

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

*Customer Services*  
*Executive Director: Douglas Hendry*



*Kilmory, Lochgilphead, PA31 8RT*  
*Tel: 01546 602127 Fax: 01546 604435*  
*DX 599700 LOCHGILPHEAD*  
*e.mail –douglas.hendry@argyll-bute.gov.uk*

5 September 2011

## **NOTICE OF MEETING**

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held in the **ROTHESAY PAVILION, 45 ARGYLL STREET, ROTHESAY, ISLE OF BUTE** on **TUESDAY, 13 SEPTEMBER 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 IAN WOOLLCOTT: APPLICATION FOR ERECTION OF A CARE HOME AND FORMATION OF NEW ACCESS: LAND NORTH OF ASCOG MANSIONS, ASCOG, ISLE OF BUTE (REF: 11/00954/PP)**  
Report by Head of Planning and Regulatory Services (Pages 1 - 18)

**PROCEDURE NOTE** (Pages 19 – 24)

## **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: Fiona McCallum

Tel. No. 01546 604406

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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**

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**Reference No:** 11/00954/PP

**Planning Hierarchy:** Local

**Applicant:** Mr Ian Woollcott

**Proposal:** Erection of residential care home and formation of new access.

**Site Address:** Land North Of Ascog Mansions, Ascog, Isle of Bute

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#### **DECISION ROUTE**

(i) Local Government (Scotland) Act 1973

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#### **(A) THE APPLICATION**

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

- Erection of residential care home
- Formation of new access
- Installation of private sewage treatment plant

**(i) Other specified operations**

- Connection to public water supply
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#### **(B) RECOMMENDATION:**

Having due regard to the Development Plan and all other material considerations, it is recommended that, subject to the undertaking of a discretionary hearing, planning permission be approved subject to the conditions, reasons and informative notes at the end of this report.

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#### **(C) HISTORY:**

Outline Planning Permission (ref: 112/79) was sought in February 1979 for the erection of 2 dwellings within the south eastern (roadside) corner of the current application site. The application was refused on the grounds that it would adversely affect the character of the Conservation Area and could set a precedent for further development that would erode the existing mature private open spaces between buildings.

An application for Planning Permission (ref: 01/01535/DET) for the erection of 10 dwellings on the subject site was withdrawn in January 2002.

An application for Planning Permission (ref: 02/01543/DET) for the erection of 12 dwellings on the subject site was withdrawn July 2004.

An application for Planning Permission (ref: 05/00863/DET) for the erection of 10 dwellings on the site was withdrawn in September 2005.

Planning Permission (ref: 05/01800/DET) was granted on 13<sup>th</sup> January 2006 for the erection of ten dwellinghouses and the installation of a discharge pipe to the sea on the subject site.

Planning permission (ref 11/00027/PP) was granted on 23<sup>rd</sup> June 2011 for the Variation of Condition 1 (relative to planning permission 05/01800/DET) to extend validity of permission from 5 years to 6 years

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**(D) CONSULTATIONS:**

**Area Roads Manager** (response received 20<sup>th</sup> July 2011)

No objections subject to conditions.

**Scottish Environmental Protection Agency** (response received 18<sup>th</sup> July 2011)

It is not clear why consultation has taken place. A member of the Operations team in the Lochgilphead office has already provided comments to the applicant/agent on the waste water drainage proposals and these are acceptable to SEPA.

**Scottish Water** (response received 1<sup>st</sup> July 2011)

No objection

**Scottish Natural Heritage** (response received 5<sup>th</sup> July 2011)

It is not considered that there is any merit in attaching a condition which requests a method statement that addresses impact to bats during construction. It is more important to highlight that, if bats are discovered during construction, all works must stop and SNH contacted immediately for further advice on if and when to proceed. To this end, it is recommended that any tree proposed for felling/lopping that has high potential for bats (i.e. is mature with holes) should be re-surveyed prior to any felling/lopping commencing.

