

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

*Customer Services*  
*Executive Director: Douglas Hendry*



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10 March 2011

## **NOTICE OF MEETING**

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held in the **KILMELFORD VILLAGE HALL, KILMELFORD** on **THURSDAY, 17 MARCH 2011** at **2:00 PM**, which you are requested to attend.

Douglas Hendry  
Executive Director - Customer Services

## **BUSINESS**

- 1. APOLOGIES FOR ABSENCE**
- 2. DECLARATIONS OF INTEREST (IF ANY)**
- 3. MR A READ AND MS A YOUNG: APPLICATION FOR ERECTION OF AGRICULTURAL SHED INCORPORATING FARM SHOP AND CAFE BUILDING AND INSTALLATION OF PRIVATE SEWERAGE TREATMENT PLANT AND SOAKAWAY: LAND NORTH WEST OF KAMES FARMHOUSE, KILMELFORD (REF: 10/01415/PP)**  
Reports by Head of Planning and Regulatory Services (Pages 1 - 22)

**DISCRETIONARY HEARING PROCEDURE NOTE** (Pages 23 – 28)

## **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE**

Councillor Gordon Chalmers  
Councillor Robin Currie  
Councillor Mary-Jean Devon  
Councillor David Kinniburgh  
Councillor Donald MacMillan  
Councillor Alister McAlister  
Councillor Alex McNaughton  
Councillor Al Reay

Councillor Rory Colville  
Councillor Vivien Dance  
Councillor Daniel Kelly  
Councillor Neil Mackay  
Councillor Bruce Marshall  
Councillor Roderick McCuish  
Councillor James McQueen

Contact: Melissa Stewart

Tel. No. 01546 604331

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**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:** 10/01415/PP

**Planning Hierarchy:** Local Development

**Applicant:** Mr A Read & Ms A Young

**Proposal:** Erection of Agricultural Shed incorporating Farm Shop, Cafe Building and Installation of Private Sewage Treatment Plant and Soakaway

**Site Address:** Land northwest of Kames Farmhouse, Kilmelford

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### **SUPPLEMENTARY REPORT NO. 1**

**(A) Background**

This application was presented to the Planning, Protective Services and Licensing Committee meeting on 16 February 2011.

Since presenting the proposal to Committee, further representations have been received from the following individuals:

Robert McT Hill, Kames Lodge, Kilmelford, PA34 4XA (12/02/11)  
Councillor Elaine Robertson, Dungrianach, Crannaig a Mhinisteir, Oban, PA34 4LU (15/02/11)

The above representations raises no new issues but reiterates the issues raised in the previous submissions, including water supply, which are detailed and commented on in the main report.

In light of the concerns regarding the water supply, the applicant's agent has been asked to provide further details prior to the hearing.

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**(B) RECOMMENDATION:**

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission be granted subject to:

- 1) the holding of a discretionary local hearing in view of the number of representations received in the context of a small community, and
  - 2) the conditions and reasons appended to this report.
-

**Author of Report:** Fiona Scott      **Date:** 25/02/11

**Reviewing Officer:** Stephen Fair      **Date:** 28/02/11

**Angus Gilmour**  
**Head of Planning**

**CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 10/01415/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. No development shall commence on site until the vehicular access at the junction with the public road has been upgraded in accordance with the Council's Road Engineers Drawing Number SD 08/006a with passing places at 60 metre intervals along the access track and visibility splays of 160.0m x 2.4m having been formed in each direction formed from the centre line of the access where it meets the existing public road. Prior to work starting on site these visibility splays shall have been cleared of all obstructions above the level of the adjoining carriageway and shall be maintained free of obstruction thereafter to the satisfaction of the Planning Authority.

*Reason: In the interests of road safety to ensure that the proposed development is served by a safe means of vehicular access.*

3. No development shall commence on site until a full appraisal to demonstrate the wholesomeness and sufficiency of the private water supply to serve the development has been submitted to and approved in writing by the Planning Authority. This assessment shall be carried out by a qualified and competent person(s). Such appraisal shall include a risk assessment having regard to the requirements of Schedule 4 of the Private Water Supplies (Scotland) Regulations 2006 and shall on the basis of such risk assessment specify the means by which a wholesome and sufficient water supply shall be provided and thereafter maintained to the development. Such appraisal shall also demonstrate that the wholesomeness and sufficiency of any other supply in the vicinity of the development, or any other person utilising the same source or supply, shall not be compromised by the proposed development. Furthermore, the development itself shall not be brought into use or occupied until the required supply has been installed in accordance with the agreed specification.

*Reason: In the interests of public health and in order to ensure that an adequate private water supply in terms of both wholesomeness and sufficiency can be provided to meet the requirements of the proposed development and without compromising the interests of other users of the same or nearby private water supplies.*

4. No development shall commence on site until full details of the foul drainage system, including the location, specification, capacity and means of discharge of any proposed treatment facility, has been submitted to and approved in writing by the Planning Authority. Thereafter, the approved details will be fully implemented prior to the proposed development first coming into use and maintained thereafter in perpetuity.

