

Argyll and Bute Council
Comhairle Earra Ghaidheal agus Bhoid

Customer Services
Executive Director: Douglas Hendry



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31 March 2011

NOTICE OF MEETING

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held in the **GIBSON COMMUNITY CENTRE, GARELOCHEAD** on **THURSDAY, 7 APRIL 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**
- 3. DUNBRITTON HOUSING ASSOCIATION: APPLICATION FOR ERECTION OF FOUR STOREY RESIDENTIAL BUILDING COMPRISING TWELVE TWO BEDROOM FLATS: FORMER SCRUMBLES, UPLAND ROAD, GARELOCHHEAD (REF: 11/00210/PP)**
Report by Head of Planning and Regulatory Services (Pages 1 - 22)

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 and Infrastructure Services**

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

Reference No: 11/00210/PP

Planning Hierarchy: Local Application

Applicant: Dunbritton Housing Association

Proposal: Erection of a four storey residential building comprising twelve two bedroom flats.

Site Address: Scrumbles, Upland Road, Garelochhead

SUPPLEMENTARY REPORT 2

1.0 SUMMARY

The purpose of this Supplementary Report is to advise Members of two objections (one from the Community Council) received after the application was considered at the meeting of the PPSL Committee in March.

Correspondence has been received from the following individuals:

Martin Croft, Convenor, Garelochhead Community Council, Mayfield, Old School Rd, Garelochhead (letter dated 26 March 2011).

Lynn Williams, Kilmory, Station Road, Garelochhead (letter dated 1 March 2011 received via e-mail on 18 March 2011)

No new issues over and above those set out in the main report have been received.

2.0 RECOMMENDATION

It is recommended that the contents of this report are noted and that it does not the original recommendation to approve subject to the previously amended conditions and reasons listed overleaf.

**Angus J Gilmour
Head of Planning & Regulatory Services
30 March 2011**

Author: Howard Young 01436 658888
Contact Point: Richard Kerr 01546 604845

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO 11/00210/PP

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

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

2. The development shall be implemented in accordance with the details specified on the application form dated 29/01/2010 and the approved drawing reference numbers L(P)001, L(P)0011, L(P)0012, L(P)0013, L(P)0051, L(P)0052, L(P)0100, L(P)0101, L(P)0102, L(P)0103, L(P)0104, 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.

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

3. Development shall not begin until samples of materials to be use (on external surfaces of the buildings and/or in constriction of hard standings/walls/fences) have been submitted to and approved in writing by the Planning Authority. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.

Reason: In order to integrate the development into its surroundings.

4. No development shall be commenced until details of the surface water drainage system to be incorporated into the development have been submitted to and approved in writing by the Planning Authority. Such measures shall show separate means for the disposal of foul and surface water, and the provision of a Sustainable Urban Drainage System (SuDS) The scheme shall be prepared in accordance with the advice given in Planning Advice Note 61 (PAN 61) 'Planning and Sustainable Urban Drainage Systems' and the 'SuDS Design Manual' (CIRIA C697). The development shall be implemented in accordance with the duly approved surface water drainage system.

Reason: To ensure that an acceptable scheme of surface water drainage is implemented.

5. Prior to the commencement of development the developer shall submit written evidence to the Planning Authority that an agreement with Scottish Water is in place for the connection of the proposed development to the public water supply (and/or public sewer).

Reason: In the interests of public health and to ensure the availability of an adequate water supply (and/or drainage system) to serve the proposed development.

6. A detailed remediation scheme to bring the site to a condition suitable for the intended use must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: In order to ensure that contamination issues on the site have been fully investigated and dealt with.

7. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: In order to ensure that contamination issues on the site have been fully investigated and dealt with.

8. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 6, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 7.

Reason: In order to ensure that contamination issues on the site have been fully investigated and dealt with.

9. The development shall be landscaped in accordance with a scheme which shall be submitted to and approved by the Planning Authority before development commences. The scheme shall indicate the siting, numbers, species and heights (at the time of planting) of all trees, shrubs and hedges to be planted and to the extent of any areas of earthmounding, and shall ensure:

(a) Completion of the scheme during the planting season next following the completion of the building or such other date as may be agreed in writing with the Planning Authority.

(b) The maintenance of the landscaped areas for a period of ten years or until established, whichever may be longer. Any trees or shrubs removed, or which in the opinion of the Planning Authority, are dying, being severely damaged or becoming seriously diseased within three years of planting, shall be replaced by trees or shrubs of similar size and species to those originally required to be planted.

