th</sup> September 2010). Our Service Charter requires that we respond to simple enquiries within 10 working days, which was achieved in that case. On that basis, I recommended that the complaint was superseded and should be closed. Please accept my apologies for any concern caused by my decision on that point.

In summary, your complaint is not upheld as a response was given to your email within the required timeframe.

I am now aware that you still seek a response to your email of 17<sup>th</sup> September and I assume this relates to the two issues previously raised with Fiona, namely:

- 1) The short time frame allowed for you to respond to officer concerns about the proposed house plot prior to a decision being taken, and:
- 2) The decision to refuse the application, which you consider should be granted as it relates closely to 2 adjacent approvals in your opinion.

It is accepted that you were invited to respond then allowed an insufficient time period within which to reply. This should not have happened. Please accept our apology for this. It appears that the decision to refuse within that timeframe was taken because the officer did not foresee a solution being reached by negotiation, and in order to meet a 2 month determination target as imposed by the Scottish Government on Planning Authorities. Our communication with you on this matter should have been clearer and happened earlier to allow fuller discussion.

In terms of the decision itself, our assessment highlights the importance of retaining green space to give relief between areas of developed land which is a key component of the character of the wider residential area. It was considered that the provision of a house on the plot, in addition to the two houses granted in 2008 within the original house grounds, would create a dense cluster of development with no green spaces giving relief, which was considered unacceptable and contrary to policy.

I note that you disagree with this assessment. The appropriate recourse is for the applicant to exercise her right to seek a review of the decision to the Local Review Body, as explained in the decision notice and by Fiona during your email exchanges.

I hope this response is helpful. Thank you for contacting us with your concerns.

If you are not satisfied with this response then you can ask the Head of Service for a further investigation to be carried out.

You can do this by writing to the Department Complaints officer, Development & Infrastructure Services, Argyll & Bute Council, Kilmory, Lochgilphead, Argyll, PA31 8RT advising why you are not satisfied and enclosing copies of your original correspondence and the response, or a note of the original complaints case reference number.

Yours sincerely

Stephen Fair  
Area Team Leader  
Oban, Lorn & The Isles

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**STATEMENT OF CASE**

**FOR**

**ARGYLL AND BUTE COUNCIL  
LOCAL REVIEW BODY**

**REFUSAL OF PLANNING PERMISSION IN  
PRINCIPLE FOR ERECTION OF DWELLINGHOUSE  
WITHIN GARDEN GROUND OF ARDTORNISH,  
CRANNAG A' MHINISTEIR, OBAN**

**PLANNING PERMISSION REFERENCE NUMBER  
10/01144/PPP**

**29 DECEMBER 2010**

## STATEMENT OF CASE

The Planning Authority is Argyll and Bute Council ('the Council'). The appellant is Elizabeth Martin ('the appellant').

Planning Permission in Principle Reference Number 10/01144/PPP for erection of a dwellinghouse within the garden ground of Ardtornish, Crannag A' Mhinisteir, Oban ('the appeal site') was refused under delegated powers on 14 September 2010.

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

## DESCRIPTION OF SITE

The site is located within the eastern section of the garden ground of the donor house Ardtornish adjacent to the public road.

There have been two permissions recently granted for dwellinghouses within the garden ground of Ardtornish, one to the northeast and one to the south.

The site subject of this application slopes steeply down towards the public Gallanach Road and, due to its restricted size and the levels involved, is not considered suitable for development with a dwellinghouse as it would require major excavations or a building with a significant area of underbuilding, and furthermore, would be unlikely to provide sufficient useable garden ground resulting in a development with poor levels of amenity contrary to current policy. Additionally, the undeveloped nature of the site makes a contribution to the mix of development relieved by green space which is characteristic of the immediate locality. The development of the site proposed would, cumulatively with the loss of other open land to the development (as a result of permission having previously been granted for two dwellings within the grounds of Ardtornish), result in the loss of undeveloped land to the point at which the characteristics and amenity of the locality would be undermined by the extent of built development unrelieved by green space.

As the application is for Planning Permission in Principle only, no details of a how a dwellinghouse could be accommodated within the site were submitted in support of the application.

## SITE HISTORY

10/00721/PPP

Site for erection of dwellinghouse – withdrawn – 30/06/10

09/00938/DET

Erection of dwellinghouse to northeast of Ardtornish – Granted: 19/11/09

09/00991/DET



Erection of dwellinghouse to south of Ardtornish – Granted: 19/11/09

## **STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED**

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

## **STATEMENT OF CASE**

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

*Whether or not a dwellinghouse on the site would result in the loss of an open area which contributes to the amenity of the area, or in a development with poor levels of amenity, both of which matters would render the application contrary to the Development Plan.*

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

## **REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING**

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

## **COMMENT ON APPELLANT'S SUBMISSION**

The appellant contends that the planning department has failed to correctly assess the significance of the recent approvals in the vicinity, and these should have been afforded more weight in the determination of this current application. The appellant considers that such a closely neighbouring and similar application to the recently approved developments complies with policy and represents a suitable opportunity for rounding off potential for a modest dwellinghouse consistent with guidance, size and scale ratios and current policy.

*Comment: The previous approvals were taken into consideration in the assessment of the application and it was determined that the development of the site proposed would, cumulatively with the loss of other open land around the development site (as*

*a result of permission having previously been granted for two dwellings within the grounds of Ardtornish), result in the loss of undeveloped land to the point where the balance of developed land to open space, which is one of the strong characteristics of the existing high amenity locality, would be tipped to a point where that character was undermined by the extent of built development unrelieved by green space, contrary to the requirements current policy.*

*Whilst the acceptability of the principle of infill development within this area of Oban is established by current policy, and by nearby approvals of two plots within the grounds of Ardtornish, this is qualified by the requirement to avoid inappropriate densities or the loss of valuable open areas. It is considered the provision of a third plot within the grounds of the donor house involves an inappropriate density of development, taken cumulatively with adjacent developments, where the open space is lost and as such was deemed unacceptable.*

## **CONCLUSION**

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

Whilst the acceptability of the principle of infill development within this area of Oban has been established by current policy, this is qualified by the requirement to avoid inappropriate densities or the loss of valuable open areas. This site only has a limited level area at road level and then slopes away steeply. Its location adjoining the road frontage is such that it makes a contribution to the mix of development relieved by green space which is characteristic of the immediate locality. It is not considered that the site is suitable for the development of a dwellinghouse as it would result in a development which would require major excavations or a building with a significant area of underbuilding, would entail the loss of an open area contributing to the amenity of the area thereby creating an inappropriate density of development taken cumulatively with the two plots already approved within the ground of the donor house, and would result in a development with poor levels of amenity contrary to current Development Plan policy.

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

## APPENDIX 1

Argyll and Bute Council  
Development 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**

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**Reference No:** 10/01144/PPP

**Planning Hierarchy:** Local Development

**Applicant:** Mrs Elizabeth Martin

**Proposal:** Site for erection of dwellinghouse

**Site Address:** Ardtornish, Crannag A' Mhinisteir, Oban

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### DECISION ROUTE

**Section 43 (A) of the Town and Country Planning (Scotland) Act 1997 (as amended)**

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#### (A) THE APPLICATION

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

- Site for erection of dwellinghouse
- Upgrade of existing vehicular access

##### (ii) Other specified operations

- Connection to public water main
  - Connection to public drainage system
- 

#### (B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that Planning Permission in Principle be refused for the reasons appended to this report.

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#### (C) HISTORY:

No history relevant to this particular site, however two permissions within the garden ground of Ardtornish have recently been granted.

10/00721/PPP

Site for erection of dwellinghouse – withdrawn – 30/06/10

09/00938/DET

Erection of dwellinghouse to northeast of Ardtornish – Granted: 19/11/09

09/00991/DET

Erection of dwellinghouse to south of Ardtornish – Granted: 19/11/09

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**(D) CONSULTATIONS:**

Area Roads Manager

Report dated 01/09/10 advising no objection subject to conditions.

Scottish Water

Letter dated 19/08/10 advising no objection but providing advisory comments for the applicant.

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**(E) PUBLICITY:**

The proposal has been advertised in terms of Regulation 20 procedures, closing date 09/09/10.

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**(F) REPRESENTATIONS:**

Two representations have been received regarding the proposed development.

Mr C. MacNiven, 1 Burnbank Terrace, Oban, PA34 5PB (07/06/10)

Lorne MacLeod, Orasaig, Crannag a' Mhinisteir, Oban (31/05/10)

**(i) Summary of issues raised**

- The cumulative impact of this site, together with the previous approvals require to be considered when determining this application.
- Any development on this site will have an adverse impact on the visual amenity of the area.
- The application shows the access included within the site edged red which is a legal right of access for the adjacent plot.
- The proposal will represent overdevelopment of the garden ground of Ardtornish.
- The site contains a surface water drainage pipe and any disruption to this pipe could result in flooding of neighbouring properties.
- The proposal is out of keeping with the amenity of the area.
- The proposal will result in an increase in vehicular activity.

- The proposal has the potential to result in the loss of water and wastewater network services to neighbouring properties.

---

**(G) SUPPORTING INFORMATION**

Has the application been the subject of:

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

---

**(H) PLANNING OBLIGATIONS**

- |     |  |           |
|-----|--|-----------|
| (i) | <b>Is a Section 75 agreement required:</b> | <b>No</b> |
|-----|--|-----------|

- 
- |     |   |           |
|-----|---|-----------|
| (I) | <b>Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:</b> | <b>No</b> |
|-----|---|-----------|
- 

**(J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application**

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

Argyll and Bute Structure Plan 2002

STRAT DC 1 – Development within the Settlements

Argyll and Bute Local Plan 2009

LP ENV 1 – Impact on the General Environment

LP ENV 19 – Development Setting, Layout and Design

LP HOU 1 – General Housing Development

LP TRAN 4 – New and Existing Public Roads and Private Access Regimes

LP TRAN 6 – Vehicle Parking Provision

Appendix A – Sustainable Siting and Design Principles

Appendix C – Access and Parking Standards

- (ii) **List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 4/2009.**

Argyll & Bute Sustainable Design Guidance (2006)

The Town & Country Planning Act (Scotland) 1997

The Planning etc. (Scotland) Act, 2006

Scottish Planning Policy (SPP), 2010

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<b>(K)</b>	<b>Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:</b>	<b>No</b>
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<b>(L)</b>	<b>Has the application been the subject of statutory pre-application consultation (PAC):</b>	<b>No</b>
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<b>(M)</b>	<b>Has a sustainability check list been submitted:</b>	<b>No</b>
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<b>(N)</b>	<b>Does the Council have an interest in the site:</b>	<b>No</b>
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<b>(O)</b>	<b>Requirement for a hearing (PAN41 or other):</b>	<b>No</b>
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**(P) Assessment and summary of determining issues and material considerations**

In terms of the adopted Argyll and Bute Local Plan the site is situated within the Settlement Zone of Oban, within which Policy STRAT DC 1 of the approved Argyll and Bute Structure Plan gives a presumption in favour of development on an appropriate infill, rounding off and redevelopment basis, subject to developments not resulting in settlement cramming (overdeveloping valuable open space in settlements) and subject to compliance with other relevant local plan policies.