*Reason: In the interests of residential amenity and public health*

5. Development shall not begin until details of the scheme of hard and soft landscaping works has been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:

- i) existing and finished ground levels in relation to an identified fixed datum
- ii) existing landscaping features and vegetation to be retained
- iii) location and design, including materials, of walls, fences and gates
- iv) soft and hard landscaping works, including the location, type and size of each individual tree and/or shrub
- v) 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*

6. The development shall be implemented in accordance with the details specified on the application form dated 06/09/10 and the approved drawing reference numbers:

Plan 1 of 2 (Location Plan - Drawing Number 2010 023-015)  
Plan 2 of 2 (Shed 2 - Drawing Number 2010 023-015)

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. An application form is enclosed for your use.

**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:** 10/01415/PP

**Planning Hierarchy:** Local Development

**Applicant:** Mr A Read & Ms A Young

**Proposal:** Erection of Agricultural Shed incorporating Farm Shop, Cafe Building and Installation of Private Sewage Treatment Plant and Soakaway

**Site Address:** Land northwest of Kames Farmhouse, Kilmelford

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**DECISION ROUTE**

**Local Government Scotland Act 1973**

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**(A) THE APPLICATION**

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

- Erection of Agricultural Shed incorporating Farm Shop and Cafe Building;
- Formation of vehicular access;
- Installation of Private Sewage Treatment Plant and Soakaway;
- Proposed private water supply.

**(ii) Other specified operations**

- New agricultural tracks in conjunction with approved polytunnel near the site
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**(B) RECOMMENDATION:**

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission be granted as a 'minor departure' to development plan policy RET 4 subject to:

- 1) A discretionary local hearing being held in view of the number of representations received in the context of a small community, and
  - 2) the conditions and reasons appended to this report.
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**(C) HISTORY:**

10/01653/PNAGRI

Erection of polytunnel – prior approval - 09/11/10  
Land at western extremity of landholding

10/01759/PNAGRI

Erection of polytunnel – prior approval - 09/11/10  
Land immediately east of application site

10/01410/PP

Agricultural building under consideration by PPSL 16/02/11

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**(D) CONSULTATIONS:**

Area Roads Manager

Report dated 11/10/10 advising no objection subject to conditions.

Public Protection Unit

Memo dated 07/10/10 advising no objection subject to conditions.

Kilninver And Kilmelford Community Council

Letter dated 13/10/10 raising concerns about the ability of the Kames water supply to serve the development without affecting supplies to existing residents on the Kames peninsula, otherwise stating it was an excellent project.

Further letter dated 09/11/10 reiterating the concerns regarding the water supply and raising additional concerns regarding the positioning of the building so close to the boundary of the fish farm would result in noise and smell issues and furthermore would not benefit of the view to Loch Melfort. It was also raised that the applicants are rarely in residence as they spend most of their time on their large farm in Cumbria.

*Comment: The application form indicated that the existing water supply was to be used to serve the proposed development. However this was an error and the applicant has since confirmed that a separate private water supply from that serving existing dwellings at Kames is proposed (via a borehole). The positioning of the building is considered to relate to the existing grouping of buildings and given the purpose of the building will not raise any 'bad neighbour' issues.*

*Whether the applicants reside on the holding year round basis is not a material planning consideration.*

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**(E) PUBLICITY:**

The proposal has been advertised in terms of Regulation 20 procedures, closing date 21/10/10.

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**(F) REPRESENTATIONS:**

Objections have been received from 17 individuals as follows:

John Rentoul, Laroch, Kilmelford, Oban, PA34 4XA (02/11/10)



Jane Rentoul, Laroch, Kilmelford, Oban, PA34 4XA (02/11/10)

Robin Wells, Ardbeith, Kames, Kilmelford, Oban, PA34 4XA (31/10/10)

Alison Wells, Ardbeith, Kames, Kilmelford, Oban, PA34 4XA (31/10/10)

Rosemary Wells, Ardbeith, Kames, Kilmelford, Oban, PA34 4XA 2 letters (31/10/10)

Adrian Wells, Ardbeith, Kames, Kilmelford, Oban, PA34 4XA (31/10/10)

Shian Wells Ardbeith Kames Kilmelford By Oban PA34 4XA

Fergus, G R Gillanders, Craigaol, Kilmelford, PA34 4XA (18/10/10)

Caroline M Gillanders, Craigaol, Kilmelford, PA34 4XA 2 letters (23/10/10 & 22/01/11)

Lorna Hill, Kames Lodge, Kames Peninsular, Kilmelford, PA34 4XA (undated)

Robert Hill, Kames Lodge, Kilmelford, PA34 4XA (29/10/10)

Ewan Kennedy, Kinloch, Degnish Road, Kilmelford, PA34 4XD (13/11/10)

Allan Loughray, Creag Na Linne, Kames Bay, Kilmelford, PA34 4XA (26/10/10)

A M Timmins, The Old Kirk, Kilmelford, Oban, PA34 4XD (29/10/10)

James Dinsmore, Tulloch Beag, Kilmelford, Oban, PA34 4XA (29/10/10)

S. Peter Halstead, Tigh-an-Rudha, Kilmelford, Oban, PA34 4XA (31/10/10)

Jack Vennelle, Craiglea, Kilmelford, Oban, PA34 4XA (22/10/10)

**(i) Summary of issues raised**

- Concerns regarding the ability of the existing water supply to serve the proposed development.