Reason: To ensure the implementation of a satisfactory scheme of landscaping.

10. Prior to works commencing on site details of a footway to link the proposed development to the existing west footway in Hepburn Gardens shall be submitted to and agreed in writing by the Planning Authority. Thereafter, the footway, as agreed, shall be in place prior to the occupation of the proposed flats.

Reason: In the interests of road safety and to assist with the footway provision for the disabled.

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.
- Please note the advice contained within the attached letter from Scottish Water. Please contact them direct to discuss any of the issues raised.
- Please note that MoD has no objections provided the building can withstand 5.2 Kilopascals should an incident occur.

Argyll and Bute Council
Development and Infrastructure Services

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

Reference No: 11/00210/PP

Planning Hierarchy: Local Application

Applicant: Dunbritton Housing Association

Proposal: Erection of a four storey residential building comprising twelve two bedroom flats.

Site Address: Scrumbles, Upland Road, Garelochhead

SUPPLEMENTARY REPORT No. 1

1.0 INTRODUCTION

The purpose of this supplementary report is to advise Members of a representation received after the main report was completed and a consultee response from the Area Roads Manager.

2.0 ADDITIONAL INFORMATION

Area Roads Manager (memo dated 14 March 2011) – No objections subject to provision of footway linking the site and the existing west footway of Hepburn Road.

Comment: This can be covered by an additional condition.

Correspondence has been received from Jackie Baillie MSP, Constituency Office, 11 High Street, Dumbarton (letter dated 8 March 2011) which comments that residents are objecting on the following grounds:

Inappropriate design out of keeping with neighbouring properties;

Comment: Councillor Freeman has drawn attention to an error in the original report which refers in the description of existing development to a 'mix of terrace and detached houses'. Surrounding development is actually predominantly terraced housing with a number of semi-detached properties. Although there are no flats of the type proposed in the vicinity, it is not considered that their absence should preclude a mix of styles and types of property provided that the amenity of existing properties is not prejudiced.

The design due to its flat roof is contrary to the Council's Design Guidance;

Comment: The amended scheme has a mix of monopitch and flat roofs which does not share the shortcomings of the earlier flat roofed proposal as the amended design adds shape and breaks up the bulk and regularity of the building.

There is concern about the increase in traffic given the already congested nature of local roads;

Comments: the Area Roads Manager has now confirmed no objection on access and parking grounds.

There are drainage issues as the gradient of the site will direct water down towards the main route of the village;

Comments: Additional run-off from the site as a result of roofs and other hard surfaces will be handled as part of the surface water drainage scheme for the development and will be subject to Building Standards approval.

Residents consider that the development will not benefit the area and could affect tourism as the site would detract from the visual amenity of the natural landscape;

Comments: It is not considered that the presence of the building will be so imposing that it would be likely to have any palpable impact upon the tourism potential of the locality.

It will not meet local housing requirements as two other existing housing development have allocated little to local residents.

Comments: Housing Association allocation policies are not material planning considerations.

2.0 CONSIDERATION OF THE NEED FOR A LOCAL HEARING

The number of representations now stands at 20, which take the form of a proforma letter. In considering whether a discretionary local hearing is warranted, it is necessary to consider the fact that this is a brownfield redevelopment site within the 'settlement' area and the fact that that the representations do not raise complex policy or technical issues which would merit additional scrutiny. Accordingly, despite the number of persons making representation, it is not considered that a local hearing is necessary in this case.

4.0 RECOMMENDATION

It is recommended that the contents of this report are noted and that the recommendation is that planning permission be approved subject to the amended conditions and reasons listed overleaf.

Author: Howard Young 01436 658888
Contact Point: Richard Kerr 01546 604845

Angus J Gilmour
Head of Planning & Regulatory Services

14 March 2011

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO 11/00210/PP

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

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

2. The development shall be implemented in accordance with the details specified on the application form dated 29/01/2010 and the approved drawing reference numbers L(P)001, L(P)0011, L(P)0012, L(P)0013, L(P)0051, L(P)0052, L(P)0100, L(P)0101, L(P)0102, L(P)0103, L(P)0104, 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.

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

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Reason: In order to integrate the development into its surroundings.

