

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE  
held in the KILMORE VILLAGE HALL, KILMORE  
on TUESDAY, 22 MARCH 2011**

**Present:** Councillor Daniel Kelly (Chair)

|                              |                            |
|------------------------------|----------------------------|
| Councillor Gordon Chalmers   | Councillor Robin Currie    |
| Councillor Vivien Dance      | Councillor Mary-Jean Devon |
| Councillor Alister McAlister | Councillor Alex McNaughton |

**Attending:** Charles Reppke, Head of Governance & Law  
Jane Gillies, Governance & Law  
John MacGregor, Applicant  
Allan Macaskill, Agent for the applicant  
Richard Kerr, Planning & Regulatory Services  
John Heron, Planning & Development, Roads & Amenity Services  
David Whyte, Kilmore Community Council  
Councillor Duncan MacIntyre, Objector  
Janet Duncan, Objector  
Sandy Smart – speaking on behalf of:  
Sham Yadav, Ross Inglis and Allan Morrison, Objectors  
Donald McBurnie, Objector

**1. APOLOGIES FOR ABSENCE**

Councillor Rory Colville  
Councillor David Kinniburgh  
Councillor Bruce Marshall  
Councillor Neil Mackay  
Councillor Donald MacMillan  
Councillor Roderick McCuish  
Councillor James McQueen  
Councillor Al Reay

**2. DECLARATIONS OF INTEREST (IF ANY)**

It was noted that Councillor McCuish, who was not in attendance, had previously declared an interest in this matter.

**3. HIGHLAND HOUSE DEVELOPMENTS: APPLICATION FOR ERECTION OF PROPOSED HOUSING DEVELOPMENT: LAND NORTH OF CAIRNMORE, KILMORE, OBAN (REF: 10/01289/PPP)**

The Chairman welcomed those present and invited introductions from Members and Officers present. He then asked Mr Reppke to outline the procedures for the hearing.

**Planning**

Mr Kerr advised that the proposed site lies within a Potential Development Area (PDA) site within the settlement zone of Kilmore/Barran (PDA 5/133), allocated as suitable for low density housing including 25% affordable housing provision. The site lies to the immediate north of established housing at Barran on an open, generally level field bounded to the east by rising hillside and to the west by the River Nell and riparian woodland. Access is taken through the Barran settlement and spurring from an existing turning head between houses known as Tiroran and Cairnmore.

Although Kilmore/Barran is recognised as a 'minor settlement', where STRAT DC 1 normally supports small scale developments, the Local Plan PDA allocation for low density housing development on this size of site (just under 2 hectares) supports the principle of 'medium scale' development subject to overcoming issues outlined in the PDA Schedule. Medium scale housing development is defined in the Local Plan as between 6 and 30 units. Low density development is defined as up to 11 houses per hectare. The issues to address in respect of this PDA are: water supply, waste water drainage, access constraints/road safety, and the need for a master-planned approach.

The application is for planning permission in principle only, supported by an indicative site plan covering the entire PDA, which is sufficient as a master-planned approach. The application site boundaries show very minor fluctuations from the allocated PDA by giving up some land on the western boundary and taking an equivalent area to the north. As the PDA boundary does not correlate with any landscape feature or defined area on the site, it is considered these variations are very minor in nature and the PDA allocation is what is proposed for development to all intents and purposes.

The indicative layout shows space for 22 house plots, new access road and private spur tracks, an area of on-site open space, and communal underground gas tanks. The indicative plots are similar in size and layout to existing development at Barran and as such, this is considered acceptable.

In terms of water supply and foul drainage, Scottish Water have raised no objections. Although there is limited capacity for waste water drainage at the existing Scottish Water works, their direct consent is required prior to any connection to public drainage infrastructure. Scottish Water confirm capacity exists for water supply at present.

In terms of road safety, the Roads Authority confirms no objections to the development subject to appropriate planning conditions, notably the upgrading of the existing sub-standard road through Barran to facilitate the development.

Mr Kerr advised that the Planning Office had received 26 letters of objection and 80 expressions of support. It was noted, however, that Mrs Hunter was recorded as a supporter but hadn't actually expressed support for the application.