*Comment: The application form indicated that the existing water supply was to be used to serve the proposed development. However this was an error, and the applicant has since confirmed that a new private water supply is proposed separate from that which serves the objectors' properties at Kames. The applicant has now written directly to the neighbouring properties affected to advise them of this.*

*In terms of water supply arrangements, the Council's Public Protection Unit was consulted and no objection is raised subject to the imposition of a condition requiring an appraisal of the proposed private water supply to ensure it is sufficient to serve the proposed development, prior to the commencement of development. This condition requires that such an appraisal shall demonstrate that the wholesomeness and sufficiency of any other supply in the vicinity of the development, or any other person utilising the same source or supply, shall not be compromised by the proposed development.*

*In addition, the applicant has submitted an initial report from Argyll Geothermal who have undertaken a site inspection and identified five potential borehole locations with strong water sources.*

- Road safety concerns.

*Comment: The Area Roads Manager has been consulted on the proposed development and raises no issues in terms of road safety.*

- The proposed building will detract from the Area of Panoramic Quality and the design and positioning of the building would spoil the existing attractive settlement of buildings.

*Comment: The building is to be sited adjacent to the existing grouping of fish farm buildings set against the farm boundary which is partially screened from public view by an established tree belt running in a north to south direction parallel to the farm boundary which will help integrate it into the landscape and minimising the area of land impacted on by the structure. The building will form a pairing along with an approved polytunnel under ref 10/01653/PNAGRI, on an area of ground which relates to the adjacent grouping of buildings which form the fish farm and is to be set against the existing farm boundary which is partially screened from public view by an established tree belt running in a north to south direction which will help integrate it into the landscape. The workable farm land in the centre foreground of the holding is unaffected.*

- The employment claims of 5 - 10 people is overly optimistic.

*Comment: The number of employees likely to arise as a result of the development is a matter for applicants to consider and is not being assessed as having decisive weight in the determination of this planning application. The farm shop and cafe would create employment opportunities which do not exist at present.*

- The proposal is situated within 'Sensitive Countryside' and is therefore contrary to current Local Plan Policy.

*Comment: The site is actually situated within 'Countryside Around Settlement' which is further discussed in the assessment within Appendix A of this report.*

- Concerns over advertising and neighbour notification of the application.

*Comment: All notifiable properties were issued with neighbour notification of the proposed development and the proposal was advertised under Regulation 20 procedures in the local press on 21/10/10. Community Councils receive weekly lists of applications from the Planning Service.*

- The applicants are rarely in residence as they spend most of their time on their large farm in Cumbria.

*Comment: This is not a material consideration in the determination of this planning application.*

The above represents a summary of the issues raised. Full details of the letters of representation are available on the Council's Public Access System by clicking on the following link <http://www.argyll-bute.gov.uk/content/planning/publicaccess>.

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**(G) SUPPORTING INFORMATION**

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

- |       |  |    |
|-------|--|----|
| (i)   | <b>Environmental Statement:</b>  | No |
| (ii)  | <b>An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:</b>   | No |
| (iii) | <b>A design or design/access statement:</b>  | No |
| (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> | No |

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**(H) PLANNING OBLIGATIONS**

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

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

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

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

Argyll and Bute Structure Plan 2002

STRAT DC 2 – Development within the Countryside Around Settlements

STRAT AC 1 – Development in Support of Farms, Crofts and Estates

Argyll and Bute Local Plan 2009

LP ENV 1 – Impact on the General Environment

LP ENV 10 – Impact on Areas of Panoramic Quality (APQ)

LP ENV 19 – Development Setting, Layout and Design

LP RET 4 – Retail Development within Countryside Development Zone

LP SERV 1 – Private Sewage Treatment Plants

LP SERV 4 – Water Supply

LP TOUR 1 – Tourist Facilities and Accommodation, including Caravans

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

SPP, Scottish Planning Policy, 2010

PAN73, Rural Diversification, 2005

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<b>(K)</b>	<b>Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:</b>	No
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<b>(L)</b>	<b>Has the application been the subject of statutory pre-application consultation (PAC):</b>	No
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<b>(M)</b>	<b>Has a sustainability check list been submitted:</b>	No
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<b>(N)</b>	<b>Does the Council have an interest in the site:</b>	No
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<b>(O)</b>	<b>Requirement for a hearing (PAN41 or other):</b>	Yes
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Representations have been received from 17 individuals and from the community council, which is a significant number in the context of the small community at Kames. Accordingly, it is considered that a discretionary local hearing would be appropriate in this case.

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

Planning permission is sought for erection of an agricultural building incorporating a farm shop and cafe at Kames Farm, Kilmelford.

The proposed building is approximately 558 square metres in size, comprising approx two thirds agricultural shed and one third shop/cafe. The shed section is to be constructed with blockwork external walls to mid height with juniper green coloured profile metal sheeting above, with the same profile sheeting to the entire roof. The

shop/cafe section walls comprise cedar lining and an area of glazing. The design is in a fairly typical for agricultural buildings that are commonly found within farmyard complexes, with the exception of the glazed shop/cafe section, located at the northern end of the building. The proposal requires planning permission and not prior notification due to the proposed usage.