Policy LP HOU 1 gives encouragement to housing development provided it will not result in an unacceptable environmental, servicing or access impact or development underpinned by an operational need and Policy LP ENV 1 assesses applications for their impact on the natural, human and built environment.

Policy LP ENV 19 states that development shall be sited and positioned so as to pay regard to the context within which it is located and that development layout and density shall integrate with the setting of development. Developments with poor quality or inappropriate layouts, including over-development, shall be resisted.

An existing vehicular access is to be upgraded used to serve the proposed dwellinghouse with water supply and drainage via connection to the public systems.



Whilst the acceptability of the principle of infill development within this area of Oban has been established by current policy, this is qualified by the requirement to avoid inappropriate densities or the loss of valuable open areas. This site only has a limited level area at road level and then slopes away steeply. Its location adjoining the road frontage is such that it makes a contribution to the mix of development relieved by green space which is characteristic of the immediate locality. It is not considered that the site is suitable for the development of a dwellinghouse as it would result in a development which would require major excavations or a building with a significant area of underbuilding, would entail the loss of an open area contributing to the amenity of the area, and would result in a development with poor levels of amenity contrary to current Development Plan policy.

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

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**(R) Reasons why planning permission should be refused**

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

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

N/A

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

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**Author of Report: Fiona Scott Date: 09/09/10**

**Reviewing Officer: Richard Kerr  Date: 10/09/10**

**Angus Gilmour  
Head of Planning**

**GROUNDINGS OF REFUSAL RELATIVE TO APPLICATION REFERENCE 10/01144/PPP**

1. In terms of the adopted Argyll and Bute Local Plan, the application site is located within the Settlement Zone of Oban which is subject to the effect of Policy STRAT DC 1 of the approved 'Argyll and Bute Structure Plan' 2002 and LP HOU 1 of the adopted 'Argyll and Bute Local Plan' 2009, which establish a presumption in favour of infill housing development within settlements, provided it is of a scale and form compatible with the surrounding area and does not result in inappropriate densities or the loss of valuable open areas.

The site which is subject of this application slopes steeply down towards the public Gallanach Road and any development of the site would require either significant excavations or a dwellinghouse with a large area of underbuilding. Due to its location on the road frontage, the undeveloped nature of the site makes a contribution to the mix of development relieved by green space which is characteristic of the immediate locality. The development of the site proposed would, cumulatively with the loss of other open land to the development (as a result of permission having previously been granted for two dwellings within the grounds of Ardtornish), result in the loss of undeveloped land to the point at which the characteristics and amenity of the locality would be undermined by the extent of built development unrelieved by green space, contrary to the requirements of Policy STRAT DC 1. Furthermore, it is unlikely that the site could accommodate a dwelling with its attendant access and parking requirements whilst also providing a suitable level of useable private amenity space, which would be contrary to advice contained within Policy LP ENV 19 and Appendix A, Sustainable Siting and Design Principles.

The proposal is considered contrary to the provisions of Development Plan policies STRAT DC 1, LP ENV 1, LP ENV 19 and LP HOU 1, which collectively seek to resist housing development which will have an unacceptable environmental, servicing or access impact.

**APPENDIX TO DECISION REFUSAL NOTICE**

Appendix relative to application **10/01144/PPP**

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- (A)** Has the application been the subject of any non-material amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing.

**No**

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

The proposal is contrary to Development Plan policy for the reason for refusal attached

**APPENDIX A – RELATIVE TO APPLICATION NUMBER: 10/01144/PPP**

**PLANNING LAND USE AND POLICY ASSESSMENT**

**A. Settlement Strategy**

In terms of the adopted 'Argyll and Bute Local Plan' the site is situated within the Settlement Zone of Oban within which Policy STRAT DC 1 of the approved 'Argyll and Bute Structure Plan' gives a presumption in favour of development on an appropriate infill, rounding off and redevelopment basis, subject to developments not resulting in settlement cramming (overdeveloping valuable open space in settlements) and subject to compliance with other relevant local plan policies.

Policy LP HOU 1 gives encouragement to infill housing development in settlements provided it will not result in an unacceptable environmental, servicing or access impact and Policy LP ENV 1 requires applications to be assessed for their impact on the natural, human and built environment.

Policy LP ENV 19 states that development shall be sited and positioned so as to pay regard to the context within which it is located and that development layout and density shall integrate with the setting of surrounding development. Developments with poor quality or inappropriate layouts, including over-development, shall be resisted.

Whilst the principle of infill development within this area of Oban has been established by current policy, it is not considered that this sloping site is suitable for development for a dwellinghouse as it would require major excavations or a building with a significant area of underbuilding, and furthermore, would be unlikely to provide sufficient useable garden ground resulting in a development with poor levels of amenity contrary to current Development Plan policy. Additionally, the undeveloped nature of the site makes a contribution to the mix of development relieved by green space which is characteristic of the immediate locality. The development of the site proposed would, cumulatively with the loss of other open land to the development (as a result of permission having previously been granted for two dwellings within the grounds of Ardtornish), result in the loss of undeveloped land to the point at which the characteristics and amenity of the locality would be undermined by the extent of built development unrelieved by green space, contrary to the requirements of Policy STRAT DC 1.

**B. Location, Nature and Design of Proposed Development**

The site is located within the eastern section of the garden ground of the donor house Ardtornish adjacent to the public road.

There have been two permissions recently granted for dwellinghouses within the garden ground of Ardtornish, one to the northeast and one to the south.

The site subject of this application slopes steeply down towards the public Gallanach Road and, due to its restricted size and the levels involved, is not considered suitable for development with a dwellinghouse for the reasons given in A above.

As the application is for Planning Permission in Principle, only no details of a how a dwellinghouse could be accommodated within the site have been submitted in support of the application.

**C. Road Network, Parking and Associated Transport Matters.**

The application proposes to utilise the existing vehicular access which currently serves the donor house and the recently approved plot to the north of the current application site. The Area Roads Manager was consulted on the proposal and advised no objection subject to conditions regarding the resurfacing of the access and the clearance of appropriate visibility splays. Parking and turning facilities for vehicles would require to be provided within the boundaries of the application site.

In this regard it is considered that the proposal complies with Policy LP TRAN 4 which seeks to ensure that developments are served by an appropriate means of vehicular access.

**D. Infrastructure**

Water supply and drainage are via connection to the existing public systems. Scottish Water was consulted and, whilst not objecting to the proposed development, has advised that augmentation at the developer's expense may be required.

In this regard, it is considered that the proposal complies with the terms of Policy LP ENV 1 which seeks to ensure the availability of suitable infrastructure to serve proposed developments.

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REVIEW REFERENCE NUMBER 10/0012/LRD

PLANNING APPLICATION NUMBER 10/01144/PPP

ADDRESS IF REVIEW PROPERTY  
LAND EAST OF ARDTORNISH  
CRANNAG A' MHINISTEIR  
OBAN

I refer to my letter of Objection on the 3 September 2010 regarding the area of ground that has been taken as an overall development site for the Planning Application No 10/01144/PPP. This would mean that the application would have to incorporate an access road in order to conform to the standards required for area of development leading me to understand that the ground itself is not enough area for development that the road has now been added to this most recent application.

As the owner of the adjacent site to this application who has a right of access over this ground, I am very concerned that this could cause major implication in the future if the area is granted planning.

I also noted on my objection that this had been the third application which had been brought to the planners, each one had been retracted as refusal was recommended or the most recent which has been refused. I feel that the Martin family having recently sold two plots from what is primarily a garden area that this third plot would surely mean over development.

Yours faithfully

Colin MacNiven  
1 Burnbank Terrace  
Oban  
PA34 5PB



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Argyll and Bute Council  
Comhairle Earra Ghàidheal agus Bhòid



**Development and Infrastructure Services**

Director: Sandy Mactaggart

Argyll and Bute Council  
Customer Services  
Kilmory  
Lochgilphead  
PA31 8RT

FAO Melissa Stewart

**Development and Infrastructure Services**

Kilbowie House, Gallanach Road, Oban, PA34 4PF  
Tel: (01631) 569160 Fax (01631) 566728  
e mail john.heron@argyll-bute.gov.uk  
Website www.argyll-bute.gov.uk  
Direct Line 01631 569170  
Ask For: John F Heron  
Our Ref: 10/01468/PP  
Your Ref: 5544/MS  
Date: 23 December 2010

Dear Sir/Madam

LOCAL REVIEW BODY REFERENCE: 10/0012/LRB  
PLANNING APPLICATION REFERENCE: 10/01144/PP  
LAND TO THE EAST OF ARDTORNISH, CRANNAG A' MHINISTEIR, OBAN

I refer to your letter dated 16 December 2010 regarding the above.

There is no change to my previous response to the original Planning application and a copy of that response is attached.

Yours faithfully

A handwritten signature in black ink, appearing to be 'John F Heron', written over a horizontal line.