4. No development shall be commenced until details of the surface water drainage system to be incorporated into the development have been submitted to and approved in writing by the Planning Authority. Such measures shall show separate means for the disposal of foul and surface water, and the provision of a Sustainable Urban Drainage System (SuDS) The scheme shall be prepared in accordance with the advice given in Planning Advice Note 61 (PAN 61) 'Planning and Sustainable Urban Drainage Systems' and the 'SuDS Design Manual' (CIRIA C697). The development shall be implemented in accordance with the duly approved surface water drainage system.

Reason: To ensure that an acceptable scheme of surface water drainage is implemented.

5. Prior to the commencement of development the developer shall submit written evidence to the Planning Authority that an agreement with Scottish Water is in place for the connection of the proposed development to the public water supply (and/or public sewer).

Reason: In the interests of public health and to ensure the availability of an adequate water supply (and/or drainage system) to serve the proposed development.

6. A detailed remediation scheme to bring the site to a condition suitable for the intended use must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: In order to ensure that contamination issues on the site have been fully investigated and dealt with.

7. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

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8. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 6, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 7.

Reason: In order to ensure that contamination issues on the site have been fully investigated and dealt with.

9. The development shall be landscaped in accordance with a scheme which shall be submitted to and approved by the Planning Authority before development commences. The scheme shall indicate the siting, numbers, species and heights (at the time of planting) of all trees, shrubs and hedges to be planted and to the extent of any areas of earthmounding, and shall ensure:

(a) Completion of the scheme during the planting season next following the completion of the building or such other date as may be agreed in writing with the Planning Authority.

(b) The maintenance of the landscaped areas for a period of ten years or until established, whichever may be longer. Any trees or shrubs removed, or which in the opinion of the Planning Authority, are dying, being severely damaged or becoming seriously diseased within three years of planting, shall be replaced by trees or shrubs of similar size and species to those originally required to be planted.

Reason: To ensure the implementation of a satisfactory scheme of landscaping.

10. Prior to works commencing on site details of a footway to link the proposed development to the existing west footway in Hepburn Road shall be submitted to and agreed in writing by the Planning Authority. Thereafter, the footway, as agreed, shall be in place prior to the occupation of the proposed flats.

Reason: In the interests of road safety and to assist with the footway provision for the disabled.

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.
- Please note the advice contained within the attached letter from Scottish Water. Please contact them direct to discuss any of the issues raised.
- Please note that MoD has no objections provided the building can withstand 5.2 Kilopascals should an incident occur.

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

Reference No: 11/00210/PP

Planning Hierarchy: Local Development

Applicant: Dunbritton Housing Association

Proposal: Erection of a four storey residential building comprising twelve two bedroom flats.

Site Address: 'Scrambles', Upland Road, Garelochhead

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of four storey residential building comprising twelve two bedroomed flats;
- New vehicular access;
- Gabion basket retaining wall;
- Car parking;

(ii) Other specified operations

- Connection to existing public water main and sewer.
-

(B) RECOMMENDATION:

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

(C) HISTORY:

10/00385/PP - Erection of a four storey residential building comprising twelve two bedroom flats (Pending consideration).

(D) CONSULTATIONS:

Area Roads Manager (awaiting response) -

Scottish Water (letter dated 14 February 2011) - no objection

SEPA (letter dated 22 February 2011) – no objections

Public Protection (memo dated 18 February 2011) – a site investigation was undertaken which revealed elevated levels of metals and hydrocarbons. No objections subject to conditions requiring a remediation scheme.

Defence Estates Safeguarding (letter dated 13 July 2010 on previous application) – the proposal falls within the outer safeguarding zone at Coulport. MoD has no objections provided the building can withstand 5.2 Kilopascals should an incident occur.

Access Officer (1st March 2010 associated with previous application) – A path crosses the site and this should be incorporated in the development and diverted as necessary.

(E) PUBLICITY:

Regulation 20 Advert – expiry date 4 March 2011

(F) REPRESENTATIONS:

23 letters of objection were received in respect of the original application submitted 10/00385/pp, principally objecting to the scale and design of the building being out of character with its surroundings, adverse traffic and drainage implications and the presence of land contamination.

