

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE  
held in THE PAVILION CAFE, ROTHESAY, ISLE OF BUTE  
on TUESDAY, 13 MARCH 2012**

**Present:** Councillor Roderick McCuish (Chair)

Councillor David Kinniburgh                      Councillor Alex McNaughton  
Councillor Neil Mackay                              Councillor James McQueen  
Councillor Donald MacMillan

**Attending:** Charles Reppke, Head of Governance and Law  
Brian Stewart, Stewart Associates – Applicant’s Agent  
Nicola Dominick, Stewart Associates – Applicant’s Agent  
Steven Gove, Senior Planning Officer  
Paul Farrell, Roads Engineer  
Councillor Robert Macintyre, Supporter  
Mr Peter Beedles, Mr Markov’s representative – Objector  
Mrs J Williamson, Objector

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were intimated from Councillors Gordon Chalmers, Rory Colville, Robin Currie, Vivien Dance, Mary-Jean Devon, Daniel Kelly, Alister MacAlister and Bruce Marshall.

**2. EXCEL: ERECTION OF 3 TWO STOREY DWELLINGHOUSES: LAND TO WEST OF ANNIESLEA, HYDRO ROAD, PORT BANNATYNE, ISLE OF BUTE (REF: 11/00626/PP)**

The Chair welcomed everyone to the meeting and introductions were made.

Mr Charles Reppke, Head of Governance and Law, outlined the hearing procedure and invited anyone who wished to speak at the meeting to identify themselves and once that process had been completed the Chair invited the Planning Department to set out their recommendations.

**PLANNING AUTHORITY**

Mr Gove, Senior Planning Officer, spoke to the terms of the report, referring to a number of presentation slides showing the location of the development site, including the masterplan for the overall Housing Allocation. Scottish Water had no objections to this proposal and the Area Roads Manager had no objections subject to conditions detailed in the report. West of Scotland Archaeology Service had no substantive archaeological issues and Historic Scotland had no comments to make. Two letters of objection had been received and a petition with 75 names opposing the proposal and Mr Gove summarised the issues that had been raised. One letter of support had also been submitted by Councillor Robert Macintyre since the report had been published.

The application site is located within the settlement of Port Bannatyne and is part of Housing Allocation (ref: H/AL 1/5). At the Planning, Protective Services and

Licensing Committee in November 2011, Members decided to introduce a protocol for dealing with applications proposing the development of part(s) of a Potential Development Area or Housing Allocation. This has resulted in a masterplan being produced by Stewart Associates for the whole of the housing allocation, which has been subsequently advertised for public consultation purposes. There were no representations received in respect of this public consultation. It is considered that the submitted masterplan demonstrates how the allocated site could be developed in the future in a satisfactory manner and that the current application for three dwellings would not interfere negatively with the overall vision for the site.

The proposed development relates to the erection of three detached dwellinghouses in an area of land covering 0.38 hectares. The site is located to the west of the property known as 'Annieslea' and is presently wooded. The proposal would involve the formation of a separate access for each plot onto an existing private access road. The dwellinghouses would be two storey in height and would have a self-coloured white and light grey contrast acrylic render with translucent grey timber cladding. The roofs would be natural slate whilst the fenestration would be dark grey timber. Connection is proposed to public services. The application site is part of a larger housing allocation with the consequence that the principle of residential development is supported. The site itself is somewhat divorced from the built-up part of the Conservation Area and has two existing dwellinghouses located to the east. The High Road through Port Bannatyne runs parallel to the northern boundary of the site; however, as noted at the site inspection, there is a bank of woodland between the site and High Road which means that the development would only be glimpsed through the trees. It is considered that the detached nature of the dwellinghouses and their two-storey scale would not be out of place having regard to the neighbouring properties. The use of render, timber cladding and natural slate is also considered to be appropriate.

There will be an inevitable loss of some trees on the site (a total of 27). However, the trees to be lost are poorly formed, self-sown specimens of mainly birch and sycamore which have become established in the formerly more open, landscaped grounds of the hotel following its demolition. Although the wooded character of the site will be affected when immediately passing the site, the site is well screened on the lower (northern) side by more established woodland, while the submitted masterplan indicates that the bulk of the more extensive woodland above the development will be retained. Consequently, the impact of the development on the woodland cover will be much reduced from wider and more public viewpoints, such as across Kames Bay. Furthermore, the development proposes the planting of 13 heavy standard trees with a mixture of Birch, Ash and Beech which will help assimilate the proposed dwellings into the landscape.

The site forms part of housing allocation H/AL 1/5 which has an indicative capacity of 17 units with 25% affordability. The submitted masterplan shows an increase to 19 units with four units of affordable housing being identified at the western edge of the allocated site. In this respect, and having regard to the contents of the masterplan, the current proposal for 3 units need not prejudice the eventual contribution of affordable housing within the wider allocated site. Furthermore, the Council's Housing Needs & Demand Assessment has demonstrated a significant surplus of social housing on the Isle of Bute. Under

these circumstances, the insistence of a contribution towards affordable housing from this small development would only serve to inhibit a welcome private sector housing development in the current economic climate.