The condition regarding the protection of trees seems appropriate. It is also recommended that, if vegetation is to be removed during the breeding bird season (March to July inclusive), a repeat bird survey is carried out prior to works commencing

**Environmental Health**

No response

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**E) PUBLICITY:**

Neighbour Notification (expiry 24<sup>th</sup> July 2011)

Listed Building/Conservation Advert (expiry 29<sup>th</sup> July 2011)

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**(F) REPRESENTATIONS:**

Objections have been received from a total of 13 sources:

Landmark Trust, Shottesbrooke, Maidenhead (dated 13<sup>th</sup> July 2011)

Mrs C Carley, Clyde House, Ascog, Isle of Bute (two letters dated 17<sup>th</sup> July 2011)

Dr R H Carley, Clyde House, Ascog, Isle of Bute (letter dated 18<sup>th</sup> July 2011)

E J McFarlane, Glenhead Cottage, Kingarth (dated 18<sup>th</sup> July 2001)

Ms Elizabeth Helen Asmaz, Craigard Residential Home, 24 Craigmore Road, Rothesay (dated 18<sup>th</sup> July 2011)

Mr Graeme (second name unclear), Ascogbank Lodge, Ascog (dated 18<sup>th</sup> July 2011)

Mrs A Williams, 24 Craigmore Road, Rothesay (received 18<sup>th</sup> July 2011)

Mr Norman Foster, Seal Lodge, Ascog (dated 19<sup>th</sup> July 2011)

Mrs Marjorie Falconer, Hawkstone Lodge, Ascog (dated 20<sup>th</sup> July 2011)

Andreana Dunn, 1 Bannatyne Mains Road, Port Bannatyne (received 25<sup>th</sup> July 2011)

Mr Ronnie Falconer, Hawkstone Lodge, Ascog (dated 28<sup>th</sup> July 2011)

Harper MacLeod Solicitors on behalf of Dr R H Carley, Clyde House, Ascog (dated 28<sup>th</sup> July 2011)

Gail Foster, Seal Lodge, Ascog (dated 28<sup>th</sup> July 2011)

The points raised can be summarised below:

- a. Two listed buildings adjacent to Ascog Mansions would be severely compromised due to increased light and traffic pollution. The natural fall of the ground, currently marked by changes in the vegetation, will be forever blighted by the introduction of an unnatural roof line adding a considerable scar to a well established historical landscape.

*Comment: The impact of the building will be addressed in the Assessment section below.*

- b. The proposed building would be overly massive for the site and would be out of keeping with the size of all properties in the neighbourhood with only a single exception (the former Ascog Mansion, which is set further back from the shore frontage and has historic merit).

*Comment: This issue will be addressed in the Assessment section below.*

- c. There would be a loss of large mature trees.

*Comment: This issue will be addressed in the Assessment section below.*

- d. There is no need for such a large building nor is there a requirement for a Care Home. There is no information with the application to confirm that the Care Home beds will be provided for use by the residents of Bute or that places can be allocated by Argyll and Bute Council. Indeed, it is understood that present Council policy is moving towards 'Care in the Community' and this indicates that there may be a lesser need for Care Home places on Bute. Many recent developments on Bute are partly occupied and several existing large buildings are also vacant. In the current economic climate, there is a significant risk of under-utilisation of such a large Care Home facility and there may even be a risk that it would remain vacant following construction.

*Comment: The issue of the need for the development does not have a material bearing upon the planning aspects of the case.*

- e. It would appear that the proposed development is taking place on what used to be the old walled garden of what was Ascog Mansion. Apparently, this was a

garden of some note designed by Edward La Trobe Bateman in the 19<sup>th</sup> century. He was an artist/garden designer who is also credited with designing the Carlton Gardens in Melbourne. This may be of interest to Historic Scotland and it is questioned whether site investigation should be undertaken before any development takes place.

*Comment: It is understood that Mr Bateman lived the latter part of his life on Bute and there is evidence that he designed gardens in Ascog (notably The Hermitage, Ascog House and Ascog Hall). There is no definitive evidence that the walled garden within the application site is associated with Mr Bateman.*

- f. There is concern that potentially high traffic movements could take place in and out of the proposed development location given that the access would still be very near to the bend at Ascog Church, where many traffic accidents have occurred, some with very serious consequences. Even with a lowered wall, it appears that the sightlines would only be marginally improved. The current pavement width is also very narrow and barely sufficient for able-bodied pedestrians. There could be an increased likelihood of wheelchair or impaired access along these narrow pavements which would not be safe so close to passing traffic. There could also be a significant increase in pedestrian usage in general.

*Comment: The Area Roads Manager has no objections to the proposal subject to suitably-worded conditions.*

- g. Concern expressed that very little information has been provided on the nature of sewage treatment and discharge. In addition, the proposed location for the sewage treatment facility is very close to the adjacent property and this could present an odour nuisance.