Albeit that agricultural buildings are not categorised in the Local Plan, this type of development is similar in appearance to many industrial buildings and as such, it is considered appropriate to have regard to this building in terms of Schedule B1 of the local plan (page 35), where an equivalent industrial building would be categorised as being of 'medium scale'.

In terms of the adopted Argyll and Bute Local Plan, the site is situated within the 'Countryside Around Settlement' (CAS) zone within which Policy STRAT DC 2 of the approved 'Argyll and Bute Structure Plan' gives encouragement to development which accords with the settlement plan for the area; including appropriate small scale, infill, rounding-off, redevelopment and change of use proposals subject to compliance with other relevant local plan policies. In special cases, a locational need or special circumstance may justify a development.

In terms of the 'Argyll and Bute Local Plan' (2009):

Policy LP ENV 1 assesses applications for their impact on the natural, human and built environment.

Policy LP ENV 10 states that development in, or adjacent to, an Area of Panoramic Quality will be resisted where its scale, location or design will have a significant adverse impact on the character of the landscape.

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.

In addition to the above, the proposal also has to be assessed for compliance with other relevant local plan policies which are detailed in Appendix A of this report. The main issues in respect of the proposal are the siting and design of the building and its impact on the landscape and existing infrastructure.

The site lies between the existing farm holding of Kames Farmhouse to the east and the existing fish farm to the west of the site. To northern boundary meets the A816 Oban – Lochgilphead public road and open fields and a tree belt lie to the east. The building is to be sited against the farm boundary adjacent to the existing fish farm buildings and is partially screened from public view by an established tree belt running in a north to south direction which will help integrate it into the landscape. The siting minimises the area of arable land impacted on by the structure. The building will form a pairing along with an approved polytunnel under ref 10/01653/PNAGRI, on an area of ground which relates to the adjacent grouping of buildings which serve the fish farm and is to be set against the existing farm boundary which is partially screened from public view by an established tree belt running in a north to south direction which will help integrate it into the landscape. The workable farm land in the central foreground of the holding is unaffected.

The settlement pattern in the area around Kames is characterised by well spaced, low density single houses or groups of farm related buildings and occasional industrial development.

The proposed structure is a 'medium scale' building sited alongside an approved polytunnel, which together would form a pairing of buildings spaced out from the existing farmhouse.

Whilst development is not normally supported within the CAS zone when there is available land within a Rural Opportunity Area (ROA), the boundary of the adjacent ROA (as refined by the effect of the Landscape Capacity study) has been drawn tightly around the farmhouse and adjacent steading and leaves little room for the future development of the farmholding.

The applicants have produced a farm plan which demonstrates the proposed functioning of their farm business and which shows the subdivision of the farm holding into grazing areas served by separate sheds. This arrangement was considered the most appropriate for animal husbandry, herd separation, ease of movement within the holding and ease of access to pasture. Furthermore this would ensure that the agricultural buildings were not located in the centre of fields, but kept to the periphery to minimise land loss.

The proposed building subject of this application forms part of a wider package of investment and diversification at an existing farm which will support both agriculture and the rural economy.

Prior permission has recently been granted for two polytunnels within the farmholding and a separate planning application has been submitted for the redevelopment of the farm steading into holiday units. Siting the building subject of this application within the adjacent ROA would result in an adverse impact on the holiday unit venture by introducing a building which has the potential to generate noise and activity and which would conflict with the proposed use of the steading as holiday accommodation. This is not therefore an acceptable alternative location to the applicant having regard to his overall farm diversification and improvement plans.

Whilst the site is situated within CAS, the building has been sensibly sited on an area of ground which relates to the adjacent grouping of buildings which serve the fish farm and is to be set against the existing farm boundary which is partially screened from public view by an established tree belt running in a north to south direction which will help integrate it into the landscape. The overall development of the farmholding will show a pairing of a shed and polytunnel off to the left when facing the farmhouse both of which will be set against the rising land with open grazing land to the front; the farmhouse and converted steading will be in the centre in their original setting; then a further pairing of the shed/shop and polytunnel will be situated off to the right set against mature riparian woodland with further grazing land in front. The proposal utilises an appropriate location within the existing farm complex to site a building of this purpose and size, without creating unacceptable impacts on the usable agricultural land or the wider landscape.

In light of the above, given its purpose as a multi-purpose agricultural building related to the farmholding on which it is to be located, and given that it cannot reasonably be sited within the adjacent ROA without impinging on the proposed holiday unit development proposed as part of the wider package of investment and diversification proposed at the farm, it is considered that the proposal benefits from a justifiable locational need to be sited within the CAS, and is therefore compatible with Structure Plan Policy STRAT DC 2.

Policy LP RET 4 presumes against retail development in the 'countryside around settlement' (CAS) development control zone. However, in this case the proposal is for small scale retailing in the form of a farm shop and there are justifiable reasons outlined above as to why the development ought to take place on that part of the farm holding

located within CAS as opposed to elsewhere on the holding. It is therefore appropriate to permit a 'minor departure' to policy LP RET 4 in these circumstances.

The application indicates the existing vehicular access to be upgraded to serve the proposed development with drainage via installation of a new private system and water supply via a new private supply. The proposal has elicited a number of objections from local residents, the main thrust of which relates to the proposed water supply to serve the development. This is adequately controlled by means of a suspensive planning condition, which safeguards the neighbours and prevents development from commencing until such time as a suitable water source, separate from their supply, has been agreed.