John F Heron  
Technical Officer  
Oban Lorn & the Isles



Operational Services  
Oban, Lorn and the Isles Area

## OBSERVATIONS ON PLANNING APPLICATION

Our Ref: 10/01144/PPP  
Contact: John F Heron  
Tel: 01631 569170

Planning Application No: 10/01144/PPP Dated: 13/08/10 Received: 18/08/10  
Applicant: Mrs Elizabeth Martin  
Proposed Development: Site for the erection of a dwelling house  
Location: Land East of Ardtornish Crannag A'Mhinistair Oban PA34 4LU  
Type of Consent: Planning Permission in Principle  
Ref. No(s) of Drg(s) submitted: Series of Plans

03 SEP 2010

**RECOMMENDATION: No Objections Subject to Conditions**

Proposals Acceptable	Y/N
<b>1. General</b>	
(a) General Impact of development	Y
(b) Safety Audit Required	N
(c) Traffic Impact Analysis Required	N
(d) Drainage Impact/Flooding Assessment Required	N
(e) Sustainable Drainage System (SUDS) Provision	N
<b>2. Existing Roads</b>	
(a) Type of connection (Road Junction/Footway Crossing)	Y
(b) Location(s) of Connection(s)	Y
(c) Sight-lines 25m x 2.4m	Y
(d) Pedestrian Provision	Y

Proposals Acceptable	Y/N
<b>3. New Roads n/a</b>	
(a) Widths	
(b) Pedestrian Provision	
(c) Layout (Horizontal/Vertical alignment)	
(d) Turning Facilities (Circles/Hammerheads)	
(e) Junction Details (Locations/radii/sightlines)	
(f) Provision for P.U. Services	

Proposals Acceptable	Y/N
<b>4. Servicing and Car Parking</b>	
(a) Drainage	Y
(b) Car parking Provision	Y
(c) Layout of Parking bays/Garages	Y
(d) Servicing Arrangements/Driveways	Y

**5. Signing n/a**

(a) Location	
(b) Illumination	

Item Ref.	COMMENTS
1	The proposal is served by a private access situated off the UC55 Crannaig a Mhinistair within an urban 20mph speed restriction.
2c	Sightlines are achievable with the public road, no walls, hedges, fences, etc will be permitted within verge
NB	The roads in this area are not safe to take additional traffic, as they are narrow, poorly aligned and lack footways, however as a Reporter is likely to deal with an individual dwelling favorably it is unlikely that this will be taken into account.

Item Ref.	CONDITIONS
2a	Existing access at junction of public road to be upgraded in accordance with Operational Services drawing SD 08/004a
2c	No walls, hedges, fences, etc will be permitted within 2m from the channel line of the public road. Visibility splays measuring 25m x 2.4m to be cleared and maintained
4a	A system of surface water drainage is required to prevent water from passing onto public road
4b	Parking and turning for vehicles commensurate with size of dwelling to be provided

Notes for information to Applicant

(i) Construction Consent (S21)*	Not Required
(ii) Road Bond (S17)*	Not Required
(iii) Road openings Permit (S56)*	Required

\*Relevant Section of the Roads (Scotland) Act 1984

Signed:   
Technical Officer

Date: 01 September 2010

**Response to planning department submission...10/0012/LRB**

The planning department states;

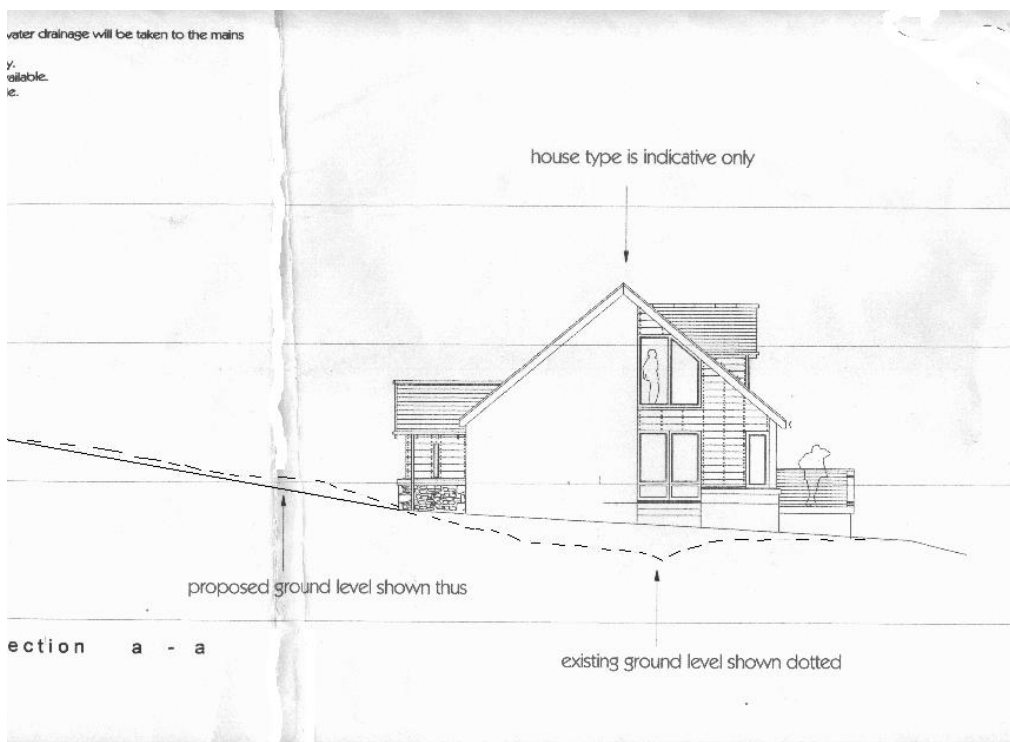
**“As the application is for Planning Permission in Principle only, no details of how a dwellinghouse could be accommodated within the site were submitted in support of the application.”**

The above statement would appear to be an attempt to mislead us into thinking that detailed plans on how a dwellinghouse can be accommodated within a site, are a requirement for planning permission in principal, **or** a realisation, all be it very late, that it may be in fact possible to locate a dwellinghouse on the development site, if only we had had more detail.

As the planning department have correctly stated above, the application is an application in principal, the planning department have also stated that **“no details of a how a dwellinghouse could be accommodated within the site were submitted in support of the application.”**, this statement is not only incorrect but highlights a concern that the case officer simply cannot see the wood for the trees or does not understand the concept of **planning permission in principal. Supporting evidence**, the application of **recently gained experience** and an appreciation of **historical fact** to determine what may or may not be possible, are the details used in determining planning permission in principal applications.

**Planning permission in principal** the purpose of such an application is to establish whether the principal of developing a piece of land is acceptable without preparing detailed plans.

The drawing below is **supporting evidence** and was validated on August 5<sup>th</sup> 2010;

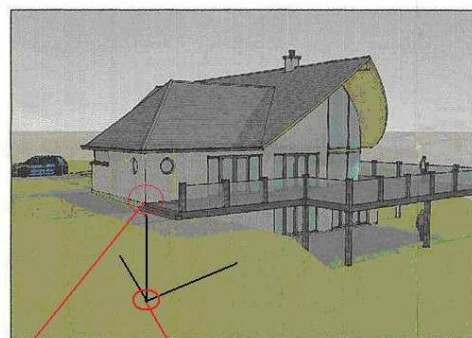


The drawing above produced by the same architect as the drawings for the 2009 approvals is indicative and would be developed into a detailed drawing as the application progressed to a detailed application.

It is worth noting that by the time of this planning in principal application being presented the case officer would have been very familiar with what was possible in regard to accomodating a dwelling on a sloping site in this area of Oban, having acquired **the recently gained experience** from the 2009 approvals, it is not unreasonable to suggest the officer is and has been aware that it is possible in principal to accommodate a modest house on such a site so very similar to the 2009 approval sites.

The detail drawings below from the 2009 approvals demonstrate what is possible, in particularly Site 1....

Site 1



perspective views

Contour 36.5m  
current groundlevel

Contour 41m floor level



Further evidence from the 2009 approvals...

“Considerable ground works will be required to accommodate a house on this plot along with the required vehicle manoeuvring space but this practice is evident in existing development situations.”

It is **historical fact** that Oban is a town built on the hillsides surrounding Oban bay and notwithstanding the case officer’s view, that this area of land is somehow hugely significant in maintaining the character and amenity of the area, evolved planning policy continues to support development with a presumption in favour of development.

In conclusion, the main issues for the planning department revolve around the perceived view that we are dealing with a piece of land which is hugely significant to the area, which if developed would destroy the character of the area, the planning department also believes the development would have *“poor levels of amenity”*.

I respectfully suggest the immediate character of the area has changed, the 2009 approvals changed it and it may change again and I believe the changes to the area are not to the detriment of the wider area and the community as a whole, which is why the 2009 approvals were granted.

We are now dealing with a gap site in a residential area created by the 2009 approvals, which sits alongside and between new and established housing on three sides and not **“open land”** as described by the planning department. The application to quote the planning department **“has not been the subject of any substantial public representation”** which I suggest reflects the more credible view that we are in fact dealing with a gap site with a presumption in favour of development which simply fits in with the area.

With regard to *“poor levels of amenity”* not only are the levels of amenity comparable with the recent approvals the application can also take support once again from the planning departments defence of the 2009 approvals... “The house plan is indicative only and any subsequent detailed planning application will require to comply with relevant Council planning policies. There are mixed plot ratios in this area of Pulpit Hill and the proposal is not radically different in terms of density from other residential properties in the area.”

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Response to Mr MacNiven (Objector)

Mr MacNiven as a property developer with experience regarding shared access roads in developments around the town I am sure will take comfort and piece of mind from the legally binding access agreement secured by his property development company when it purchased the site as a development opportunity, the said legal agreement is in place to protect and uphold his property development companies right of access and the rights of future owners.

There will be no increase in parking or turning, the reinstatement of the parking and turning area as detailed will maintain the status quo as regards parking and turning.

In conclusion, Mr MacNiven as a property developer will understand that all development has an impact, the proposed development I believe will not adversely affect Mr MacNiven's development site in any meaningful way, which is his main concern.

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Statement of case; Review reference number 10/0012/LRB

I respectfully suggest that the planning department have failed to correctly assess the significance of the determining influence that the recently set precedence, the 2009 approvals for this area of Oban, should have played in determining the application.