*Comment: This issue will be addressed in the Assessment section below.*

- h. The proposal is contrary to a number of Local Plan policies: LP ENV 1; LP ENV 2; LP ENV 7; LP ENV 11; LP ENV 12; LP ENV 14; LP ENV 19; LP SERV 1; LP SERV 2; and LP SERV 3.

*Comment: A full assessment against the relevant Development Plan policies will be carried out in the Assessment section below.*

- i. Concern is expressed over the impact of the proposal upon wildlife and habitats both within the site and on the shoreline (including bats and otters).

*Comment: This issue will be addressed in the Assessment section below.*

- j. Concern is expressed by the owner of the adjacent Clyde House that the proposed building would overlook their property resulting in a loss of privacy. The rear of the house and their garden would be overlooked by 12 windows and by a car park. The reduction in the height of the stone wall at the front of the site would result in the front of his house and garden being overlooked from the main road.

*Comment: This issue will be addressed in the Assessment section below.*

- k. A property in the vicinity applied to widen the current pedestrian access to his property to accommodate a vehicle and was refused permission on road safety grounds.

*Comment: Planning Permission (ref: 10/01562/PP) was sought in 2010 for the alterations and extension to Seal Lodge with the widening of the existing pedestrian access to form a vehicle opening. The access proposal was removed from the application during the processing of the application as the appropriate visibility splays could not be achieved on land solely within the ownership of the applicant. Permission for the other works was granted on 3<sup>rd</sup> December 2010.*

- I. Should permission ultimately be granted, conditions should be attached in respect of the location of the sewage treatment plant; the scale of boundary planting; the erection of a stone boundary wall along the mutual boundary with Clyde House; the timing of the landscaping and wall building; and the hours of construction.

*Comment: The matter of conditions will be considered later in this report.*

Support has been received from a total of 13 sources:

Margaret Zavaroni, Ardgowan, 25 Crichton Road, Rothesay (dated 15<sup>th</sup> July 2011)

Mrs Christine Hicks, 2 Pointhouse Crescent, Port Bannatyne (dated 17<sup>th</sup> July 2011)

Ms Ishbel Parry, 4 Pointhouse Crescent, Port Bannatyne (dated 18<sup>th</sup> July 2011)

Ms Mhairi Hunter, 7 Pointhouse Crescent, Port Bannatyne (dated 18<sup>th</sup> July 2011)

Mrs Christine Zavaroni, 3 Pointhouse Crescent, Port Bannatyne, Rothesay (dated 18<sup>th</sup> July 2011)

Mr James Hendry, Invergyle Cottage, Ascog, (dated 19<sup>th</sup> July 2011)

E Edwards, Caledonia Walk, Rothesay (received 21<sup>st</sup> July 2011)

Linda Connor, Braemar, Academy Road, Rothesay (received 21<sup>st</sup> July 2011)

Mrs Mary Walker, 20B Marine Road, Port Bannatyne (received 21<sup>st</sup> July 2011)

Carole Kelley, 23 Hunter Street, Kirn, By Dunoon (received 21<sup>st</sup> July 2011)

Mr John McDonald, Ascog Boathouse, Ascog (dated 21<sup>st</sup> July 2011)

Dr David McDonald, Ascog Boathouse, Ascog (dated 21<sup>st</sup> July 2011)

Ruth (second name unclear), 'Collinsdale', Wyndham Park, Ardbeg (dated 23<sup>rd</sup> July 2011)

The points raised can be summarised below:

- A residential care home in such scenic surroundings on the island would be a fantastic opportunity. It gives me great peace of mind knowing I can stay and be cared for on this beautiful island.
- I think this is a fantastic idea for the residents of Bute. This has been clearly needed for such a long time and the sooner this has been agreed the better.
- I think it is badly need and will be of benefit to the community.
- What a welcome piece of news for the Island. A care home is overdue as there is a shortage of facilities for local residents. This will also bring back employment which is also needed. Let there be some positive regeneration for the Island.
- At a time of public sector cut-backs, a well planned facility providing quality residential care for the elderly on Bute should be encouraged.
- Please don't let this opportunity pass by – let common sense prevail.
- The proposal would be an asset to the Island.