To date, 19 objections have been received in respect of this new application from the following:

Mr J D Leishman, 16 Upland Way, Garelochhead (letter by e-mail dated 28/02/2011)

Janet Barry, 2 Upland Road, Garelochhead, G84 0BB (e-mail dated 27/02/2011)

Martin Croft, Mayfield, Old School Road, Garelochhead (letter dated 27/02/2011)

R. McRobie, 4 Park Avenue, Garelochhead (letter dated 28/02/2011)

Mrs M. McRobie, 4 Park Avenue, Garelochhead (letter dated 28/02/2011)

J. Halliday, 85 Feorlin Way, Garelochhead, G84 0DL

C. Colquhoun, 37/6 Feorlin Way, Garelochhead, G84 0DL

Kathryn Taylor, 5 Dunivard Place, Garelochhead, G84 0AA

Klaus & Ann Robertson, Avoch, Station Road, Garelochhead, G84 0DB

Colin Taylor, Kilmory Upper Villa, Garelochhead, G84

Margaret McLeod, 1b Euston Place, Garelochhead, G84 0AQ

Gordon MacKenzie, 2 Dunivard Place, Garelochhead, G84 0AA.

Mr Gareth Wilson, Heatherbank, Station Road, Garelochhead, G84 0DU.

Hazel M MacKinnon, Caerphilly Cottage, Garelochhead, G84 0AR

Karen Taylor, Gowanlea, Garelochhead, G84 0DF

Mary Gray, Woodburn, Garelochhead, G84 0EG

Mr. C. H. Smith, Socair, Portincapple, Garelochhead, G84 0ET

Allan Scott, 2 Rosslyn Buildings, Garelochhead, G84 0AH

The grounds of objection may be summarised as follows:

1. The building will be visually overbearing. It is an inappropriate design for the village as the proposed development is totally incongruous with the neighbouring properties and indeed all properties within the village. The proposed building's height, mass and design is such that it will be detrimentally imposing for those in the immediate area and for those in the middle and far distance which by the very nature of its design and prominence would impair the visual amenity for village and neighbouring residents. Therefore, the design is contrary to Argyll and Bute Council's Sustainable Design Guidance 2 as directed by PAN 68 the Larger housing developments; action plan checklist (pg 8) , section (1.3) Good siting , section (1.4) Adopting a settlement pattern suited to location and section (1.11) Neighbourhoods, Argyll and Bute Local Plan: Policy LP ENV 1, Policy LP ENV 19, Appendix A and Argyll and Bute Structure Plan 2002 STRAT DC 1, STRAT DC 8 and STRAT HO 1.

Comment: See my assessment.

2. Concerns regarding the increased traffic that would result from this proposed development site both as a product of the construction and development phase and latterly the occupancy as this area of the village is already subject to congestion and often reduced to singular lane traffic movement due to street parking, bearing in mind there is only one available access/egress to this area of the village through a challenging section of road. Would also raise concerns relating to the provision of special needs access within the development and also between the site and the local amenities given the steep gradients that have to be negotiated and where there is no public means of transport provided.

Comment: The Area Roads Manager has no objections.

3. There are concerns regarding the drainage from this site due to the natural rocky terrain this proposed development is being considered for. The gradient and natural lay of land will direct water down towards the main access route to this part of the village. With the car parking area to be met in accordance with Argyll and Bute Structure Plan 2002 –'Car Parking Standards' and subsequent surface finishing, this could see a great deal more surface water being routed to the main access route with potential for flooding at lower levels and severe icing conditions in colder periods. In turn this will be hazardous to vehicular movement for both private and emergency vehicles and am concerned as to whether this meets the requirements of a Sustainable Urban drainage system (SUDS) and a flood risk assessment surface water calculation.

Comment: A condition is attached requiring details of a SuDS scheme.

4. Concerns regarding the prior contamination of this site and the immediate higher ground to the rear of this proposed development with the potential for movement of contamination through site development and the potential for this to impact on areas out

with the site.

Comment: The Area Environmental Health Manager was consulted and has recommended 3 conditions regarding appropriate remediation.

5. The location of Garelochhead has been afforded a wealth of surrounding natural beauty through its landscape, panoramic views and its sea loch all of which has given much pleasure to its residents for many years and for local business an opportunity to embrace tourism with the aspirations to further enhance these opportunities in line with policy and assistance from Argyll and Bute Council with its promotion of our local area as an area of natural beauty. The proposed development would therefore generate a departure from policy and would be contradictory with the aims of these aspirations as the visual amenity of our natural landscape would be spoilt, creating a legacy that the community can ill afford.