The Area Roads Manager was consulted on the proposal and raised no objection subject to conditions requiring upgrade of the access and clearance of visibility splays. This will be addressed by appropriate planning conditions.

Subject to conditions recommended below, the development is considered to represent a suitable opportunity for medium scale development consistent with the settlement pattern and therefore in accordance with the Development Plan. Provision of the agricultural building, cafe and farm shop will assist diversification at the farm and as such meets wider national, strategic and local policy aims to support the rural economy.

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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 granted**

It is considered that the site represents a suitable opportunity for development with the agricultural building incorporating a cafe and farm shop, which is of a suitable scale, form and design which will not detract from the established character of the area. Provision of the shed, farm shop and cafe support farm diversification and as such meets wider national, strategic and local policy aims to support the rural economy.

The proposal accords with Policies STRAT DC 2 and STRAT AC 1 of the approved Argyll and Bute Structure Plan and Policies LP ENV 1, LP ENV 10 and LP ENV 19 of the adopted Argyll and Bute Local Plan and can be justified as a 'minor departure' from Policy LP RET 4 as the small shop proposed forms part of a wider package of investment and diversification at an existing farm which will support both agriculture and the rural economy.

Furthermore 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**

The small shop proposed forms part of a wider package of investment and diversification at an existing farm which will support both agriculture and the rural economy. There is no preferable alternative location on the holding which would not prejudice the diversification proposals for the holding as a whole, and in these circumstances there are advantages to the rural economy in granting planning permission as a 'minor departure' to the effect of policy LP RET 4 of the 'Argyll and Bute Local Plan' (2009).

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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: 24/01/11**

**Reviewing Officer: Stephen Fair Date: 24/01/11**

**Angus Gilmour  
Head of Planning**



**CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 10/01415/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. No development shall commence on site until the vehicular access at the junction with the public road has been upgraded in accordance with the Council's Road Engineers Drawing Number SD 08/006a with passing places at 60 metre intervals along the access track and visibility splays of 160.0m x 2.4m having been formed in each direction formed from the centre line of the access where it meets the existing public road. Prior to work starting on site these visibility splays shall have been cleared of all obstructions above the level of the adjoining carriageway and shall be maintained free of obstruction thereafter to the satisfaction of the Planning Authority.

*Reason: In the interests of road safety to ensure that the proposed development is served by a safe means of vehicular access.*

3. No development shall commence on site until a full appraisal to demonstrate the wholesomeness and sufficiency of the private water supply to serve the development has been submitted to and approved in writing by the Planning Authority. This assessment shall be carried out by a qualified and competent person(s). Such appraisal shall include a risk assessment having regard to the requirements of Schedule 4 of the Private Water Supplies (Scotland) Regulations 2006 and shall on the basis of such risk assessment specify the means by which a wholesome and sufficient water supply shall be provided and thereafter maintained to the development. Such appraisal shall also demonstrate that the wholesomeness and sufficiency of any other supply in the vicinity of the development, or any other person utilising the same source or supply, shall not be compromised by the proposed development. Furthermore, the development itself shall not be brought into use or occupied until the required supply has been installed in accordance with the agreed specification.

*Reason: In the interests of public health and in order to ensure that an adequate private water supply in terms of both wholesomeness and sufficiency can be provided to meet the requirements of the proposed development and without compromising the interests of other users of the same or nearby private water supplies.*

4. No development shall commence on site until full details of the foul drainage system, including the location, specification, capacity and means of discharge of any proposed treatment facility, has been submitted to and approved in writing by the Planning Authority. Thereafter, the approved details will be fully implemented prior to the proposed development first coming into use and maintained thereafter in perpetuity.

*Reason: In the interests of residential amenity and public health*

5. Development shall not begin until details of the scheme of hard and soft landscaping works has been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:
- i) existing and finished ground levels in relation to an identified fixed datum
  - ii) existing landscaping features and vegetation to be retained
  - iii) location and design, including materials, of walls, fences and gates
  - iv) soft and hard landscaping works, including the location, type and size of each individual tree and/or shrub
  - v) 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*

6. The development shall be implemented in accordance with the details specified on the application form dated 06/09/10 and the approved drawing reference numbers:

Plan 1 of 2 (Location Plan - Drawing Number 2010 023-015)  
Plan 2 of 2 (Shed 2 - Drawing Number 2010 023-015)

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. An application form is enclosed for your use.

**APPENDIX A – RELATIVE TO APPLICATION NUMBER: 10/01415/PP**

**PLANNING LAND USE AND POLICY ASSESSMENT**

**A. Settlement Strategy**

In terms of the adopted 'Argyll and Bute Local Plan', the site is identified as being within the 'Countryside Around Settlement' (CAS) zone of Kames, by Kilmelford.

This designation stems from Policy STRAT DC 2 of the approved Argyll and Bute Structure Plan which gives encouragement to development which accords with the settlement plan for the area; including appropriate small scale, infill, rounding-off, redevelopment and change of use proposals subject to compliance with other relevant local plan policies. In special cases, a locational need or special circumstance may justify a development.