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**(G) SUPPORTING INFORMATION**

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

- (i) **Environmental Statement:** No

- (ii) **An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No
- (iii) **A design or design/access statement:** Yes

Design Statement submitted by the agent, G D Lodge, can be summarised as follows:

- There is a planning history to the site with the mansion originally being a large country house in the 19<sup>th</sup> century, which was converted into a convalescent home for the Railway in the early part of the 20<sup>th</sup> century. Eventually, the building reverted to residential use but was sub-divided and plots of land sold off, including the site referred to in the application. The land has a previous approval granted in January 2006 for 10 large detached dwellings. This was considered by some at the time to be an over-development of the site and that the scale of the housing development was not in keeping with the area.
- The property is located on the A844 to Ascog Village on the east side of the Bute, to the south of Rothesay. The land gently slopes eastward towards the main vista across the Firth of Clyde. To the west, the ground rises up onto a field which is part of Ascog Estate. Mature trees form the backdrop to the site and become the skyline in this direction. Not much of the original walled garden remains although parts of the wall are still visible and the garden boasts some mature planting. However, the garden has become overgrown and in need of restructuring but the better trees will be retained as shown in the proposals.
- The brief calls for a 30-40 bedroom care home incorporating a dedicated dementia care unit with a separate garden in addition to the general residential care facility. This has to be designed in accordance with the current recommendations of the Scottish Care Commission and current Building Standards.
- The form of the proposed building is a direct response to the brief and the site. It has the appearance of a two-storey Victorian house extended with wings linked across the frontage by the single storey fully glazed public rooms and entrance foyer. The building is symmetrical but the layout of the main rooms demanded that the entrance should be located at the north end of the frontage. This asymmetry has been accommodated by the curved frontage which allows the modern style porte cochere to bridge the car drop-off point onto the circular centre island formed by the driveway. This ensures the entrance faces towards the driveway as it curves north making it the focal point as it is approached. The island also incorporates the refurbished antique sundial at its centre, enhancing the arrival point.
- The design of the building is traditional in appearance with pitched slate roofs, render and art stone features in the Victorian idiom. The sea views are accentuated by the public/day rooms being extensively glazed and facing east, but also there is a commanding view from the upper level balcony which is linked to the upper level lounge. The curved feature balustrade provides the visual link on the facade between the two wings of the property. The two storey element visually recedes when approached on the driveway giving importance to the entrance, but becomes a prominent feature when viewed from the main road.



- In line with current thinking for nursing homes, the primary heating for the building will be provided by a ground source heat pump serving a full underfloor heating system. Hot water will be provided partially by the ground source heat pump to storage which is then boosted by a calorifier to an appropriate temperature as required. The building will be illuminated by low energy light fittings throughout. Waste recycling will be carried out in line with Argyll and Bute policy. With regard to drainage, the garden and paved surfaces will be permeable to provide for surface water drainage with the rainwater from the building being harvested and stored for garden maintenance. Foul drainage will be directed to an on-site treatment facility.

**(iv) Supporting Information: Yes**

MacRoberts Solicitors on behalf of the applicant (letter dated 11 August 2011) have rebutted in detail the objections submitted against the application under the broad headings of: impact on listed buildings and the conservation area, impact on wildlife, roads, drainage issues, general amenity and design, need for the development and compliance with the development plan. Their conclusion is as follows:

*“Bute Homes Limited recognises that neighbouring landowners and residents will have an interest in ensuring that the development makes a positive contribution to Ascog. However, having considered each of the objections made, it is my client's view that the concerns which have been expressed have already been addressed through the design of the proposals or could be addressed through the imposition of appropriately worded planning conditions. It is my client's view that the proposed development is in accordance with the terms of the development plan and that none of the letters of objection raise material considerations which indicate that the application ought to be determined otherwise than in accordance with the development plan. My client is of the view that the proposed development will not have any impact on the Category B Listed Ascog House or Meikle Ascog. My client has taken some care in the design of the proposed development to ensure that it observes and preserves the character of Ascog Conservation Area.”*

**(v) A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc: No**

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**(H) PLANNING OBLIGATIONS**

**(i) Is a Section 75 agreement required: No**

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**(I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: 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 1 – Development within the Settlements  
STRAT DC 9 – Historic Environment and Development Control

Argyll & Bute Local Plan 2009

LP ENV 1 sets out the general considerations against which all applications will be assessed.