Comment: The application site is a brownfield site which makes little contribution to the amenity of adjoining properties or the surrounding area. As such its sympathetic redevelopment will have a minor but positive impact both on the local area and its tourism potential.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- | | | |
|-------|--|-----|
| (i) | Environmental Statement: | No |
| (ii) | An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: | No |
| (iii) | A design or design/access statement: | Yes |
| (iv) | A report on the impact of the proposed development | No |

(H) PLANNING OBLIGATIONS

- | | | |
|-----|--|----|
| (i) | Is a Section 75 agreement required: | No |
|-----|--|----|

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

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

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

'Argyll and Bute Structure Plan' 2002

STRAT DC 1 – Development within the Settlements

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment

LP ENV 19 – Development Setting, Layout and Design

LP HOU 1 – General Housing Development

LP HOU 2 – Affordable Housing

LP HOU 4 – Housing Green Space

LP SERV 1 - Private Sewage Treatment Plants and Wastewater Systems

LP TRAN 1 – Public Access and Rights of Way

LP TRAN 6 – Vehicle Parking Provision

Appendix A – Sustainable Siting and Design Principles

(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)

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

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

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

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

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

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

Planning permission is sought for the erection of a four storey residential building comprising twelve affordable two bedroom flats. The application site extends to 3685 square metres, is within the settlement boundary and sits at the end of a residential estate comprising terraced and detached houses in a mix of modern styles.

The site was formally a nightclub which has since been demolished. An earlier scheme submitted under application 10/00385/PP showed a 4 storey, largely flat roofed building. Despite its footprint it read from each elevation as a square block. This, combined with its mix and irregular pattern of fenestration, meant that despite it being a brownfield site and in an area of little architectural merit, it was considered unacceptable in terms of its design. This amended scheme retains a similar shaped footprint of 1048 square metres and 4 storeys, but shows a mix of pitch and mono pitch roofs and a mix of finishes.

The proposed flats will be accessed off Hepburn road and 24 parking spaces are proposed. Two trees will be removed and landscaping undertaken. Given the sloping nature of the site retaining walls are proposed and the flats will connect to the existing public water supply and public drainage infrastructure.

The site is subject to 'Argyll and Bute Structure Plan', 2002 Policy STRAT DC 1 'Development within the Settlements' where there is a general presumption in favour of appropriate development. The proposal accords with this policy as it is 'medium scale' in terms of policy LP HOU 1 and compatible with the surrounding residential area.

The Council's 'Sustainable Design Guidance' gives advice on how to approach sustainable urban infill. It offers three possible solutions. The first is contemporary landmark which is sensitive design of a high architectural quality which is essentially of a different architectural style to the buildings surrounding it. The second option is a design which more obviously is based on the architecture of the buildings adjacent. Finally, there is traditional design. Given that there is no prevailing architectural character in the surroundings of the site, it is not essential that development should necessarily seek to reinforce the scale or appearance of those buildings, and accordingly despite being taller than nearby buildings, a four storey design is considered acceptable. The previous flat roof design emphasised the box like and functional nature of the proposed building and was not considered appropriate to its surroundings. In this amended scheme, whilst the pitched and mono-pitched roofs add height, they also add shape and break up the bulk and regularity of the building. In conjunction with the mix of materials, it is considered that they add value and interest to the design.

Policy LP ENV 1 seeks to ensure that a proposed development is considered acceptable in terms of its impact on the natural, human and built environments, whilst Policy LP ENV 19 requires proposals to meet high standards with regards to setting, layout and design. This proposal accords with those policies as it is considered to be of an appropriate form, location and scale. The proposal does not raise any adverse privacy or amenity issues, with no issues of overlooking or overshadowing arising.

Policy LP HOU 1 states that there is a general presumption in favour of appropriate residential development unless there is an unacceptable environmental, servicing or access impact. This proposal is 'medium scale' residential development within Garelochhead which is categorised as a 'small town/village' by the local plan where development of up to 'large scale' will be supported. It does not give rise to unacceptable environmental servicing or access impacts.

Policy SERV 1 seeks to ensure that new residential developments are either connected to a public sewer or where that is not possible connected to a suitable waste water scheme. This development utilises a public sewer connection.

Policy TRAN 6 ensures that vehicle parking shall be provided in accordance with car parking standards as set out in Appendix C of the local plan. Parking provision for 24 cars has been shown on the plans and the proposal therefore accords with this policy.