The applicant's offer for offsetting against the flatted development approved under ref. 09/01613/PP at Stevenson Street is not acceptable to the Planning Authority. Whilst the Council does accept offsetting (as a second choice) through the affordable housing policy, this provision has only been applied concurrently and not in retrospect, and offsetting must be compatible in terms of development type and location within the same housing market in order to

represent a suitable alternative. It is considered that the separation distance of approximately 5 miles between Barran and Stevenson Street is too far to represent a suitable alternative within the same community and that the nature of the dense flatted development at Stevenson Street is considerably different from the low density detached housing applied for at the application site. Argyll & Bute Council's Affordable Housing Guidance implicitly requires that offsetting affordable housing provisions should be undertaken on concurrent proposals rather than in retrospect. If applied retrospectively, this would create a precedent across the Council area for accepting such offsetting calculations which would reduce the number of affordable houses provided, contrary to Argyll & Bute Council Local Plan Policy LP HOU 2 and allocation PDA 5/133

Mr Kerr recommended that the Committee approve the application, subject to housing provision or payment, and subject to the 8 conditions contained within his report.

### **Applicant**

Mr Macaskill, speaking for the Applicant, said the site lies within a Potential Development Area in the settlement area of Kilmore, PDA 5/133 in the adopted Local Plan. The site of just under 2 hectares has been allocated for low density housing and the Planning Department of Argyll and Bute Council is satisfied that this application for 22 houses applies. The application is for planning permission in principle and, if approved, a detailed application will follow. The housing plan is for indicative purposes only. Mr Macaskill referred to paragraph D of the report referring to consultations and said there were no objections from the Area Roads Manager, Scottish Water, West of Scotland Archaeology Service or Historic Scotland. The report lists 26 objectors, and their concerns have been addressed. The road is referred to and the recommendation includes a condition for a road through the existing Barran housing development to be upgraded to adoptive standards. Mr Macaskill said that this condition is onerous as no development will be permitted until the private access is upgraded, meaning that the developer will have to spend in excess of £1.2m, including the purchase of the ground, prior to building commencing. If conditions are too expensive to implement there is a risk that the development will not be cost effective. Mr Macaskill said that the PDA requires a minimum of 25% affordable housing. As the application is for 22 houses, 6 units of affordable housing should be provided, and the applicant proposes that the Council accepts offsetting this against the 15 flat development at Stevenson Street as 6 units have not been sold yet. Two of these apartments were accepted as offsetting the affordable requirement for the 10 flats at Ganavan Sands which leaves 13 as affordable. The studio apartments are on the market at an affordable price of £87,500, with a first-time buyer option of a 15% delayed payment deposit. Stevenson Street is within the same housing market assessment area, namely Lorn and the Inner Isles Housing Market Area. He said when Ganavan Sands development was being considered it was accepted that the location was questionable for concentrating affordable units because of its isolated location and typology of surrounding units, and referred to a letter from the Planning Officer, Ross McLaughlin, dated 12<sup>th</sup> May 2010.

Mr Macaskill said that affordable housing should be provided in suitable locations where the public have access to services. In Kilmore there are no shops or school, no hotels and the bus service to Oban is not very frequent, adding that the area is more isolated than Ganavan. He then referred to Policy

LPHOU2 saying that it does not state that offsetting in retrospect is excluded, adding that the 6 apartments have not been constructed yet. He referred to a statement from the Prime Minister that costs could not be continually added on to businesses and said it is expensive to provide affordable housing. This is usually provided by Housing Associations – here the developer is providing affordable housing in Oban where there is a large demand. The development could provide employment for up to 50 people – construction workers, suppliers, etc., which would be a tremendous boost for the local economy when the current housing market is suffering a severe downturn. Everyone knows we are in a recession and the housing market is in a depression. The developer is incurring significant cost in upgrading the road through the existing estate and providing a play area. To provide more affordable housing at Barran as well as Stevenson Street will mean that the developer will probably not proceed. If the development does not proceed the Council will lose Council Tax of £31,675 at Band E or £37,434 at Band F; water charges of £10,582 at Band E will also be lost. If this developer cannot make the development profitable it is doubtful if another will risk investing. The report states that there are 79 letters of support for the application on the basis that the land is designated for housing and a £5m investment in the community. Mr Macaskill urged the committee to grant approval subject to the Section 75 Agreement being concluded to address the affordable housing provision, and accepting the 6 apartments in Stevenson Street as the applicant's contribution.