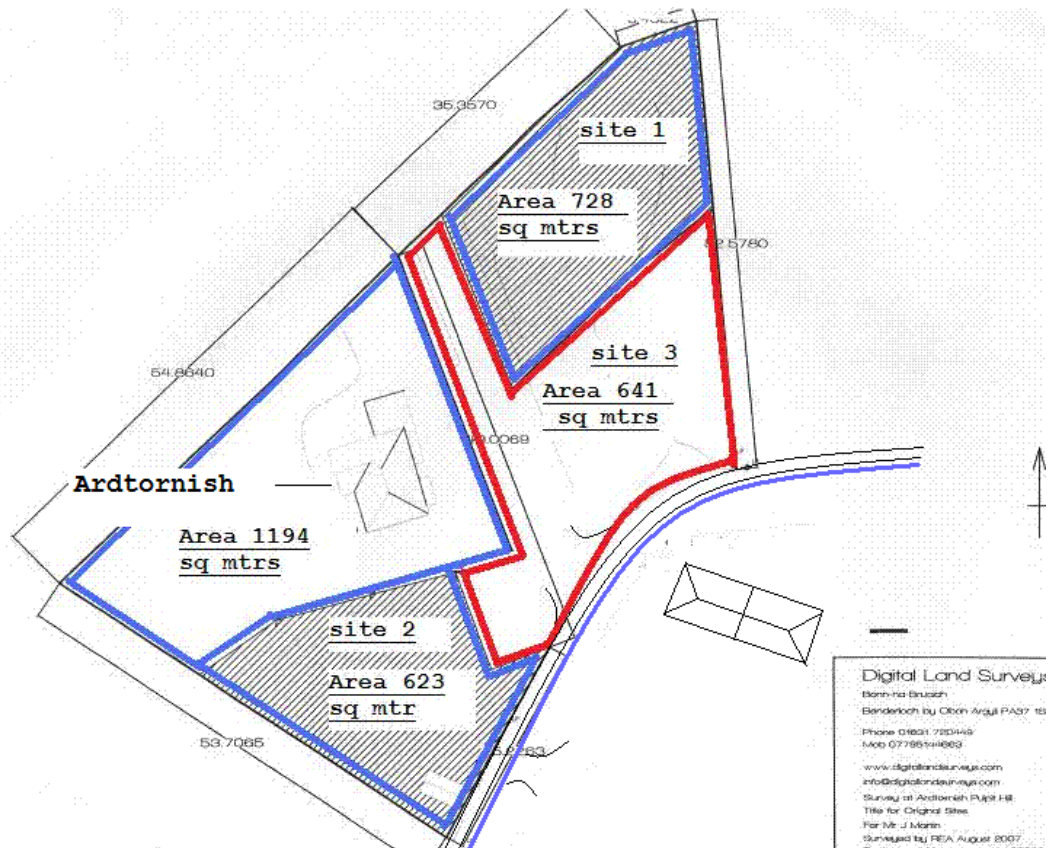
The application being reviewed is an application in principal for a single modest dwelling house, the panel are being asked to support the view that it is possible, in principal, to locate a house on the site which would be consistent with the bulk of policy and guidance and not be to the detriment of the wider community.

Planning precedence for this area of Pulpit Hill most certainly demonstrates, that notwithstanding the planning department's assertion that this application would undermine

“the characteristics and amenity of the locality” the application should be seen as appropriate rounding off.

We are now dealing with a gap site in a residential area created by the 2009 approvals, which sits alongside and between new and established housing on three sides and not “open land” as described by the planning department. The application to quote the planning department “has not been the subject of any substantial public representation” which I suggest reflects the more credible view that we are in fact dealing with a gap site with a presumption in favour of development.

Site 1 and Site 2 below are the 2009 approvals. It is my belief that the application site in red, Site 3, represents rounding off potential for a modest dwelling house, consistent with guidance size and scale ratios and current policy.



I believe it is not unreasonable to suggest, that such a closely neighbouring and similar application to the recently approved development on Site 1, would be considered on the face of it, to be compliant with the bulk of policy and guidance.

The introduction of the opinion, that development on the application site would tip the balance of character and amenity of the area, seems contrary to the well established, diverse and mature nature of the area.

The issued refusal notice begins by describing the development site...

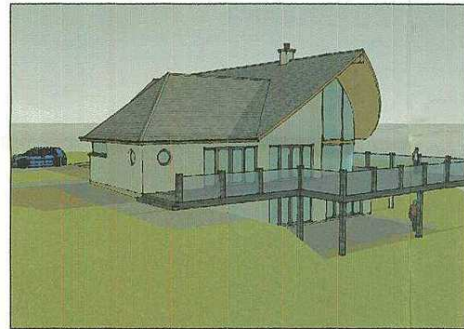
“The site which is subject of this application slopes steeply down towards the public Gallanach Road and any development of the site would require either significant excavations or a dwellinghouse with a large area of underbuilding.”

I believe the precedence for... “either significant excavations or a dwellinghouse with a large area of underbuilding.” has been firmly set and in fact defended against objection by the planning department in the shape of the 2009 approvals.

**Statement from the 2009 approvals notice...**

“Considerable ground works will be required to accommodate a house on this plot along with the required vehicle manoeuvring space but this practice is evident in existing development situations.”

The resulting dwelling houses approved, setting the physical interpretation of policy and guidance are illustrated below...

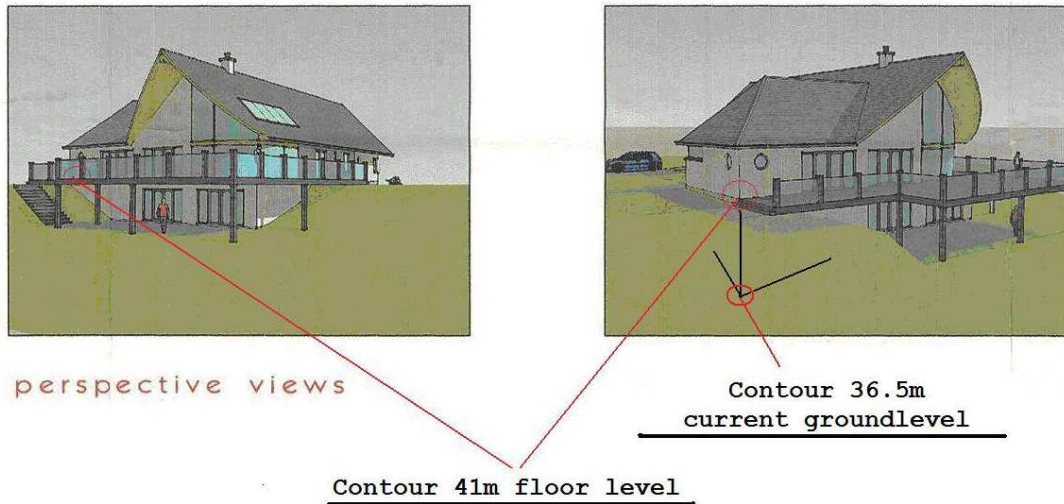


perspective views

Site 1



A more detailed picture of the extent of excavations, underbuilding and infill approved for this area is more evident from Site 1 below...



The 2009 approvals obviously challenge the case officer's opinion that steep slopes cannot accommodate dwellings.

### **Statement from the 2009 approvals...**

"The wider residential area within which the site is set has a considerable diversity of plot/garden size ratio and in this particular area there is no clearly defined settlement pattern. Buildings are placed on both steeply sloping and relatively level ground. The upper portion of the site will accommodate a small dwelling with parking provision; the incline on the remainder of the site is generally too steep to accommodate development."

The area described in the underlined portion of the statement above, later became the under-built frontage of Site 1's detailed approval, illustrated above. The opinion expressed at the time, "the site is generally too steep to accommodate development." was proven to be wrong then, and I respectfully suggest it is wrong now, with regard to Site 3.

It is worth noting at this point that the variance of ground levels which accommodates the house footprint for sites 1 & 2 are as follows;

Site 1... High point contour 41m – Low contour 36.5m...  
variance in levels 4.5m(15feet).

Site 2... High point contour 50m – Low contour 47m...  
variance in levels 3m(10feet).

Site 3(indicative) High point contour 40m – Low contour 37.5m  
variance in levels 2.5m(8feet).

**It would appear that the planning department’s main  
assertion for refusal...**

“loss of undeveloped land to the point at which the characteristics and amenity of the locality would be undermined by the extent of built development unrelieved by green space, contrary to the requirements of Policy STRAT DC 1.”

This interpretation of policy is at best tenuous and at worst a shameful attempt at “planning spin”, using an applicant’s worst nightmare, “interpretation of policy” to support a tenuous opinion.

Interpretation; *an explanation of something that is not immediately obvious*; in order to be credible has to have some basis in fact.

The more credibly defined and demonstrated characteristics of the Pulpit Hill area are...

**As described in the 2009 approvals...**

“This is a long established residential neighbourhood where there is considerable diversity in the scale, design and positioning of existing dwellings.”

“There is no clearly discernable pattern to the development on this area of Pulpit Hill apart from a loose orientation overlooking Oban Bay.”

“The wider residential area within which the site is set has a considerable diversity of plot/garden size ratio and in this particular area there is no clearly defined settlement pattern. Buildings are placed on both steeply sloping and relatively level ground.”

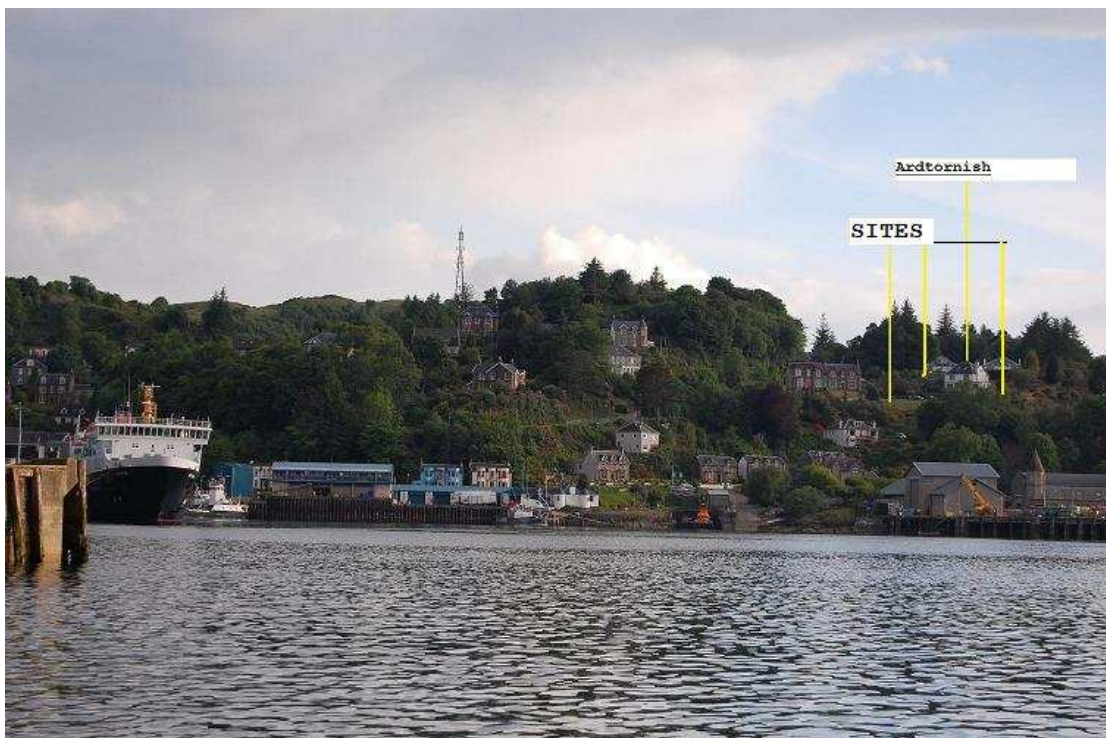
These comments in conjunction with the photographs below I would respectfully suggest are a factual description of the characteristics of the area.