The CAS zone corresponds to those peripheral areas close-in and around settlements where compatible developments and small scale, infill, rounding off and redevelopment proposals will be supported where appropriate, provided they do not compromise the long term growth of the settlement.

Whilst development is not normally supported within the CAS zone when there is available land within a Rural Opportunity Area (ROA), the boundary of the adjacent ROA (as modified by the Landscape Capacity Study) has been drawn tightly around the farmhouse and adjacent steading and leaves little room for the future development of the farmholding.

The applicants produced a farm plan which demonstrated the proposed functioning of their farm business and which shows the subdivision of the farm holding into grazing areas served by separate sheds. This arrangement optimises available land for grazing whilst ensuring that the agricultural buildings are not located in the centre of fields, but kept to the periphery to minimise land loss through placement of buildings/roads. The possibility of locating the building in a location within the ROA has been considered but is not acceptable to the applicant, as the area within the ROA identified as having development potential in the Landscape Capacity Study is not extensive, and the siting of a large farm building close to the steading buildings proposed for conversion to holiday accommodation would result in an adverse impact on the holiday unit venture by introducing a building which has the potential to generate noise and activity and which would conflict with the applicant's overall intentions of the improvement and diversification of the farm.

In light of the above, given its purpose as a multi-purpose agricultural building related to the farmholding on which it is to be located, and given that it cannot reasonably be sited within the adjacent ROA without impinging on the proposed holiday unit development proposed as part of the wider package of investment proposed at the farm, it is considered that the proposal benefits from a justifiable locational need to be sited within the CAS and is therefore compatible with Structure Plan Policy STRAT DC 2.

Furthermore the proposal utilises an appropriate location within the existing farm complex to site a building of this purpose and size, without creating unacceptable impacts on the usable agricultural land or the wider landscape.

The proposal is considered to represent a suitable opportunity for medium scale development based on a locational need and underpinned by farm diversification endorsed by Structure Plan Policy STRAT AC 1, which will have minimal impact on the existing landscape and will not compromise the long term growth of the settlement.

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

The site lies between the existing farm buildings at Kames Farmhouse to the east and the commercial Kames Fish Farm operation to the west, beyond riparian woodland. To the north the site is bounded by the A816 Oban – Lochgilphead Road and to the east by open fields.

The agricultural building is to be set against the existing farm boundary which is partially screened from public view by an established tree belt running in a north to south direction and set against further riparian woodland to the west which helps it integrate into the landscape. The siting minimises the area of arable land impacted on by the structure, and it will form a pairing with an approved polytunnel along the western boundary of the holding.

The agricultural building is approximately 558 square metres in size and is to be finished in blockwork on the lower area of the external walls with juniper green coloured profile metal sheeting and above and a juniper green coloured profile metal sheet roof. The shop/cafe section contains an area of glazed wall and cedar clad walls. The design is fairly typical of agricultural buildings commonly found within farmyard complexes.

The majority of the building is to be used for agricultural use associated with the operation of the farm with approximately a third used as an associated farm shop and cafe.

It is considered the site represents an appropriate location within the existing farm complex to site the building without having any detriment to the wider landscape.

**Accordingly the proposal is considered to comply with the terms of Policy LP ENV 19 and Appendix A.**

Policy TOUR 1 gives a presumption in favour of new or improved tourist facilities provided they are consistent with Policy STRAT DC 2, respect the landscape character of the surrounding area; are reasonably accessible by public transport; are well related to the existing built form; and subject to compliance with other associated policies.

The development may be regarded as a positive asset as far as tourism of the area is concerned and its location adjacent to the existing farm complex and fish farm development will ensure it fits well with the existing development pattern and landscape characteristics and will not detract from the landscape character in this location.

**In this regard it is considered that the proposal satisfies the requirements of Policy LP TOUR 1.**

**C. Retail policy**

The proposal incorporates a small farm shop and has to be assessed in the light of the effect of Policy LP RET 4 'Retail Development in the Countryside'. This lends support to small scale retailing in the countryside particularly where associated with farm diversification schemes, but presumes against retail development in open areas of the CAS. In this case, no suitable development opportunity has been identified within the the limited area of 'rural opportunity area' within the farm which would not conflict with interests associated with other elements of the overall farm diversification plan for the holding. Given that the site within the CAS is set against the existing farm boundary and relates to the grouping of buildings serving the adjacent Fish Farm, in terms of location it is considered an appropriate site for the development.

**The small farm shop forms part of a wider package of investment and diversification at an existing farm which will support both agriculture and the rural economy and on this basis that there is not a potentially preferable site available, it is considered that it may be justified as a 'minor departure' to Policy RET 4.**

**D. Natural Environment**

There are no features of nature conservation interest on the site and there are no designations or issues to be taken into account of in the determination of this application.

**E. Landscape Character**

The site is situated within the Knapdale and Melfort Area of Panoramic Quality.

Structure Plan Policy STRAT DC 8 states that development which by reason of location, siting, scale, form design or cumulative impact, damages or undermines the key environmental features of a visually contained or wider landscape or coastscape shall be treated as 'non-sustainable' and is contrary to this policy.