Mr John MacGregor, Applicant, referred to the development in Stevenson Street and stated that the 6 properties were taken off the market at the outset and setting them aside for affordable housing was not retrospective. He has looked at the policy and applicants have the right to offset other housing under their control. He said that the matter of affordable housing must be applied flexibly. He is the only developer who gives 15% deposit for first-time buyers to get on the housing market.

### **Consultees**

Mr Heron, Roads, said conditions had been added to include upgrade of existing private access to adoptable standards with 2m footway and 2m service strip, drainage and turning head to Diagram 5.24 of the Council Guidelines; no walls etc within 2m of the channel line with the public road; visibility splays of 42 x 2.4m; 3.5m width for new road with passing places; and additional conditions controlling geometry of new works. He is happy that the existing network, with the added conditions, will suffice.

Mr Whyte, Convenor of Kilmore Community Council, said he appreciated the Committee holding the hearing in Kilmore. The issues raised are consistent with the Community Council letter and are backed up by individual letters. The 79 supporters were from outwith the area as a standard letter. The Community Council have been continually supportive for small scale development in the area but these proposals, if approved, will mean an increase of 60% which is out of proportion with existing housing. Mr Whyte referred to the Sustainable Design Guide where Kilmore is described as a minor settlement, not a village, and said that the area is allocated as a housing area. He said that the impact of the development has to be carefully considered in relation to the existing area. The Housing Plan should not overwhelm the existing area but this development does. The Local Plan states that there is a presumption against major development in

smaller areas which would only be supported by population decline – this area does not have a population decline. Housing has not been selling readily and residents don't feel the need for this kind of development. He said there are no local facilities, there used to be a shop, post office, petrol and a school, but the only social area now is the hall, and would agree that this area is not suitable for affordable housing. There is a limited bus service so there would be a large increase in traffic. There are no health or doctor facilities. There would be an increased road safety hazard, and the development contradicts the design guide. The Community Council have previously requested improvements and there has been damage to the bridge. The Community Council carried out a residents survey which raised concerns over the need to improve the structure of the road. The school pupils walk to the road end and this is not suitable for pedestrians – no statement of road safety issues have been seen.

## **Objectors**

Councillor Duncan MacIntyre, Resident, said Barran is a minor settlement. STRAT DC1 supports small scale development, The site is within a PDA for low density housing and the site is less than 2 hectares. He supported small scale development in the area. Kilmore is a rural community, with fishing and forestry, there is support for the local church and hall. The annual Highland Games supports the culture of the area. There is one community of 36 houses with a number of raised elevation houses set in a mature and tasteful landscape. He asked the Committee to assess the impact this development would have on the amenity of the environment; the compatibility with the existing area; and road safety on the A816 to Barran. He asked the Committee to consider whether by adopting part of the Barran road would divide the settlement and create a difficulty with any future development; he also asked the Committee to consider the lack of confirmation from Scottish Water on the sufficiency of the water supply. He concluded by saying that there is a mature, developed site and the new development must be compatible. The Section 75 is a legal matter and there are conditions, but felt that some may have to be strengthened.

Janet Duncan said she is not against development but this application is not in keeping with the area and is double the original size. She raised traffic concerns with buses using the hammer-head to turn, and is worried about construction traffic. Parents presently bring their children to the estate to meet the school bus and there is a parking problem at this time. Construction should be limited for safety reasons. There have been complaints over the sewerage problem over the past 25-30 years and this will have to be extended. This would affect the river and would need screening from the main road.

Mr Smart, a resident for 7 years, said this development was of inappropriate scale and that it would have an adverse impact on the area. He felt that the proposed housing should be bungalows, and that a smaller development would mean less traffic. He said there is a need to upgrade the road for vehicle access as there is a lack of visibility at Musdale Road. This is a narrow road with a lack of passing places, and a bridge which causes a bottleneck. This has previously been damaged, blocking the road. He raised concerns over medical access and pedestrian use, saying that the traffic from the 5 new houses plus the proposed 22 houses will significantly increase the problems. Mr Smart felt that the jobs created during the development would benefit Oban and not Kilmore. He welcomed new blood to the area, and said a complete and thorough upgrade of

the road and associated drainage would benefit the area. He said the Committee should not allow minimal upgrade as the development could last for years; the road should be completed prior to the development commencing to full standard with a surface finish and complete drainage. A path, upgrade strip, passing places and traffic management are all required. A smaller development would have less traffic and cause less destruction.