**Clustered development to the left of Pulpit Hill**



**Below, Development Sites 1, 2 and 3 to the right of Pulpit Hill** with the dominant green areas being the undevelopable very steep areas which offer considerable natural undeveloped relief to the locality...

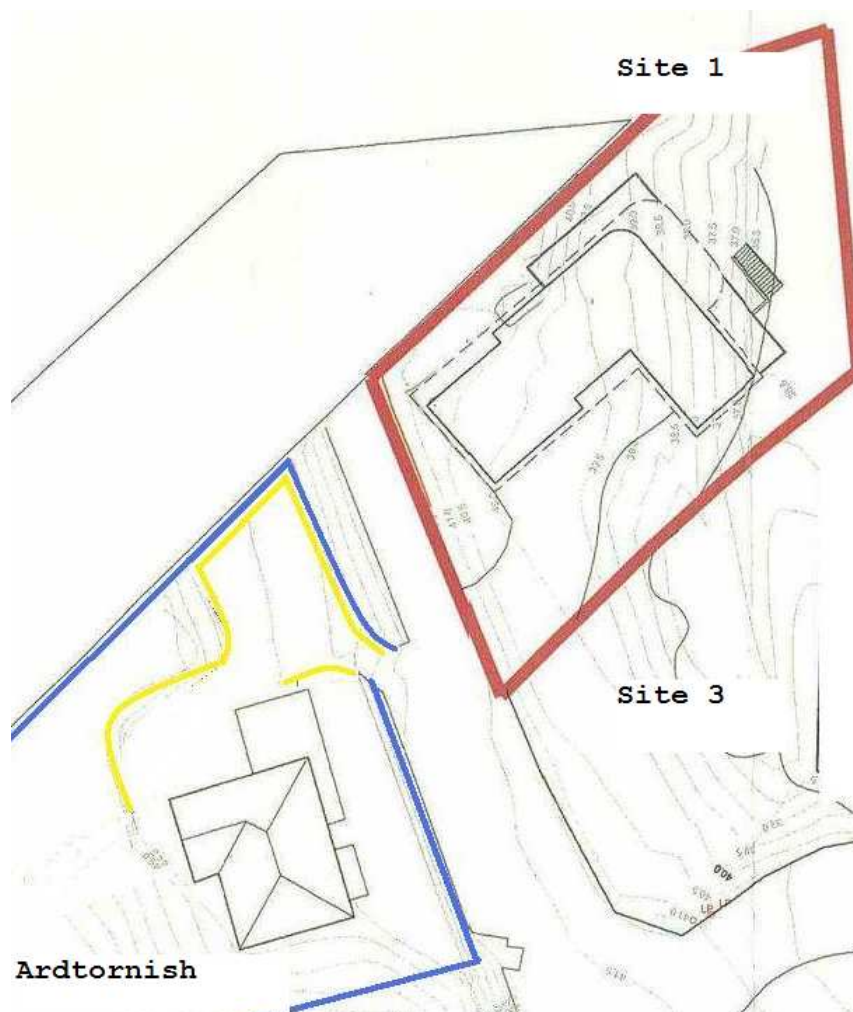


### The refusal notice goes on to comment...

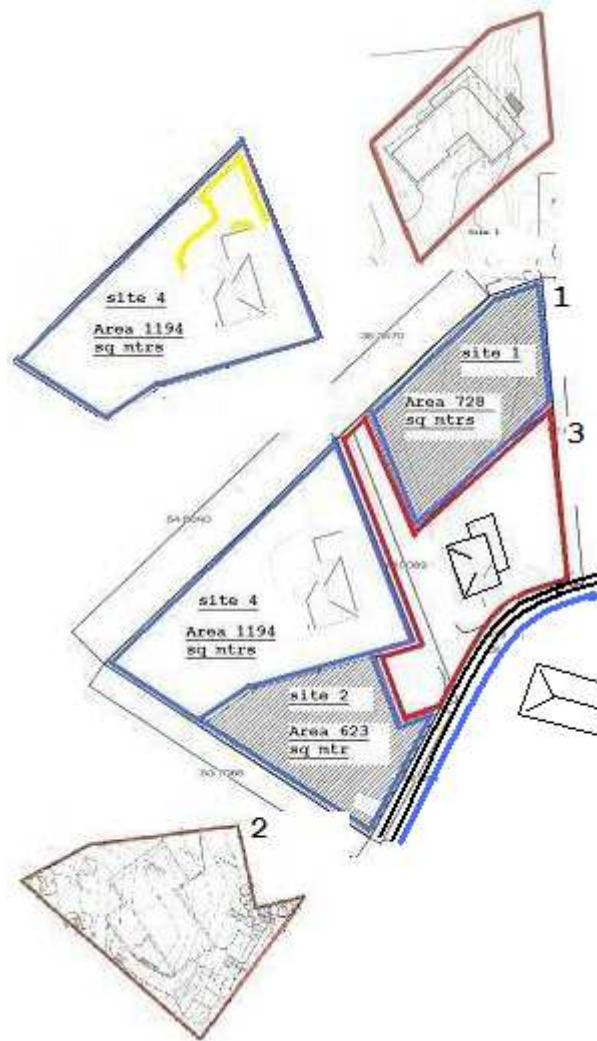
“The development of the site proposed would, cumulatively with the loss of other open land to the development (as a result of permission having previously been granted for two dwellings within the grounds of Ardtornish), result in the loss of undeveloped land to the point at which the characteristics and amenity of the locality would be undermined by the extent of built development unrelieved by green space,”

It is worth noting at this point that Site 1 and 3 are not and never were in the original grounds of Ardtornish as stated in the refusal notice.

The area occupied by Site 1 and 3 was purchased by the Martin’s some considerable time later as a potential development opportunity, the drawing below also shows in yellow the original turning and parking area for Ardtornish.



This turning and parking area for Ardtornish will be reinstated when the new boundaries detailed below are set on the conclusion of a successful review.



**The refusal notice concludes...**

“Furthermore, it is unlikely that the site could accommodate a dwelling with its attendant access and parking requirements whilst also providing a suitable level of useable private amenity space, which would be contrary to advice contained within Policy LP ENV 19 and Appendix A, Sustainable Siting and Design Principles.”



From the plan above it is clear to see that all three sites offer similar levels of private amenity space, the reinstating of the original turning and parking area at Ardtornish leaves a considerable area to work with to accommodate turning and parking for Site 3 and the locating of a modest dwelling house.

It is worth also mentioning that the most significant amenity of a house located in this area of Oban is the open space outlook from the elevated position on the hill side. The differing levels at which houses are located has also ensured that even with an additional three houses there has been little if any loss of outlook to existing properties nearby, the new dwellings will simply fit in with the location.

The suggestions for refusal I would strongly suggest are clearly against recent and historical precedence, which is for all to see in the physical interpretation of current policy, the 2009 approvals and the physical historic evidence of a town built on the hills overlooking Oban bay.

The 2009 approvals defended vigorously against objection by the planning department and with the certainty of precedence are not open to the uncertainty of “interpretation of policy”.

Interpretation, an opinion, simply has no credibility when devoid of resonance, then it just simply feels and is wrong.

Are we seriously being asked to believe that the addition of a single modest dwelling house, to a well established, mature residential area will some how set off a devastating chain reaction of events culminating in the character assassination of this well established area and stripping it of amenity, it simply holds no resonance what so ever.

The character of the undeveloped land, the development site, was in fact created by the 2009 approvals. The planning department describe it as “open land” when it is in fact a gap site with new and existing housing on three sides.

I cannot accept that the character and amenity of Pulpit Hill, Oban Bay or the wider area are compromised in any meaningful way by the addition of a single modest dwelling house.

**In conclusion** and not withstanding the case officer's unwillingness to engage in meaningful exchange and the officer's expressed personal view which is in its self contrary to national guidance; that an officer will only advocate their own professional view in line with policy. I feel I should qualify this statement as follows:

When challenging the case officer regarding her position on excavations and underbuildings the officer expressed the view, that the 2009 applications should not have been approved, while this explains the reversal of opinion from the 2009 approvals on excavations and underbuildings, it also confirms this opinion to be a personal view questioning the validity of the 2009 approvals which has led to the suggestion the officer has not acted impartially and has in fact acted with bias in predetermining the application.

The officer's confused actions in determining this application, I would respectfully suggest, clearly lays the planning department open to the suggestion the case officer has not acted impartially and has in fact acted with bias in predetermining the application in line with held personal views.

The community as a whole depends on planning departments demonstrating consistency in interpretation of planning policy and guidance while being, and seen to be, impartial.

Ref:  
AB1

ARGYLL AND BUTE COUNCIL  
WWW.ARGYLL-BUTE.GOV.UK/\*\*

OFFICIAL USE

16/12/10  
MS.

Date Received

## NOTICE OF REVIEW

Notice of Request for Review under Section 43(a)8  
of the Town and Country Planning (Scotland) Act 1997 and the Town and  
Country Planning (Schemes of Delegation and Local Review Procedures  
(Scotland) Regulations 2008

**Important** – Please read the notes on how to complete this form and use  
Block Capitals. Further information is available on the Council's Website.  
You should, if you wish, seek advice from a Professional Advisor on how to  
complete this form.