LP ENV 6 – Development Impact on Habitats and Species

LP ENV 7 – Development Impact on Trees/Woodlands

LP ENV 14 – Development in Conservation Areas and Special Built Environment Areas

LP ENV 19 - Development Layout, Setting & Design

LP SERV 1 – Private Sewage Treatment Plants and Wastewater Drainage Systems

LP SERV 3 – Drainage Impact System

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

LP TRAN 6 – Vehicle Parking Provision

- (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.**

Not applicable

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

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

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

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

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**(O) Requirement for a hearing (PAN41 or other):**

On the basis that representations have been received from a total of 26 sources and that the objectors and supporters are evenly split, it is considered justifiable to hold a discretionary hearing into this application prior to a decision being made.

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

The proposal involves the erection of a residential care home on land to the north of Ascog Mansion, Ascog, Isle of Bute. The principle of development on the site has been established by virtue of Planning Permission 05/01800/DET for the erection of ten dwellings (renewed for a period for 12 months by permission 11/00027/PP in June 2011). The current proposal is clearly different in that it involves the erection of a single, institutional-type building with a distinct scale and design.

It is considered that the erection of a large detached building with substantial grounds would accord with the general pattern of development in Ascog. There are many examples of this such as Ascog Mansion, Ascog House, Southpark, Balmory Hall, etc. The institutional use is something which perhaps harks back to the early twentieth century with the former Agnes Patrick Home and adjacent Stevenson School, which were established by Bute philanthropist Agnes Patrick to provide a fortnight's 'fresh-air' holiday for under-privileged children from Glasgow. Girls were housed in the Agnes Patrick Home (now Chandlers' Hotel) and boys in the Stevenson. In addition, there is Ascog Mansion, which was the former Railway Convalescent Home.

The proposed building itself will be set back between 75 and 85 metres from the public road and there will be landscaping within the front curtilage. The design and materials to be used are considered sympathetic in the context of the building's position within the site and its relationship with other buildings in the vicinity, most notably Ascog Mansion.

Issues such as road safety, impact on wildlife, impact on trees, foul drainage, surface water drainage and privacy/amenity are pertinent and, it is considered, can be addressed through suitably-worded conditions.

On the basis of the foregoing, the proposal is considered to accord with the relevant Development Plan policies.

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

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

The proposal accords with STRAT DC 1 and STRAT DC 9 of the Argyll and Bute Structure Plan 2002 and policies LP ENV 1, LP ENV 6, LP ENV 7, LP ENV 14, LP ENV 19, LP SERV 1, LP SERV 3, LP TRAN 4 and LP TRAN 6 of the Argyll and Bute Local Plan (2009) and the proposal raises no other material consideration which would justify refusal of permission.

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

Not applicable

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

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**Author of Report: Steven Gove**

**Date: 29/7/2011**

**Reviewing Officer: David Eaglesham**

**Date: 29/7/2011**

**Angus Gilmour  
Head of Planning and Regulatory Services**

**CONDITIONS AND REASONS RELATIVE TO APPLICATION 11/00954/PP**

1. The development shall be implemented in accordance with the details specified on the approved drawings numbers: Drawing No. 2344/PL/011, Drawing No. 2344PL/009, Drawing No. 2344/PL/002; Drawing No. 2344/PL/003, Drawing No. 2344/PL/004, Drawing No. 2344/PL/005, Drawing No. 2344/PL/006, Drawing No. 2344/PL/007; and Drawing No. 2344/PL/008, 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*

2. A landscaping scheme shall be submitted to the Planning Authority prior to any works being first undertaken at the site. This scheme shall specifically include full details of the age, species and location of all existing trees and vegetation proposed to be retained and those to be removed together with full details of proposed planting. Specifically the landscaping scheme shall provide for native tree planting along the southern boundary of the site:
  - i) The landscaping scheme, as may be approved, shall be fully implemented no later than the first planting and seeding season following the commencement of the development and thereafter shall be maintained to the satisfaction of the Planning Authority for a period of five years. Any losses of plant species to be included in the landscaping scheme, through disease, weather exposure, neglect or damage, shall be replaced with equivalent species within one growing season.
  - ii) Prior to any works being first undertaken at the site, and upon the written approval of the landscaping scheme, each tree to be removed shall be clearly indicated (*tagged*) on site using a coloured identification and each tree to be retained shall be clearly indicated (*tagged*) on site using a separate coloured identification. Such measures shall be put in place for the written approval of the Planning Authority before any felling/lopping commences.
  - iii) Prior to the felling/lopping of any trees within the site, the subject trees will be surveyed for evidence of any bats and nesting birds. Should such evidence be found, the developer shall contact the Planning Authority for further advice in consultation with Scottish Natural Heritage;
  - iv) During the course of construction those trees that are to be retained (*as indicated and approved in writing by the Planning Authority as ii above*), shall be protected by suitable fencing not less than one metre in height that shall be erected around the extremities of the crowns of these trees, or as may be agreed in writing with the Planning Authority. No material, spoil or fires shall be placed within such protected areas during any construction works.