Taking the above assessment into account, I consider that the proposal accords with the development plan and recommend that planning permission be granted.

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

(R) Reasons why planning permission should be granted

The proposal is acceptable in terms of location, setting and design. The proposal raises no adverse privacy and amenity issues. The proposal accords with policy STRAT DC1 of the structure plan and policies LP ENV 1, LP ENV 19, LP HOU 1, LP SERV 1 and LP TRAN 6 of the adopted local plan. No objections have been received.

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

N/A

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

Author of Report: Howard Young

Date: 23 February 2011

Reviewing Officer: Richard Kerr

Date: 25 February 2011

**Angus Gilmour
Head of Planning**

CONDITIONS AND REASONS RELATIVE TO APPLICATION 11/00210/PP

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

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

2. The development shall be implemented in accordance with the details specified on the application form dated 29/01/2010 and the approved drawing reference numbers L(P)001, L(P)0011, L(P)0012, L(P)0013, L(P)0051, L(P)0052, L(P)0100, L(P)0101, L(P)0102, L(P)0103, L(P)0104, 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.

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

3. The development hereby approved shall only be implemented and subsequently factored by a Registered Social Landlord (a body registered under part 3 chapter 1 of the Housing (Scotland) Act 2001, or any equivalent provision in the event of the revocation and re-enactment thereof, with or without modification).

Reason: To ensure the provision of affordable housing to the standard required by the development plan in the absence of any other agreed means of securing such provision.

4. Development shall not begin until samples of materials to be use (on external surfaces of the buildings and/or in constriction of hard standings/walls/fences) have been submitted to and approved in writing by the Planning Authority. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.

Reason: In order to integrate the development into its surroundings.

5. No development shall be commenced until details of the surface water drainage system to be incorporated into the development have been submitted to and approved in writing by the Planning Authority. Such measures shall show separate means for the disposal of foul and surface water, and the provision of a Sustainable Urban Drainage System (SuDS) The scheme shall be prepared in accordance with the advice given in Planning Advice Note 61 (PAN 61) 'Planning and Sustainable Urban Drainage Systems' and the 'SuDS Design Manual' (CIRIA C697). The development shall be implemented in accordance with the duly approved surface water drainage system.

Reason: To ensure that an acceptable scheme of surface water drainage is implemented.

6. Prior to the commencement of development the developer shall submit written evidence to the Planning Authority that an agreement with Scottish Water is in place for the connection of the proposed development to the public water supply (and/or public sewer).

Reason: In the interests of public health and to ensure the availability of an adequate water supply (and/or drainage system) to serve the proposed development.

7. A detailed remediation scheme to bring the site to a condition suitable for the intended use must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: In order to ensure that contamination issues on the site have been fully investigated and dealt with.

8. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: In order to ensure that contamination issues on the site have been fully investigated and dealt with.

9. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 7 which shall be subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 8.

Reason: In order to ensure that contamination issues on the site have been fully investigated and dealt with.

10. The development shall be landscaped in accordance with a scheme which shall be submitted to and approved by the Planning Authority before development commences. The scheme shall indicate the siting, numbers, species and heights (at the time of planting) of all trees, shrubs and hedges to be planted and to the extent of any areas of earthmounding, and shall ensure:

(a) Completion of the scheme during the planting season next following the completion of the building or such other date as may be agreed in writing with the Planning Authority.

(b) The maintenance of the landscaped areas for a period of ten years or until established, whichever may be longer. Any trees or shrubs removed, or which in the opinion of the Planning Authority, are dying, being severely damaged or becoming seriously diseased within three years of planting, shall be replaced by trees or shrubs of similar size and species to those originally required to be planted.

Reason: To ensure the implementation of a satisfactory scheme of landscaping.