(1) APPLICANT FOR REVIEW	(2) AGENT (if any)
Name <input type="text" value="MRS DALE &amp; A MORRISON"/>	Name <input type="text" value="NORSOT JOINERY LTD"/>
Address <input type="text" value="7 GLEN HOUSES, DERVAIG"/>	Address <input type="text" value="BOWER WORKSHOPS"/>
<input type="text" value="ISLE OF MULL"/>	<input type="text" value="BOWER, WICK"/>
<input type="text" value="ARGYLL &amp; BUTE"/>	<input type="text" value="CAITHNESS"/>
Postcode <input type="text" value="PA75 6QW"/>	Postcode <input type="text" value="KW1 4TL"/>
Tel. No. <input type="text"/>	Tel. No. <input type="text" value="01955-641-303"/>
Email <input type="text"/>	Email <input type="text" value="peter.winthorpe@norscot.co.uk"/>

(3) Do you wish correspondence to be sent to you  or your agent

(4) (a) Reference Number of Planning Application

(b) Date of Submission

(c) Date of Decision Notice (if applicable)

(5) Address of Appeal Property

7 GLEN HOUSES, DERVAIG,  
ISLE OF MULL,  
ARGYLL & BUTE, PA75 6QW.



(6) Description of Proposal

ERECTION OF DWELLING HOUSE TO  
REPLACE EXISTING CHALET TYPE  
HOUSE,

(7)

Please set out the detailed reasons for requesting the review:-

OUR CLIENTS WOULD LIKE A REVIEW OF CONDITION 5,  
THEY CURRENTLY LIVE IN AN EXISTING SUBSTANDARD  
CHALET TYPE HOUSE ON THIS SITE, WHICH IS TO BE  
REPLACED BY A MODERN STANDARD HOUSE BY  
THIS PLANNING PERMISSION.

THE EXISTING HOUSE AND ITS REPLACEMENT  
HAS ACCESS TO THE PUBLIC ROAD BY A PRIVATE  
ACCESS TRACK.

THIS ACCESS TRACK SERVES 3 SEPARATE  
DWELLINGS.

THE ACCESS TRACK HAS EXISTED FOR OVER 100  
YEARS AND HAS BEEN USED BY LARGE  
VEHICLES SUCCESSFULLY OVER THIS TIME,  
THE APPLICANTS DON'T OWN THE ACCESS  
TRACK, BUT HAVE A 'RIGHT OF ACCESS' OVER  
IT.

IT CANNOT HAVE A CLEAR SITE LINE DUE TO  
FEATURE OUTWITH THE APPLICANTS CONTROL  
THIS CONDITION WOULD PREVENT THEM UP  
DATING THEIR HOUSE ON THIS EXISTING SITE,

If insufficient space please continue on a separate page. Is this is  
attached?  (Please tick to confirm)



(8) If the Local Review Body determines that it requires further information on "specified matters" please indicate which of the following procedure you would prefer to provide such information :-

- (a) Dealt with by written submission
- (b) Dealt with by Local Hearing
- (c) Dealt with by written submission and site inspection
- (d) Dealt with by local hearing and site inspection

*NB It is a matter solely for the Local Review Body to determine if further information is required and, if so, how it should be obtained.*

(9) Please list in the schedule all documentation submitted as part of the application for review ensuring that each document corresponds to the numbering in the sections below:-

**Schedule of documents submitted with Notice of Review (Note: 3 paper copies of each of the documents referred to in the schedule below must be attached):**

No.	Detail
1	PHOTO OF ROAD JUNCTION
2	LOCATION AND SITE PLAN.
3	
4	
5	
6	
7	
8	
9	
10	

If insufficient space please continue on a separate page. Is this is attached?  (Please tick to confirm)

Submitted by  
(Please Sign)

*P. Wainwright*  
For NORSCOT JOINERY LTD

Dated

13/12/10

**Important Notes for Guidance**

1. All matters which the applicant intends to raise in the review must be set out in or accompany this Notice of Review
2. All documents, materials and evidence which the applicant intends to rely on in the Review must accompany the Notice of Review UNLESS further information is required under Regulation 15 or by authority of the Hearing Session Rules.
3. Guidance on the procedures can be found on the Council's website – [www.argyll-bute.gov.uk/](http://www.argyll-bute.gov.uk/)
4. If in doubt how to proceed please contact 01546 604331 or email [localreviewprocess@argyll-bute.gov.uk](mailto:localreviewprocess@argyll-bute.gov.uk)
5. Once completed this form can be either emailed to [localreviewprocess@argyll-bute.gov.uk](mailto:localreviewprocess@argyll-bute.gov.uk) or returned by post to *Committee Services (Local Review Board), Kilmory, Lochgilphead, Argyll, PA31 8RT*
6. You will receive an acknowledgement of this form, usually by electronic mail (if applicable), within 14 days of the receipt of your form and supporting documentation.

If you have any queries relating to the completion of this form please contact Committee Services on 01546 604331 or email [localreviewprocess@argyll-bute.gov.uk](mailto:localreviewprocess@argyll-bute.gov.uk)

**For official use only**

Date form issued

11/12/10

Issued by (please sign)

*M. Stewart*



① PHOTO OF JUNCTION OF TRACHS WITH PUBLIC ROAD.







**STATEMENT OF CASE**

**FOR**

**ARGYLL AND BUTE COUNCIL  
LOCAL REVIEW BODY**

**GRANT OF PLANNING PERMISSION SUBJECT TO CONDITIONS FOR  
ERECTION OF DWELLINGHOUSE TO REPLACE CHALET TYPE HOUSE,  
7 GLEN HOUSES, DERVAIG, ISLE OF MULL**

**PLANNING PERMISSION REFERENCE NUMBER 10/01468/PP**

**30 DECEMBER 2010**

## **STATEMENT OF CASE**

The Planning Authority is Argyll and Bute Council ('the Council'). The appellant is Ms E Nailene & Mr A Morrison ('the appellants'), with Norscot Joinery Ltd acting as the appellant's agent.

Planning Permission Reference Number 10/01468/PP for the erection of a dwellinghouse to replace an existing chalet type house, 7 Glen Houses, Dervaig, Isle of Mull ("the appeal site") was granted subject to conditions under delegated powers on 28 October 2010.

Planning condition 5, relating to an access upgrade and visibility clearance, is the subject of referral to a Local Review Body.

### **DESCRIPTION OF SITE**

The site is currently occupied by a chalet style house which forms part of a group of A-frame rendered chalets/houses which are situated in a linear row in an elevated position at the southern end of the settlement of Dervaig. These buildings are surrounded by deciduous trees which assist in absorbing each unit into the surrounding landscape.

The site sits on an elevated position at the top end of an existing access track which runs from the nearby C46 Dervaig – Aros Bridge public road. This road serves existing dwellinghouses to the north and to the south west.

### **SITE HISTORY**

10/01030/PP – Erection of dwellinghouse to replace existing chalet type house withdrawn 27.08.10 (Site edged red incorrect)

00/01665/CLAWU – certificate of lawfulness issued 11.12.2000 confirming that the holiday chalet had an established use as a house.

Adjacent land – 05/00284/OUT and 08/00047/DET permissions granted for replacement of chalets with a total of 14 houses.

### **STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED**

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

## **STATEMENT OF CASE**

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

*Whether or not the planning condition in question, requiring that the existing vehicular access at the junction of the public road has been formed in accordance with the Council's Road Engineers Drawing Number SD 08/004a with visibility splays of 53.0m x 2.4m in each direction formed from the centre line of the proposed access, has been reasonably applied and can be so defended; or whether the removal of the relevant condition would render the proposed house contrary to the adopted Development Plan.*

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

## **REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING**

It is considered that no new information has been raised in the appellant's submission that merits a hearing being held. Relevant issues were assessed in the Report of Handling which is contained in Appendix 1. Any differences between matters then and now can be fully set out in the written submissions. As such it is considered that Members have all the information they need to determine the case. Given the above and that the proposal is small-scale, has no complex or challenging issues, and has not been the subject of any substantial public representation, it is not considered that a Hearing is required.

## **COMMENT ON APPELLANT'S SUBMISSION**

- The appellant has requested a review of Condition 5. They assert that the existing structure at the site is safely accessible and that a modest standard structure will replace it. The existing house has access to the private road by a private access track which has existed for over 100 years. They confirm that the track is outwith their ownership and the works can not be undertaken.

Comment: As history at the site, it should be noted, a Certificate of Lawful – Existing Use was granted by the Council on the 11<sup>th</sup> of December 2000 in order to regularise the use of the 2 bedroom chalet type building. At this time it was deemed that the building (originally built as a holiday chalet) had been used as a residential property, within the bounds of Class 9 of The Town and Country Planning (Use Classes) (Scotland) Order 1997, for a continued period of more than 4 years. The original intended use of the site was for holiday residence and not for full time residential residential occupation. Planning permission was not sought for the use of the holiday chalet to a dwellinghouse at the time and the Planning Authority was not able to consider imposing conditions at that time. Certificates of Lawful – Existing Use cannot be granted subject to conditions. It is considered that this change of use



to a full time residential dwellinghouse would have included an intensification of vehicular activity at the site.

In terms of the planning permission, which is the subject of this review, it is proposed that a larger footprint 3 bedroom dwellinghouse replaces the existing 2 bedroom house at the site. On completion, the recently approved dwellinghouse will also benefit from permitted development rights granted by Schedule 1 of The Town and Country (General Permitted Development) (Scotland) Order 1992 and so there is potential at the site for further additional development without requiring express planning permission. Such development could place further demands on use of the existing access at the site. It is considered that the recently approved dwellinghouse involves an intensification of use at the site.

Policy LP TRAN 4 of the Development Plan specifies that in instances where a site is served by an existing access regime and this is considered to be of such a poor standard as to be unsuitable for additional vehicular traffic then the Planning Authority may consider the proposal unacceptable, unless the applicant can secure ownership or demonstrate that an appropriate agreement has been concluded with the existing owner to allow for commensurate improvements to be made. It is considered that the recently granted permission would be contrary to this Policy if Condition 5 were to be removed.

- The appellant states that the appellant does not own the access track, but only has a right of access over the track.

Comment: The appellant certified in the planning application (ref 10/01468/PP) that they owned all of the land encompassed within the application site. The application site, as defined by the red application site boundary, includes the access track. If the case should be that the appellant does not own the access track then he/she would be guilty of an offence.

- The appellant has pointed out that the access cannot have clear site lines due to features outwith the appellant's control.