*Reason: In the interests of visual and residential amenity, the overall integrity and setting of the development within the area and to ensure that no damage is caused to trees during development operations.*

3. A substantial sample panel, being not less than 2.0 square metres, showing the proposed external wall finishes shall be made available on the site for the inspection and written approval of the Planning Authority. The panel shall be made available prior to the application of any render to the external walls being implemented. The building shall be

constructed using the approved finishes unless the prior written consent of the Planning Authority is obtained for variation.

*Reason: In the interests of visual amenity in order to ensure that the proposal integrates successfully into its surrounding townscape setting and having due regard to Central Government guidance and Local Plan policies.*

4. The roof covering shall be of natural slate, the details of which (including a sample) shall be submitted to and approved in writing by the Planning Authority prior to the commencement of the development. The roof shall be finished in the approved covering unless the prior written consent of the Planning Authority is obtained for variation.

*Reason: In the interests of visual amenity in order to ensure that the proposal integrates successfully into its surrounding townscape setting and having due regard to Central Government guidance and Local Plan policies.*

5. Prior to the commencement of the development, the final location and design of the sewage treatment plant, the odour control measures to be undertaken and a scheme for the maintenance in perpetuity of the approved communal sewage system shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA, the Building Control Section and the Public Protection Service.

*Reason: To ensure the ongoing maintenance of the method of sewerage treatment in the interests of residential amenity and public health of existing and future occupiers of the area and to prevent the unnecessary proliferation of septic tanks.*

6. The discharge pipe leading from the sewage treatment plant shall be constructed to a point below Mean Low Water Spring and shall be buried underground for its full length, the details of which shall be submitted to and approved in writing by the Planning Authority prior to the commencement of the development. The pipe shall be constructed in accordance with the approved details unless the prior written consent of the Planning Authority is obtained for variation.

*Reason: In order to safeguard the visual amenity of the area.*

7. Prior to the commencement of development on the site, visibility splays of 42.0 metres x 2.5 metres in both directions shall be formed from the centre line of the proposed access and shall, thereafter, be kept clear of all obstructions over 1.05 metres in height above the level of the adjoining carriageway unless the prior written consent of the Planning Authority is obtained for variation.

*Reason: In the interests of road safety.*

8. Prior to the construction of the road system and parking areas, full details (including a sample) of the surfacing to be used within the internal road system and parking areas shall be submitted to and approved in writing by the Planning Authority.

*Reason: In the interests of visual amenity in order to ensure that the proposal integrates successfully into its surrounding townscape setting and no such details having been submitted.*

9. Prior to the commencement of the development, details of the position, height and appearance of all boundary treatments shall be submitted to and approved in writing by the Planning Authority. In particular, such details shall show the erection of substantial screening along the southern boundary of the site. All boundary treatments shall be constructed in accordance with the approved details unless the prior written consent of the Planning Authority is obtained for variation.

*Reason: In the interests of visual amenity in order to successfully integrate the proposal into its surrounding townscape setting.*

10. Unless otherwise agreed in writing with the Planning Authority, the vehicular access onto the public road shall be constructed in accordance with the Councils' Standard Drawing No. Figure 10.16. The access formation shall be undertaken prior to the first coming into use of the approved residential care home.

*Reason: In the interests of road safety.*

11. Prior to any construction works on site, full details shall be submitted for the prior written approval of the Planning Authority of a drainage scheme that shall incorporate the basic principles of Sustainable Urban Drainage Systems identified in 'Planning Advice Note 61' which shall provide details of a totally separate drainage system with the surface water discharging to a suitable outlet. The drainage system shall include measures to slow down run-off; methods of treatments and its release into the system, existing and proposed drainage of the site and temporary surface water drainage system during construction phases; unless prior written consent for variation is obtained in writing from the Planning Authority. The scheme, as may be approved, shall be implemented commensurate with this development at a timescale as may be agreed in writing with the Planning Authority.