Mr McBurnie said he is concerned over the size of the development and with road safety, and feels there is no capacity to cope with construction traffic. The Roads report is vague and only refers to single track regarding sight lines. He said there will be problems with water, and that turning facilities are needed for buses. He urged the Committee to address all these issues. Mr McBurnie highlighted long-standing issues of water and flooding, and of visibility and pedestrian safety adding that the development would have a negative impact due to extra traffic, extra pedestrians / dog walkers and that the area would be severely impacted upon without suitable infrastructure.

### **Questions from Members**

Councillor Currie asked Roads whether there were enough lay-by's and was advised by Mr Heron that there were sufficient with one every 160m. Councillor Currie then asked about buses turning at the hammerhead and was advised that they would be turning on a through road into the scheme. He then asked for clarification of which part of the road was to be upgraded to adoptable standard and was advised by Mr Heron it would be from Musdale junction to the new scheme. Councillor Currie then asked about construction vehicles going through the development and Mr Heron advised that the size of vehicles could be controlled by a traffic plan. Mr Heron added that the bridge acted as a natural traffic calmer and that the buses turn at the hammerhead at present.

Councillor Devon asked the applicant about Policy on affordable housing. Mr Macaskill said it was stated in Argyll and Bute Local Plan and the developer has previously used this. Councillor Devon asked about the Ganavan Development and was advised by Mr MacGregor that 2 of the properties were sold to first-time buyers. Councillor Devon then asked Mr Kerr whether a drainage impact assessment had been carried out and was advised that this had not been done but there is a condition to cover this included within the report

Councillor Dance asked whether all the requirements in regard to LP SERV 4 have been met and was advised by Mr Kerr that the problems were not a supply issue, but foul drainage. Tulloch have confirmed that they currently have capacity for existing and new demands for water. It will be necessary for the developer to obtain consent from Scottish Water to connect to its infrastructure for both water supply and foul drainage disposal as covered by Condition 7 in the report.

Councillor Dance asked whether discussion had taken place with housing associations and was advised that there had been no direct contact with them. She was further advised that Housing Association development had been curtailed after 1<sup>st</sup> April 2011 due to funding constraints. They will be carrying on with existing developments but new builds will be curtailed. The Committee were advised that this development would provide an opportunity for the development to provide a commuted sum to help finance housing schemes where required. Councillor Dance then asked about provision of a play park and

was advised that this was covered by Policy in the Local Plan for developments where there are more than 20 units. An area within the site has been identified for this purpose – Condition 2(e) refers. Councillor Dance asked for confirmation that all requirements of LP TRAN 4 have been met and was advised that this has been provided for within and outwith the site and taken into account by Roads Condition 2(c) (relating to site) and Condition 5 (off-site). Councillor Dance then asked the Applicant about the boost to local economy to which Mr MacGregor said local employees would be used. Incomes would be sustained during construction and would continue post construction, if successful, through BT, energy providers, council tax raised and the complete infrastructure.

Councillor MacNaughton asked about a weight restriction for the bridge and was advised by Mr Heron that there was no restriction on it but access could be controlled with a traffic plan. Mr Heron advised that large vehicles currently cross the bridge to supply local farms, etc., but vehicles to the site could be controlled. Damage to the bridge would be reinstated as part of the development.

Councillor Chalmers said Condition 7 was suspensive and was advised by Mr Kerr this would safeguard the developer as well as the Planning Authority.

Councillor Kelly asked the applicant whether the Housing Association had approached him with proposals to use the housing and was advised by Mr MacGregor that they had approached him but they are not starting any new projects as they are not in a financial position to do so at present.

Councillor Currie asked Mr Kerr whether the Planning Office sought advice from Roads or whether they must comply with recommendations from Roads. Mr Kerr advised that Planning consult roads for advice and pass this to the Committee. It is then open to the Committee whether to accept this advice.