The site is served by a 300m road that leads from Gortans Road and which serves three existing dwellinghouses. The access road will require upgrading due to its poor surface and it is likely that a number of passing places will require to be formalised. In this regard, it is proposed to attach a suspensive condition that requires a programme of works to be agreed and undertaken prior to the commencement of development on the site. The Area Roads Manager has also mentioned that a 'Twenty's Plenty' scheme should be introduced for the complete length of Gortans Road with signage defining the extent of the adopted carriageway. The developer would be responsible for the fees and costs relative to this traffic calming scheme.

Having due regard to the Development Plan and all other material considerations, it is recommended that, subject to the outcome of this discretionary hearing, planning permission be granted subject to the conditions, reasons and informative notes detailed in the report.

## **APPLICANT**

Mr Brian Stewart of Stewart's Associates presented his case of behalf of the Applicant. He referred to a number of slides showing the location of the site and the proposed development which would be to the east of the old Kyles of Bute Hydro and would be covered by trees growing on land in front of the site which was in the ownership of the Applicant. He advised that land behind the site was also in the ownership of the Applicant and that the trees on this land would also be retained. He advised that he had been involved with this project since 2009 and that extensive pre application consultation had been undertaken with Planning and Roads Officers. Recognising that access to the site was from a private road the first thing was to address this matter and he illustrated with a number of slides the access to the site and the location of the proposed dwellings which would be on former tennis courts. He advised that the track running in front of the development site was heavily wooded with no management. On the slides he showed a view looking towards the old Hydro which was a series of terraces. He advised that there would be no change to the topography of the area and that the proposed development was on the lower level of these terraces. He referred to the overall masterplan developed for the whole of the Housing Allocation and pointed out on slides the 3 sites owned by the Applicant. He advised that the proposed development of 3 dwelling houses would be located on site 1 and that site 2 was a raised wooded area behind site 1 and that site 4 was also a wooded area located in front of site 1. He advised that the masterplan also recommended a new adopted road rising parallel to the existing track. He advised that the proposal included improvements to the existing surface of the Hydro Road with 3 separate wide accesses to each of the 3 dwellinghouses. It's also the intention to retain the wall in front of the houses and that it would become a feature of the accesses to the houses. He advised that each house would be at least 18 metres apart from each other and that woodland cover would be retained to the rear of the houses. He referred to the design of the houses which were in keeping with the Argyll and Bute Planning Design Guide. He advised that there were not many other sites in Port Bannatyne with the opportunity of developing family homes and that the

Applicant had been approached by a number of families interested in moving to this area.

## **STATUTORY CONSULTEES**

Mr Paul Farrell, Roads Engineer, advised that the proposed development of 3 detached houses would be accessed from U22 Gortans Road. The adopted section serves adjacent properties including Mount Claire, a development of 18 units. Access to properties is via a farm track to the south. The 3 existing properties are served by a private road that runs between Gortans Road and Bannatyne Mains. Improvements to the section between the end of Gortans Road and the development site have been proposed. These include improvements to the surface, the addition of passing places and carriageway widening. Each property is to have its own vehicular access and sightlines of a minimum of 20m x 2 m and surface water has to be dealt with. Parking has to be provided for 3 vehicles per unit. The design and construction of the access, parking etc will be as per the "Roads Guidance for Developers" dated October 2008. The implementation of a Twenty's Plenty traffic calming scheme will afford a higher level of safety for all road users and the cost of raising this order and installation of signage is to be met by the Applicant.

## **SUPPORTERS**

Councillor Robert Macintyre advised that he has represented this part of the island since 1995. He referred to the history of the site and that planning permission had been granted for 41 chalets in 1981 and 11 dwellinghouses in 1991 and that this application was of a smaller scale compared to what had previously been approved. He advised that Port Bannatyne had a thriving primary school and rising school roll and that this proposal was for 3 family houses. He referred to the expressions of interest the Applicant had received for housing in the area and that this bode well for the area and the businesses operating around Port Bannatyne. He advised that the development could be easily accessed for housing for people to live in and enjoy and that he fully supported this proposed development.

## **OBJECTORS**

Mr Peter Beedles advised that he was here to speak on behalf of Mr Markov and that Mr Markov's original reason for objecting to this proposal still stood. He advised that this was a unique amenity on the island and that there was no other site like it. He advised that the people of Ardbeg and Port Bannatyne had access to the woods which were filled with kids playing there in the summer. He advised that people visited the island because this amenity is there. He advised that the wooded area was teeming with wildlife eg buzzards, owls, bats and a fantastic variety of insects which would suffer if this amenity was lost. He advised that Mr Markov was aware of the need for development on the island but that it should be sympathetic to the island. Mr Markov moved to Bute 5 years ago and in that time has seen the downturn in the area with businesses closing down. He advised that development on Bute should be an eco development. He advised that the 3 proposed properties were not suitable for a woodland area and that there was a need for something more rugged and in keeping with the area. He advised that the 3 proposed properties would be right on the edge of the road and would be easily viewed by passers by. Mr Markov believed