Comment: At the time of planning the applicant certified that the access to the junction with the public road was in their ownership. The Area Roads Manager advised that adequate sightlines of 53 x 2.4 metres are indeed achievable at this access. It is considered that on the basis of information available at the time, the Planning Service acted reasonably in attaching planning condition 5.

## **CONCLUSION**

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

As history at the site, it should be noted, that the existing building at the site has previously undergone an unauthorised change of use to become a full-time residential dwellinghouse. This unauthorised change of use resulted in an intensification at the site which the Council was unable to control at the time. The

grant of a Certificate of Lawful – Existing Use meant that enforcement action was time barred and the Planning Authority was not able to impose any conditions on to this Certificate.

A further intensification has now been granted planning permission at the site in the form of a replacement dwelling-house with an additional bedroom and scope for additional intensification through permitted development rights applicable on completion.

The Councils Roads Manager has deemed that the existing access to the site is unsuitable for additional vehicular traffic and requested the imposition of a condition requiring the provision of visibility splays and a standard bellmouth access on land that the appellant declared was within their ownership at the time of their planning application. The imposition of such a condition was considered reasonable and necessary in the interests of road safety and in accordance with the Development Plan.

Taking account of the above, it is respectfully requested that the application for review be dismissed. In the event that the appellant does not own the track, it is not recommended that the Planning Authority pursue this matter, but rather that the appellant seeks the consent of the landowner to undertake the works on the land. The wording of the condition is suspensive, so there is no risk of works progressing in advance of the works being undertaken. If works commenced without compliance, this would be a breach of planning control, which could be pursued by the Planning Authority by means of a Breach of Condition Notice and/or Enforcement and Stop Notices.

**APPENDIX 1**

**Argyll and Bute Council  
Development 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**

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**Reference No:** 10/01468/PP

**Planning Hierarchy:** Local Development

**Applicant:** Ms E Nalen And Mr A Morrison

**Proposal:** Erection of dwellinghouse to replace existing chalet type house

**Site Address:** 7 Glen Houses, Dervaig, Isle of Mull

---

**DECISION ROUTE**

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

---

**(A) THE APPLICATION**

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

- Erection of dwellinghouse
- Demolition of existing chalet

**(ii) Other specified operations**

- Connection to public water main
  - Connection to public drainage network
- 

**(B) RECOMMENDATION:**

Having due regard to the development plan and all other material considerations, it is recommended that planning permission be granted subject to the conditions and reasons appended to this report.

---

**(C) HISTORY:**

10/01030/PP – Erection of dwellinghouse to replace existing chalet type house withdrawn 27.08.10 (Site edged red incorrect)

00/01665/CLAWU – certificate of lawfulness issued 11/12/2000 confirming that holiday chalet had established use as a house.

Adjacent land – 05/00284/OUT and 08/00047/DET permissions granted for replacement of chalets with a total of 14 houses.

---

**(D) CONSULTATIONS:**

Legal and Protective Services – No objections, 10.09.10

Scottish Water – No objections, However Scottish Water are unable to reserve capacity at their water and wastewater treatment works in advance of formal agreement with them. Scottish Water have commented that there are no public sewers in the vicinity however the proposed development will connect to an existing connection, 14.09.10

Area Roads – No objections subject to conditions regarding access at junction or public road to be upgraded, provision of adequate visibility splays and provision of parking and turning, 24.09.10

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**(E) PUBLICITY:**

The proposal was advertised under (Regulation 20 – Advert Local Application). The publication date was 16.09.10 and the closing date was 07.10.10

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**(F) REPRESENTATIONS:** None received

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**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:** No

- (iv) **A report on the impact of the proposed development e.g. retail impact, transport impact, noise impact, flood risk, drainage impact etc:** No
- 

**(H) PLANNING OBLIGATIONS**

- (i) **Is a Section 75 agreement required:** Not required
- 

- (I) **Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:** No
- 

- (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.**

The Argyll and Bute Structure Plan 2002

STRAT DC 1 - Development within the settlements

The Argyll and Bute Local Plan 2009

LP ENV 1 – Development Impact on the General Environment

LP ENV 19 – Development Setting, Layout and Design

LP HOU 1 – General Housing Development

LP TRAN 4 – New and Existing, Public Roads and Private Access Regimes

LP TRAN 6 – Vehicle Parking Provisions

LP ENV 7 - Development Impact on Trees/Woodland

- (ii) **List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 4/2009.**

Argyll & Bute Sustainable Design Guidance (2006)

The Town & Country Planning Act (Scotland) 1997

The Planning etc. (Scotland) Act, 2006

Scottish Planning Policy (SPP), 2010

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

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

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

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

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**(O) Requirement for a hearing (PAN 41 or other): Not required**

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

This a proposal for the erection of a dwellinghouse to replace an existing house at No 7 Glen Houses, Dervaig, Isle of Mull.

The application site lies within land which has been designated as Settlement by The Argyll and Bute Local Plan 2009 wherein STRAT DC 1 of The Argyll and Bute Local Plan 2002 gives encouragement within the small towns and villages to development on appropriate redevelopment sites. An existing chalet type house at the site represents a suitable opportunity for redevelopment as defined by the Local Plan and so the proposed development accords with the provisions of STRAT DC 1 of The Argyll and Bute Structure Plan 2002.

The existing house to be demolished at the site forms part of a group of A-frame rendered chalets/houses which are situated in a linear row in an elevated position. These buildings are surrounded by deciduous trees which

assist in absorbing each unit with the surrounding landscape. The existing buildings have little architectural merit, and consent has been granted to replace adjacent units with a 14 house development.

The current application proposes to erect a single storey dwellinghouse with a T-shape floor plan. The design is relatively simple and low rise. The exterior walls are proposed to be finished in green smooth K – REND render and the roof will be clad in Marley Modern smooth grey concrete interlocking tiles. The shade of the proposed render is unknown and some green colours would be unacceptable, so a condition will be attached to the grant of permission in order to ensure that a sample of the colour of the wall render is submitted for the written approval of the Planning Authority prior to the commencement of works at the site. Overall it is considered that the proposed dwellinghouse will have an appropriate layout and density and will be of a suitable scale, form and design at this location. The proposed dwellinghouse will therefore accord with the provisions of LP ENV 19 of the adopted Local Plan.

A group of deciduous trees occupy the north western side of the site and assist in facilitating development at this elevated location. It is considered that this group of trees should be protected as far as is reasonably practicable and so a condition will be attached ensuring that these trees are afforded protection in accordance with the provisions of Policy LP ENV 7 of the adopted Local Plan.

It is proposed to connect to an existing public water main and to reconnect to the existing public sewer. Scottish Water have raised no objections to the proposed development but have commented that a connection is not guaranteed. They have commented that there are no public sewers in the vicinity of the proposed development which is not the case. The existing house is presently connected to the public sewer and so the proposed dwellinghouse will merely reconnect.

Area Roads have raised no objections to the proposed development. Area Roads have recommended that planning permission be granted subject to conditions with regards to the provision of SD 08/004a at the junction of the public road, visibility and parking at the site in the interests of road safety and in accordance with Policy LP TRAN 4 and LP TRAN 6 of the Local Plan.

It is concluded that the development proposed is consistent with adopted Local Plan policy and will have no adverse impact in terms of layout, design, servicing and infrastructure. The proposed development accords with Policy LP ENV 1 of the adopted Local Plan which sets out a general basis for consideration of all applications for planning permission.

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

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

1. An existing house at the site (established under ref 00/01665/CLAWU) represents a suitable opportunity for redevelopment as defined by the Local Plan and so the proposed development accords with the provisions of STRAT DC 1 of The Argyll and Bute Structure Plan 2002.
2. The proposed dwellinghouse will have an appropriate layout and density and will be of a suitable scale, form and design at this location. The proposed dwellinghouse accords with the provisions of LP ENV 19 of the adopted Local Plan.
3. A group of deciduous trees occupy the north western side of the site and assist in facilitating development at this elevated location. It is considered that this group of trees should be protected as far as is reasonably practicable and so a condition is attached ensuring that these trees are afforded protection in accordance with the provisions of Policy LP ENV 7 of the adopted Local Plan.
4. Area Roads have raised no objections to the proposed development, but recommend planning conditions with regards to the provision of SD 08/004a at the junction of the public road, visibility and parking at the site in the interests of road safety and in accordance with Policy LP TRAN 4 and LP TRAN 6 of the Local Plan.
5. The development proposed is consistent with adopted Local Plan policy and will have no adverse impact in terms of layout, design, servicing and infrastructure. The proposed development therefore accords with Policy LP ENV 1 of the adopted Local Plan which sets out a general basis for consideration of all applications for planning permission.

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

No Departure

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**(T) Need for notification to Scottish Ministers or Historic Scotland:** Not required

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**Author of Report: Lesley Cuthbertson**

**Date: 11.10.10**

**Reviewing Officer: Stephen Fair**

**Date: 13/10/10**

SF

**Angus Gilmour  
Head of Planning**

**CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 10/01468/PP**

1. That the development to which this permission relates must be begun within three years from the date of this permission.

*Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997.*

2. The development shall be implemented in accordance with the details specified on the Application form dated 25<sup>th</sup> August 2010 and the approved drawing reference numbers:

- Plan 1 of 4(Location and site plan, Drawing no N10/07/01)
- Plan 2 of 4(Elevations, Drawing no N10/03/05)
- Plan 3 of 4(General Floor Plan, Drawing no N10/07/02)
- Plan 4 of 4(Existing Chalet, Drawing no N10/03/06)

unless the prior written approval of the Local Planning Authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

*Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.*

3. Prior to the commencement of works at the site, full details of the colour of the proposed exterior wall render, including a sample, shall be submitted to and approved in writing by the planning authority. Thereafter, the development shall be completed and maintained in perpetuity in accordance with such details as are approved.

*Reason: To ensure that the materials are appropriate to the character of the area and sympathetic to established finishing materials in the area.*

4. That notwithstanding the details shown on the approved plans, the existing trees as shown on the Site Plan(Drawing no N10/07/01) shall not be lopped, topped, felled or otherwise damaged without the prior written consent of the Planning Authority.