Councillor MacAlister asked about ownership of the land between the application site and the burn and was advised it was not owned by the developer – he tried to buy this piece of ground but could not.

Councillor Dance asked about ongoing maintenance for the playpark and whether it had been looked at in terms of special needs, and was advised that this information would not be available until equipment had been identified as it would be calculated on the type of equipment and design. The developer would retain ownership of the play area and the design of the area would include special needs consideration at the detailed application stage.

Councillor Dance asked various questions about the density of the site and was advised by Mr Kerr that this application was in regard to the density of a minor settlement and not a village; that the PDA takes precedence over any other policies; that the developer removed part of the site to keep it under 2 hectares, as is normal for developers; and that the density relates to capacity within the site. Councillor Dance then asked Mr Whyte for confirmation of the process by the Community Council for consultation. Mr Whyte advised that the matter was an item on a routine Community Council agenda. Councillor Dance then asked whether the Community Council objected to the PDA for this site and was advised by Mr Whyte that they had, but that he was not involved with the Community Council at that time. When asked whether issues had been

addressed Mr Whyte said he welcomed new blood, younger people to the area, but this had to be balanced against the impact of the size of the development.

Councillor Kelly asked whether the Planning Officer anticipated the 22 houses would be build as one development and was advised that there was no requirement to build all at once, but there would be high pre-construction costs therefore he would expect the whole development to be completed. Mr MacGregor said it would be market led. The infrastructure would be put in place, a show-house built and the houses would then be sold.

Councillor Devon referred to LP HOU 1 saying the detail of the policy was confusing. Mr Kerr explained that there was a presumption of small scale unless the area was in a PDA, i.e. not industrial. This policy is the most fundamental policy and means the site is suitable for housing.

Councillor Dance referred to LP PG1 and asked whether this is what the community wanted. Mr Kerr said this generally relates to anything off-site, for example access improvements or sewerage treatment, but he was unaware of discussions with the community. He urged the Committee not to over-burden the developer.

Councillor Currie asked questions of the Applicant who confirmed that the length of road improvements would be dependant on the current price; he confirmed that he did not own the site

Councillor Kelly asked whether concerns about foul drainage would be resolved with Scottish Water and was advised that SEPA as governing body would test the supply and Scottish Water would address problems arising from this. Councillor Kelly asked whether the bridge had been surveyed and was advised by Mr Heron that engineers would assess the bridge, along with all others, routinely on a cyclical arrangement. Councillor Kelly then asked Mrs Duncan about the school buses and was advised that around 20 children were collected, the bus sometimes turning at the hammer-head and sometimes at the junction.

The meeting closed and re-convened at 1.45pm

**Present:**

Councillor Daniel Kelly (Chair)

Councillor Gordon Chalmers

Councillor Vivien Dance

Councillor Alister McAlister

Councillor Robin Currie

Councillor Mary-Jean  
Devon

Councillor Alex  
McNaughton

**Attending:**

Charles Reppke, Head of Governance & Law

Jane Gillies, Governance & Law

John MacGregor, Applicant

Allan Macaskill, Agent for the applicant

Richard Kerr, Planning & Regulatory Services

John Heron, Planning & Development, Roads & Amenity  
Services



David Whyte, Kilmore Community Council  
Councillor Duncan MacIntyre, Objector  
Janet Duncan, Objector  
Sandy Smart – speaking on behalf of:  
Sham Yadav, Ross Inglis and Allan Morrison, Objectors  
Donald McBurnie, Objector

## **Summing Up**

### **Planning**

Mr Kerr stated that the application site at Barran is within a PDA for low density residential development and is acceptable to planning policy, and is in principle only, further applications will require to be submitted later for detailed planning in accordance with the Development Plan, and he recommended the application for approval subject to conditions contained within the report. The sole unresolved issue is of affordable housing which can be on-site or offset against another scheme or payment to subsidise the Housing Association. Mr Kerr advised that the 6 units in Stevenson Street lacked parking and outdoor amenities therefore there would be no gain. He recommended approval of the application subject to conditions contained within the report and a commuted sum or offset against another scheme, but not Stevenson Street. This would conform to relevant Plan Policies and would be in accordance with the Development Plan.