Furthermore Policy LP ENV 10 states that development in, or adjacent to, an Area of Panoramic Quality will be resisted where its scale, location or design will have a significant adverse impact on the character of the landscape.

It is considered that it has been successfully demonstrated that the development secures an appropriate fit with the development pattern of the area and the landscape characteristics of its surroundings, and will not adversely impinge upon landscape character.

**It is not considered that the proposal will have an adverse impact on the wider landscape and therefore is consistent with the criteria set out in Policies STRAT DC 8 and LP ENV 10 which seek to ensure that developments do not have an adverse impact on the character of the landscape.**

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

The application shows the existing vehicular access from the A816 Oban – Lochgilphead Road to be utilised to serve the proposed development with a new stretch branching to the west to serve the proposed development. A sufficient area for parking and turning to serve the development has been shown within the application site. The Area Roads Manager has been consulted on the proposal and raised no objection subject to conditions regarding the upgrading of the vehicular access and clearance of visibility splays.

**Subject to planning conditions, the proposal is acceptable from a road safety perspective and complies with the terms of Policies LP TRAN 4 and LP TRAN 6 which seek to ensure that developments are served by an appropriate means of vehicular access and have a sufficient parking and turning area provided within the site.**

**G. Infrastructure**

The application indicates installation of a new sewage treatment plant with soakaway to serve the proposed development.

**The proposal is considered acceptable in terms of Policy LP SERV 1 in that there is no public sewer within the vicinity of the proposed development to allow connection.**

The application indicates a new private water supply to serve the proposed development. The Council's Public Protection Unit has been consulted on the proposal and whilst raising no objection, advises that a condition should be imposed requiring the submission of a report demonstrating that the proposed supply is sufficient to serve the development. This condition requires that such an appraisal shall demonstrate that the wholesomeness and sufficiency of any other supply in the vicinity of the development, or any other person utilising the same source or supply, shall not be compromised by the proposed development.

**The proposal is considered acceptable in terms of Policy LP SERV 4 in that there is no public water supply within the vicinity of the proposed development to allow connection.**



**Committee Plan  
Planning Application 10/01415/PP**



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**ARGYLL AND BUTE COUNCIL**

**PROCEDURE NOTE FOR USE AT**

- |  |                          |
|--|--------------------------|
| <b>(1) Statutory Pre Determination Hearing</b> | <input type="checkbox"/> |
| <b>(2) Pan 41 Hearing</b>                      | <input type="checkbox"/> |
| <b>(3) Council Interest Application</b>        | <input type="checkbox"/> |
| <b>(4) Discretionary Hearing</b>               | <b>X</b>                 |

**HELD BY THE PLANNING, PROTECTIVE SERVICES & LICENSING COMMITTEE**

1. The Director of Customer Services will notify the applicant, all representees and objectors of the Council's decision to hold a Hearing and to indicate the date on which the hearing will take place. The hearing will proceed on that day, unless the Council otherwise decides, whether or not some or all of the parties are represented or not. Statutory consultees (including Community Councils) will be invited to attend the meeting to provide an oral presentation on their written submissions to the Committee, if they so wish.
2. The Director of Customer Services will give a minimum of 7 days notice of the date, time and venue for the proposed Hearing to all parties.
3. The hearing will proceed in the following order and as follows.
4. The Chair will introduce the Members of the Panel, ascertain the parties present who wish to speak and outline the procedure which will be followed.
5. The Director of Development and Infrastructure's representative will present their report and recommendations to the Committee on how the matter should be disposed of.
6. The applicant will be given an opportunity to present their case for approval of the proposal and may include in their submission any relevant points made by representees supporting the application or in relation to points contained in the written representations of objectors.
7. The consultees, supporters and objectors in that order (see notes 1 and 2), will be given the opportunity to state their case to the Council.
8. All parties to the proceedings will be given a period of time to state their case (see note 3). In exceptional circumstances and on good case shown the Panel may extend the time for a presentation by any of the parties at their sole discretion.

Ref: ABH1/2009

9. Members of the Panel only will have the opportunity to put questions to the Director of Development and Infrastructure's representative, the applicant, the consultees, the supporters and the objectors in that order.
10. At the conclusion of the question session the Director of Development and Infrastructure's representative, the applicant, any consultees present, the supporters and the objectors (in that order) will each be given an opportunity to comment on any particular information given by any other party after they had made their original submission and sum up their case.
11. The Chair will ascertain from the parties present that they have had a reasonable opportunity to state their case.
12. The Panel will then debate the merits of the application and will reach a decision on it. No new information can be introduced at this stage.
13. The Chair or the Committee Services Officer on his/her behalf will announce the decision.
14. A summary of the proceedings will be recorded by the Committee Services Officer.
15. If at any stage it appears to the Chair that any of the parties is speaking for an excessive length of time he will be entitled to invite them to conclude their presentation forthwith.

NOTE

- (1) Objectors who intend to be present and speak at a hearing are encouraged to appoint one or a small number of spokespersons to present their views to concentrate on the matters of main concern to them and to avoid repetition. To assist this process the Council will provide a full list of the names and addresses of all objectors.
- (2) Supporters who intend to be present and speak at a hearing are encouraged to appoint one or a small number of spokespersons to present their views to concentrate on the matters of main concern to them and to avoid repetition. To assist this process the Council will provide a full list of the names and addresses of all supporters.
- (3) Councillors (other than those on the Panel) who have made written representations and who wish to speak at the hearing will do so under category (1) or (2) above according to their representations but will be heard by the Panel individually.
- (4) Recognising the level of representation the following time periods have been allocated to the parties involved in the Hearing.