*Reason: To ensure the retention of the existing trees and shrubs, as far as is reasonably practicable, so that they may contribute to the environmental quality of the development in accordance with LP ENV 7 of The Argyll and Bute Local Plan 2009.*

5. No development shall commence on site until the existing vehicular access at the junction of the public road has been formed in accordance with the Council's Road Engineers Drawing Number SD 08/004a with visibility splays of 53.0m x 2.4m in each direction formed from the centre line of the proposed access. Prior to work starting on site these visibility splays shall be cleared of all obstructions above the level of the adjoining carriageway and thereafter maintained to the satisfaction of the Planning Authority.
- The vehicular access granted consent shall be constructed to at least base course level prior to any work starting on the erection of the dwellinghouse which it is intended to serve and the final wearing surface of the road shall be applied prior to the first occupation of the dwellinghouse.

*Reason: In the interests of road safety to ensure the proposed development is served by a safe means of vehicular access and in accordance with LP TRAN 4 of The Argyll and Bute Local Plan 2009.*

6. Prior to work starting on site full details of a turning area and parking provision for 2 cars within the curtilage of the dwellinghouse drawn up in consultation with the Council's Area Roads and Amenity Services Manager shall be submitted to and approved in writing by the Planning Authority. The parking and turning area shall be provided prior to the occupation of the dwellinghouse and thereafter maintained in perpetuity.

*Reasons: In the interests of road safety and in accordance with LP TRAN 6 of The Argyll and Bute Local Plan 2009.*

#### **NOTE TO APPLICANT**

- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.
- Operational Services (Roads and Amenity Services) have advised that a Roads Opening Permit will be required. Please find enclosed a Roads Opening Permit application form for your convenience.
- Please find enclosed a copy of the consultee response received from Scottish Water. Contact details for Scottish Water can be found on this response.

APPENDIX TO DECISION APPROVAL NOTICE 10/01468/PP

Appendix relative to application 10/01468/DET

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- (A)** Has the application required an obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended).

No

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- (B)** Has the application been the subject of any “non-material” amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing.

No

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- (C)** The reasons why Planning Permission has been approved.

1. An existing house at the site (established under ref 00/01665/CLAWU) represents a suitable opportunity for redevelopment as defined by the Local Plan and so the proposed development accords with the provisions of STRAT DC 1 of The Argyll and Bute Structure Plan 2002.

2. The proposed dwellinghouse will have an appropriate layout and density and will be of a suitable scale, form and design at this location. The proposed dwellinghouse accords with the provisions of LP ENV 19 of the adopted Local Plan.

3. A group of deciduous trees occupy the north western side of the site and assist in facilitating development at this elevated location. It is considered that this group of trees should be protected as far as is reasonably practicable and so a condition is attached ensuring that these trees are afforded protection in accordance with the provisions of Policy LP ENV 7 of the adopted Local Plan.

4. Area Roads have raised no objections to the proposed development, but recommend planning conditions with regards to the provision of SD 08/004a at the junction of the public road, visibility and parking at the site in the interests of road safety and in accordance with Policy LP TRAN 4 and LP TRAN 6 of the Local Plan.

5. The development proposed is consistent with adopted Local Plan policy and will have no adverse impact in terms of layout, design, servicing and infrastructure. The proposed development therefore accords with Policy LP ENV 1 of the adopted Local Plan which sets out a general basis for consideration of all applications for planning permission.

Argyll and Bute Council  
Comhairle Earra Ghàidheal agus Bhòid



**Development and Infrastructure Services**

Director: Sandy Mactaggart

Argyll and Bute Council  
Customer Services  
Kilmory  
Lochgilphead  
PA31 8RT

FAO Melissa Stewart

**Development and Infrastructure Services**

Kilbowie House, Gallanach Road, Oban, PA34 4PF  
Tel: (01631) 569160 Fax (01631) 566728  
e mail john.heron@argyll-bute.gov.uk  
Website www.argyll-bute.gov.uk  
Direct Line 01631 569170  
Ask For: John F Heron  
Our Ref: 10/01468/PP  
Your Ref: 5545/MS  
Date: 23 December 2010

Dear Sir/Madam

LOCAL REVIEW BODY REFERENCE: 10/0013/LRB  
PLANNING APPLICATION REFERENCE: 10/01468/PP  
7 GLEN HOUSES, DERVAIG, ISLE OF MULL, PA75 6QW

I refer to your letter dated 16 December 2010 regarding the above.

There is no change to my previous response to the original Planning application and a copy of that response is attached.

Yours faithfully

A handwritten signature in black ink, appearing to read 'John F Heron'.

John F Heron  
Technical Officer  
Oban Lorn & the Isles



2069  
AS

Operational Services  
Oban, Lorn and the Isles Area

**OBSERVATIONS ON PLANNING APPLICATION**

Our Ref: 10/01468/PP  
Contact: John F Heron  
Tel: 01631 569170

Planning Application No: 10/01468/PP Dated: 6 September 2010 Received: 9 September 2010  
Applicant: Nailen, Ms E & Morrison, Mr A  
Proposed Development: Erection of dwelling house to replace existing chalet type house  
Location: 7 Glen Houses, Dervaig, Isle of Mull  
Type of Consent: Planning Permission in Principle  
Ref. No(s) of Drg(s) submitted: Series of Plans

24 SEP 2010

**RECOMMENDATION: No Objections Subject to Conditions**

Proposals Acceptable	Y/N
<b>1. General</b>	
(a) General Impact of development	Y
(b) Safety Audit Required	N
(c) Traffic Impact Analysis Required	N
(d) Drainage Impact/Flooding Assessment Required	N
(e) Sustainable Drainage System (SUDS) Provision	N
<b>2. Existing Roads</b>	
(a) Type of connection (Road Junction/Footway Crossing)	Y
(b) Location(s) of Connection(s)	Y
(c) Sight-lines 53m x 2.4m	Y
(d) Pedestrian Provision	Y

Proposals Acceptable	Y/N
<b>3. New Roads n/a</b>	
(a) Widths	
(b) Pedestrian Provision	
(c) Layout (Horizontal/Vertical alignment)	
(d) Turning Facilities (Circles/Hammerheads)	
(e) Junction Details (Locations/radii/sightlines)	
(f) Provision for P.U. Services	

Proposals Acceptable	Y/N
<b>4. Servicing and Car Parking</b>	
(a) Drainage	Y
(b) Car parking Provision	Y
(c) Layout of Parking bays/Garages	Y
(d) Servicing Arrangements/Driveways	Y

<b>5. Signing n/a</b>	
(a) Location	
(b) Illumination	

Item Ref.	COMMENTS
1	The proposal is situated off the C46 Dervaig-Aros Bridge Road within a rural 60mph speed restriction.
2c	Sightlines are achievable with the public road, no walls, hedges, fences, etc will be permitted within verge

Item Ref.	CONDITIONS
2a	Existing access at junction of public road to be upgraded in accordance with Operational Services drawing SD 08/004a
2c	No walls, hedges, fences, etc will be permitted within 2m from the channel line of the public road. Visibility splays measuring 53m x 2.4m to be cleared and maintained.
4a	A system of surface water drainage is required to prevent water from passing onto public road
4b	Parking and turning for two vehicles to be provided

Notes for intimation to Applicant

(i) Construction Consent (S21)*	Not Required
(ii) Road Bond (S17)*	Not Required
(iii) Road openings Permit (S56)*	Required

\*Relevant Section of the Roads (Scotland) Act 1984

Signed:   
Technical Officer

Date: 23 September 2010

**GRANT OF PLANNING PERMISSION SUBJECT TO CONDITIONS FOR  
ERECTION OF DWELLING HOUSE TO REPLACE CHALET TYPE  
HOUSE, 7 GEN HOUSES, DERVAIG, ISLE OF MULL.**

**PLANNING PERMISSION REFERENCE NUMBER 10/01468/PP**

**RESPONSE TO REPRESENTATIONS RECEIVED ON THE APPLICANTS  
REQUEST FOR A REVIEW OF CONDITION 5 OF THIS PERMISSION.**

**RESPONSE TO THE STATEMENT OF CASE DATED 30 DECEMBER 2010.**

SITE HISTORY

The previous planning application ref 10/01030/PP was validated on 21 July 2010 and outlined the boundary of the development site up to the private access track serving this and 2 other houses. All the land within this boundary was owned by the applicants and was certified as such by the agent in this application.

The case officer asked for the application to be withdrawn on 25 August 2010 and another application submitted, as they required the development site boundary to be extended to the junction with the public road. After some discussion with the case officer and Senior Planner David Love, the applicants agreed to withdraw the application and make a revised application.

The applicants were not happy to be required to withdraw this application which was submitted on 21 June and had taken some time to get validated, and now 2 months later had to be resubmitted. The issue of the access track was discussed at this time with the planners, that the applicants did not own it and the difficulties of up grading the junction should the roads department require this. The planning department agreed to waive the cost of advertising the new application given the circumstances.

The new application certified that all the land forming the site was in the applicants' ownership as it was regarded that the development would be limited to the junction with the access track and that showing this down to the junction with the public road was only a procedural matter. There was never any intention to mislead over the ownership of the access track, over which they only have a right of access.

ROAD JUNCTION AND INCREASED USE

The access track has served this house and 2 others for many years and reference to the photographs submitted with the notice requesting a review will show how difficult it would be to upgrade the junction to the standards required by the roads department. To obtain the site line required to the right side of the junction with the public road would require major ground works and the resiting of a telephone pole serving several properties. Whether this is achievable due to the tight bend is debateable and could not be carried out at reasonable cost, even if the landowners' permission could be obtained.

The proposed house replaces one that currently is lived in by the applicants, which has existed for many years. That it was previously a holiday home does not increase the tracks use or that the new house has 3 bedrooms rather than 2.

The house currently has room for the parking of 2 cars, as does the proposed new house. Permitted development rights would be very limited given the other conditions imposed requiring the preservation of the existing trees.

In short the proposed house will not generate any more usage of the access road than the existing applicants home.



A holiday home would be used generally in the summer months when the public road would be busier, and as such the junction would be more of an issue for people less experienced in its use.

We suggest that this condition would prevent the applicants, a young married couple, replacing their existing substandard house with a modern family home, at reasonable cost, even if the road upgrade were practicable.

The fact that planning permission has been granted confirms the merit of the new house proposed for this site.

The applicants would be happy to meet representatives of the roads department on site to discuss the possible erection of a mirror or similar visual aid by the applicants on the other side of the public road from the existing junction to help improve egress safety.

It is hoped that the review panel could regard this requirement as an alternative to that required in condition 5.

Peter Winthorpe  
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Agent for the applicants.  
12/01/11.