*Reason: In order to provide for a sustainable drainage scheme for the development.*

## **NOTES TO APPLICANT**

1. This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).]
2. In order to comply with Section 27A(1) of the Town & Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
3. In order to comply with Section 27B(1) of the Town & Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was complete.
4. The Area Roads Manager has advised that a Road Opening Permit will be required in association with the formation of the vehicular access. A system of surface water drainage should also be undertaken to prevent water running onto the footway or carriageway.

**ANNEX A – RELATIVE TO APPLICATION NUMBER 11/00954/PP**

**PLANNING LAND USE AND POLICY ASSESSMENT**

**A. Settlement Strategy**

Whilst located within the village of Ascog, for the purposes of the settlement strategy, the site is situated within the settlement of Rothesay (which is one of Argyll and Bute's Main Towns). STRAT DC 1 of the Argyll and Bute Structure Plan 2002 supports development within Main Towns that would serve a wide community of interest (including large-scale development) on appropriate infill, rounding-off and redevelopment sites.

On this basis, **the proposal is considered to accord with STRAT DC 1 of the Structure Plan.**

**B. Location, Nature and Design of Proposed Development (Including Impact upon Built Environment)**

The application site relates to land occupying 1.38 hectares to the north of Ascog Mansion, Isle of Bute. Ascog is at the very southern tip of Rothesay; generally, the buildings are located on the landward side of the A844 road except for two small nodes of shoreside development, firstly as one enters Ascog from a northerly direction and secondly surrounding Ascog Point. When travelling along the A844 road in a southerly direction, Ascog appears as a linear settlement. Its character prior to Ascog Mansion is different from that which is evident as one exits the settlement; the density of housing is higher and there is less of a '*countryside*' ambience.

The application site itself consists of three elements: the land to the front (roadside) is characterised by a grassed area interspersed with trees and enclosed by a 2-metre high stone boundary wall; the walled garden is located to the rear (west) part of the application site but is neglected and overgrown with a distinctive sundial feature; and the final element is the outbuildings that are located in the northern part of the site, which are somewhat dilapidated and which have historically been used as workshops/stores.

Immediately to the south of the application site, a dwellinghouse has been erected within the last five years – part of the 2-metre high stone boundary wall which encloses the extensive lawns in front of Ascog Mansion has been lowered to facilitate sightlines. There are two detached lodge houses approximately 50 metres apart from one another behind the boundary wall further to the south.

Building styles in Ascog are, on the whole, typical stone-built Victorian villas, though the Agnes Patrick Home (now Chandlers Hotel) is of mock half-timbered 'English' style, which can be seen elsewhere in Rothesay in the cluster of six houses by William Hunter on Ministers Brae in the East Bay and Serpentine Road area.

Modern development has kept to the general proportions of existing development, being large detached houses set in large garden plots. This has usually meant a reduction in plot size for the original houses, but still retains the open, low density character of the Ascog area.

The application proposes the erection of a substantial two-storey residential care home within the site. The design of the building and materials to be used are as detailed in the agent's Design Statement mentioned in Section G (iii) earlier in the report. A new

vehicular access is to be formed and a total of 23 car parking spaces are to be provided. Connection is to be made to the public water supply and a new sewage treatment plant with outfall to below Low Water Mark is proposed.

The principle of development on the site has been established by virtue of Planning Permission 05/01800/DET for the erection of ten dwellings (renewed for a period for 12 months by permission 11/00027/PP in June 2011). The current proposal is clearly different in that it involves the erection of a single, institutional-type building with a distinct scale and design.

It is considered that the erection of a large detached building with substantial grounds would accord with the general pattern of development in Ascog. There are many examples of this such as Ascog Mansion, Ascog House, Southpark, Balmory Hall, etc. The institutional use is something which perhaps harks back to the early twentieth century with the former Agnes Patrick Home and adjacent Stevenson School, which were established by Bute philanthropist Agnes Patrick to provide a fortnight's '*fresh-air*' holiday for under-privileged children from Glasgow. Girls were housed in the Agnes Patrick Home (now Chandlers' Hotel) and boys in the Stevenson. In addition, there is Ascog Mansion, which was the former Railway Convalescent Home.