Ref: ABH1/2009

The Director of Development Services' representative – not more than half an hour

The Applicant - not more than half an hour.

The Consultees - not more than half an hour.

The Supporters - not more than half an hour.

The Objectors - not more than half an hour.

- (4) The purpose of the meeting is to ensure that all relevant information is before the Panel and this is best achieved when people with similar views co-operate in making their submissions.
- (5) Everyone properly qualified as a representee recorded on the application report who wishes to be given an opportunity to speak will be given such opportunity.
- (6) The Council has developed guidance for Councillors on the need to compose a competent motion if they consider that they do not support the recommendation from the Director of Development and Infrastructure which is attached hereto.

I:data/typing/planning/procedure note

## COMPETENT MOTIONS

- Why is there a need for a competent motion?
  - Need to avoid challenge by “third party” to local authority decision which may result in award of expenses and/or decision being overturned.
  - Challenges may arise from: judicial review, planning appeal, ombudsman (maladministration) referral. All appeal/review processes have rights to award expenses against unreasonable/unlawful behaviour.
- Member/Officer protocol for agreeing competent motion:
  - The process that should be followed should Members be minded to go against an officer’s recommendation is set out below.
- The key elements involved in formulating a competent motion:
  - It is preferable to have discussed the component parts of a competent motion with the relevant Member in advance of the Committee (role of professional officers). This does not mean that a Member has prejudged the matter but rather will reflect discussions on whether opinions contrary to that of professional officers have a sound basis as material planning considerations.
  - A motion should relate to material considerations only.
  - A motion must address the issue as to whether proposals are considered consistent with Adopted Policy or justified as a departure to the Development Plan. Departure must be determined as being major or minor.
  - If a motion for approval is on the basis of being consistent with policy reasoned justification for considering why it is consistent with policy contrary to the Head of Planning’s recommendation must be clearly stated and minuted.
  - If a motion for approval is on the basis of a departure reasoned justification for that departure must be clearly stated and minuted. Consideration should be given to holding a PAN 41 Hearing (determined by policy grounds for objection, how up to date development plan policies are, volume and strength of representation/contention)
  - A motion should also address planning conditions and the need for a Section 75 Agreement.
  - Advice from the Scottish Government on what are material planning considerations is attached herewith. However, interested parties should always seek their own advice on matters relating to legal or planning considerations as the Council cannot be held liable for any error or omission in the said guidance.

## DEFINING A MATERIAL CONSIDERATION

1. Legislation requires decisions on planning applications to be made in accordance with the development plan (and, in the case of national developments, any statement in the National Planning Framework made under section 3A(5) of the 1997 Act) unless material considerations indicate otherwise. The House of Lord's judgement on *City of Edinburgh Council v the Secretary of State for Scotland* (1998) provided the following interpretation. If a proposal accords with the development plan and there are no material considerations indicating that it should be refused, permission should be granted. If the proposal does not accord with the development plan, it should be refused unless there are material considerations indicating that it should be granted.
2. The House of Lord's judgement also set out the following approach to deciding an application:
  - Identify any provisions of the development plan which are relevant to the decision,
  - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies,
  - Consider whether or not the proposal accords with the development plan.
  - Identify and consider relevant material considerations for and against the proposal, and
  - Assess whether these considerations warrant a departure from the development plan.
3. There are two main tests in deciding whether a consideration is material and relevant:
  - It should serve or be related to the purpose of planning. It should therefore relate to the development and use of land, and
  - It should fairly and reasonably relate to the particular application.
4. It is for the decision maker to decide if a consideration is material and to assess both the weight to be attached to each material consideration and whether individually or together they are sufficient to outweigh the development plan. Where development plan policies are not directly relevant to the development proposal, material considerations will be of particular importance.
5. The range of considerations which might be considered material in planning terms is very wide and can only be determined in the context of each case. Examples of possible material considerations include:
  - Scottish Government policy, and UK Government policy on reserved matters
  - The National Planning Framework
  - Scottish planning policy, advice and circulars
  - European policy
  - A proposed strategic development plan, a proposed local development plan, or proposed supplementary guidance

Ref: ABH1/2009

- Guidance adopted by a Strategic Development Plan Authority or a planning authority that is not supplementary guidance adopted under section 22(1) of the 1997 Act
  - A National Park Plan
  - The National Waste Management Plan
  - Community plans
  - The Environmental impact of the proposal
  - The design of the proposed development and its relationship to its surroundings
  - Access, provision of infrastructure and planning history of the site
  - Views of statutory and other consultees
  - Legitimate public concern or support expressed on relevant planning matters
6. The planning system operates in the long term public interest. It does not exist to protect the interests of one person or business against the activities of another. In distinguishing between public and private interest, the basic question is whether the proposal would unacceptably affect the amenity and existing use of land and buildings which ought to be protected in the public interest, not whether owners or occupiers of neighbouring or other existing properties would experience financial or other loss from a particular development.