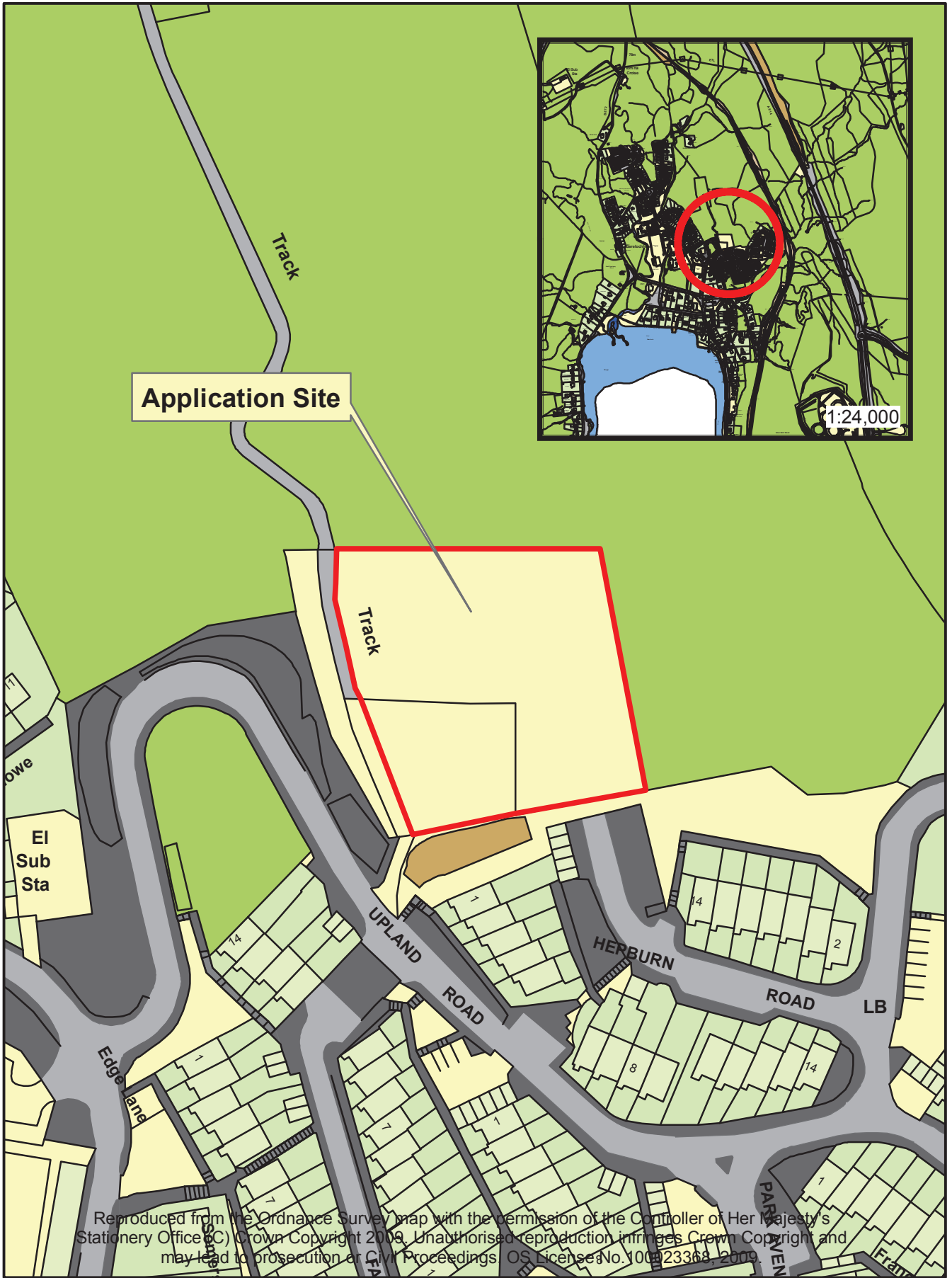
11. No development shall be commenced until details of how the existing footpaths crossing the site are proposed to be incorporated within the development, and details of any realignment and the construction and surfacing details of the footpath(s) have been

submitted to and have been approved in writing by the Council as Planning Authority. No development which interferes with pedestrian access through the site shall be commenced until an alternative route has been agreed and this route has been implemented. Thereafter the route shall be maintained available for public use.

Reason: To safeguard established access rights across the development site.

NOTE TO APPLICANT

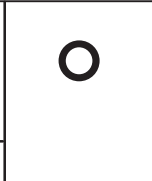
- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the planning authority specifying the date 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.
- Please note the advice contained within the attached letter from Scottish Water. Please contact them direct to discuss any of the issues raised.
- Please note that MoD has no objections provided the building can withstand 5.2 Kilopascals should an incident occur. In the interests of public safety the building should be constructed so as to provide the recommended blast resistance.



Location Plan relative to Application Ref: 11/00210/PP

Date: 16.03.2011

Scale: 1:1,250



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ARGYLL AND BUTE COUNCIL

PROCEDURE NOTE FOR USE AT

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

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.