The proposed building itself will be set back between 75 and 85 metres from the public road and there will be landscaping within the front curtilage. The design and materials to be used are considered sympathetic in the context of the building's position within the site and its relationship with other buildings in the vicinity, most notably Ascog Mansion.

On the basis of the foregoing, it is considered that the proposal can be justified in terms of its generally positive impact upon this part of the Rothesay Conservation Area and is, therefore, **in accordance with Policy STRAT DC 9 of the Structure Plan and policies LP ENV 10, LP ENV 14, and LP ENV 19 of the Local Plan.**

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

The Area Roads Manager has no objections to the proposal subject to conditions relating to the provision of adequate visibility splays; the standard of the vehicular access; the level of parking; and the carrying out of a flood risk assessment. All of these matters can be addressed through suitably-worded conditions and informative notes.

On the basis of the foregoing, **the proposal is considered to be in accordance with policies LP TRAN 4 and LP TRAN 6 of the Local Plan.**

#### **D. Effect Upon Wildlife**

A bat survey has been submitted during the processing of the application and this concludes that no field signs of bat activity were found during the survey. There is anecdotal evidence from the neighbours of adjoining properties indicating that there is a pipistrelle and brown long-eared roost within two properties to the north and south of the site. The removal of the trees will not affect the foraging or commuting habitat that bats may use as there is ample surrounding suitable habitat. No nesting birds were identified during the survey.

SNH appear satisfied with the findings of the survey but have recommended conditions requiring the re-survey of trees prior to their felling; the protection of trees during construction; and the carrying out of a repeat bird survey should it be intended to remove vegetation between the months of March to July inclusive.



There are reports that otters have been spotted in the vicinity of the application site (likely to be the coastline). SNH have recommended that at least a walk-over survey of both the site and the adjacent coastline (which may be affected by the installation of any outfall pipe/foul water discharge) be undertaken to determine the usage by otters. This request has been forwarded on to the agent and further information is awaited.

Based upon the information presently at hand, there is no strong evidence to demonstrate that the proposal would have an unacceptably detrimental impact upon species and habitats. Subject to suitably-worded condition, **the proposal would accord with policy LP ENV 6 of the Local Plan.**

#### **E. Impact Upon Trees**

The application proposes the removal of just over half of the mature trees within the site and, given this loss, it is envisaged that there will be extensive landscaping scheme submitted and implemented. Subject to this replanting, it is considered that **the proposal would accord with policy LP ENV 7 of the Local Plan.**

#### **F. Privacy and Amenity**

The owners of Clyde House (which is located to the immediate south of the application site) are concerned that the presence of twelve bedroom windows looking onto their rear space and a car park at their boundary would lead to an unacceptable loss of privacy.

The bedroom windows would be approximately 23 metres from the mutual boundary and the main habitable part of the dwellinghouse itself is a further 30 metres from the windows. The car parking spaces will be considerably closer to the mutual boundary and Clyde House.

Given the distances involved in terms of the relationship with the bedroom windows, it is not considered that the privacy of Clyde House would suffer to an unacceptably adverse degree. It is considered necessary, in terms of lessening the impact of the parking spaces, to ensure that the southern boundary of the development site contains meaningful screening, the details of which can be addressed by a suitably-worded condition.

#### **G. Water Supply and Foul Drainage**

The proposal identifies connection to the public water supply and Scottish Water has no objections to this. As there is no public sewer within Ascog, it is necessary for a private sewage treatment plant to be installed with outfall to below Low Water Mark. This is a similar arrangement to that proposed in the residential development of the site. SEPA has indicated that the proposed wastewater treatment is acceptable to them but a condition will be attached seeking finalised details prior to the commencement of the development.

On the basis of the foregoing, **the proposal is considered to accord with policy LP SERV 1 of the Local Plan.**

#### **H. Surface Water Drainage**

Information has been submitted that the garden and paved surfaces will be permeable to provide for surface water drainage with the rainwater from the building being harvested and stored for garden maintenance. It is intended that further details of a Sustainable Drainage System be provided prior to the commencement of the development.

On this basis, **the proposal is considered to accord with policy LP SERV 3 of the Local Plan.**



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**Location Plan relative to  
Application Ref: 11/00954/PP**



Date: 21.07.11

Scale: 1:2,500

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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.