### **Applicant**

Mr Macaskill stated that this application showed a masterplan for the whole area, disregarding ownership. Roads have no concerns, with sufficient passing places. Overhanging trees are irrelevant to the application; the Estate road is not part of the development and was not adopted for the previous development. Heavy vehicles cross the bridge to reach farms; there is no issue with water / waste water. The applicant is happy to comply with conditions and happy that off-setting is the way forward as there are no amenities surrounding this application site. Mr Macaskill urged the Committee to approve the application as per the Planning Officer's recommendation.

### **Consultees**

Roads: Mr Heron said there is no current weight limit on the bridge – bridges are assessed by structural engineers and no concerns have been raised. No requests have been made by parents in regard to improvements to the road or health and safety issues. Road markings have been addressed. Sight lines can be achieved and the speed of traffic is restricted by topography. Access to the site can get governed by traffic control. It would be onerous to impose a condition to construct a footpath to the A816.

Community Council: Mr Whyte said the Community Council had looked at the Development Plan and thought it was quite clear. The development was commensurate with the area, but were confused by the reduction of the site to below 2 hectare. In regard to planning gain, there would be no gain to spur of the private road. Removal of smell would not be planning gain, this is a SEPA problem. He reiterated that there is a major concern for road safety – not a weight limit problem, but width, to enable large vehicles to manoeuvre. A

pedestrian footway would not be necessary within the site, so there would be no gain. He concluded by saying that the Community Council felt that the site is inappropriate for a development of this size.

Councillor MacIntyre stated that the application was “in principle” only - conditions would be applied to the whole development, but not the “in principle” application. He referred to the significance of bungalows as existing and the new development of 1 ½ storey houses. He mentioned that primary school children are picked up by the bus from the scheme, older children meet at the bus stop. Referring to landscaping, he said this should tie in with existing area. He requested that confirmation should be received in writing regarding adequacy of the water supply. He said there were issues of safety for the users of the road.

Mrs Duncan said she had nothing further to add.

Mr Smart referred to the scale of the development adding that they have to live with this, but he was not hearing any reassurances in regard to the drainage problem. Planning gain would be delayed if the development was slow to build.

Mr McBurnie said that the flooding in gardens will affect the adopted road. He has concerns about walking along the road. He said the speed of traffic was not controlled by topography of the area and that trucks are regularly stuck on the bridge. He said he finds the roads summary lacking and that a TIA is required.

The Chairman then asked if everyone felt they had had a fair hearing, to which all agreed they had.

Councillor MacIntyre left the meeting prior to determination.

Councillor McNaughton and Councillor MacAlister said they had difficulty in reaching their decisions.

Councillor Currie felt that affordable housing should be on-site as providing it elsewhere would be crating class distinction. This is a planning issue, not legal. He requested having site of a traffic management plan prior to agreement. He felt there was a lack of lay-bys and this had to be addressed to the satisfaction of residents, not planning.

Councillor Chalmers said there are road safety issues. The area was verging on low amenities in regard to affordable housing but he would go with the recommendation of the planning officer, but with a Section 75 Agreement.

Councillor Devon said she had difficulty with the development increasing the capacity by 60%. She would like a drainage impact assessment carried out.

Councillor Dance said she had major concerns of the PDA over-ruling other policies. An increase of 60% overwhelms the existing area. Using other options to provide affordable housing was contrary to affordable homes policy. She would look for a further condition and amendment of 1 ½ storey housing. She would also look to amend the condition for the length of road to be upgraded.

Councillor Kelly suggested that SEPA / Scottish Water should be brought in now

to resolve issues, and felt that it was important to have a traffic plan in place if the application is granted.

**Decision:**

Motion:

That the application be granted with the conditions contained within the report by the Head of Planning.

Moved by Councillor Kelly, seconded by Councillor MacAlister

Amendment:

That the application be granted subject to a further condition (9) being added to ensure provision of affordable housing within the development site stating that after every 6 houses built, 2 affordable homes to be built

Moved by Councillor Dance, seconded by Councillor Devon)

Upon a show of hands the Committee voted thus:

Amendment - 2 votes ; Motion – 4

The Motion was carried by 4 votes to 2 and the meeting resolved accordingly.