upgrading the road in front of the houses would lead to an increase in traffic and that it would be impossible to say what the impact on the wildlife would be in this respect. He advised that the Applicant had previously submitted a retrospective planning application to remove trees and for replanting to be done and that there was no evidence that this replanting of trees had ever taken place. He referred to the promise that the upgrading of the road and replanting of trees would be part of the proposal and that there was a need for a few more promises to be kept by the Applicant in respect of previous applications which were yet to be met. He advised that this proposal would change the whole nature of the area. He referred to the wider development of the area and that there had been a problem with asbestos in the area some time ago. He advised that on speaking to local business people, residents and visitors there was negative feedback about this development and asked that this planning application be refused.

Mrs Williamson advised that she agreed with all that her colleague had said. She referred to the promise of replacing trees and that there was no sign that this had been done. She advised that this proposed development would have a great bearing on the habitat and that it should be preserved. She referred to the 75 names on the submitted petition and asked whether any of the people on the petition were advised of today's hearing and that they would have been in attendance at the hearing if that had been the case.

## **MEMBERS' QUESTIONS**

Councillor McNaughton asked what the plans were for the upgrading of the road. Mr Farrell advised that surface type 1 would be used. He also advised of drainage measures to be put in place to prevent run off from the 3 properties onto the road.

Councillor Mackay referred to Annieslea being 1.5 storeys and the 3 proposed dwellings being 2 storeys and asked if this conformed with policy LP ENV 19 – Development, Layout and Design. Mr Gove replied yes. He advised that there were a variety of different styles of houses in Port Bannatyne and that the design of the houses did not need to be an exact copy of others in the vicinity.

Councillor Mackay referred to site 1 being for the development of 3 houses and asked if this site would extend on to site 4. Mr Gove advised this was not part of the masterplan. He advised that there was the potential for a 4<sup>th</sup> house to be developed by the Applicant in another part of the masterplan site.

Councillor Kinniburgh referred to the road to be formed having a type 1 surface and asked for clarification on how far this would extend and if this was from Gortan Road to the end of the development site. Mr Gove confirmed this to be the case and referred to the detail of condition 4 within the Planning report.

Councillor Kinniburgh asked if the Applicant had any plans to extend the road. Mr Stewart advised that the road was not owned by the Applicant and that it was owned by Mountstuart. He advised that the road would be scraped and type 1 applied and improvements to drainage of the road would be made as the land north of the road belonged to the Applicant and that drainage of surface water would be made onto this land.

Councillor Kinniburgh asked if it was feasible that cars would be driving down

this road every day. Mr Stewart advised probably not.

Councillor MacMillan asked for clarification on the road being widened to 5.5 metres. Mr Stewart advised that most of the road was already 5.5 metres though this was hard to see due to the condition of the track at the moment. He advised that 2 passing places would be made and that the road would be widened at the frontage of the development site to 5.5 metres.

Councillor Mackay referred to the road being upgraded with type 1 surface and asked if this would be adequate to accommodate 9 cars for the houses and service vehicles such as refuse lorries. Mr Farrell advised that the refuse collections were made at a communal bin at a pick up point on Gortan Road and that householders were required to take their rubbish to the communal bins for uplift.

Councillor Mackay asked if improvements to the road would be made prior to commencement of construction and Mr Stewart confirmed this to be the case and referred to planning condition 4 which stated that no development shall commence until the road works have been undertaken.

Councillor McCuish asked if any of the 27 trees proposed to be removed were protected. Mr Gove advised that they were protected as part of the conservation area and that authority was required for these to be removed and that this was part of the planning application.

Councillor McCuish referred to objectors' comments about a loss of amenity to the area and asked for further comment on this. Mr Beedles referred to the current nature of the track and that to widen this and add passing places would change the nature of the area and affect the wildlife and people who used it. He referred to walkers and bird watchers using the woods during the summer and the ringing voices of children and that this was a safe environment for them to use. He advised that people came to this area for peace and quiet away from urban noise. He advised that this area was wilderness and that this was part of its beauty. He advised that the amenity of this area was rare and that there was nowhere else like it on the island and that the amenity as it is should be used to promote the area not 3 houses which would not be affordable.

Councillor McCuish asked the Applicant the same question. Mr Stewart advised that development of this area would not prevent people from using the woods. He advised that the road would be improved but would not change in any great way and that there used to be passing places located on this road. He referred to the size of the houses compared to the size of the site and that they were very small in proportion to the size of the site. He advised that only trees on the level areas would be removed and that extensive heavy trees indigenous to the area would be replanted in order to meld into the environment. He advised that the wooded area was large enough to accommodate 3 houses and that the whole ethos of his client was to support and manage the wooded area.

Councillor Kinniburgh referred to the petition signed by 75 people and asked if all these people had been written to advising of the hearing. Mr Gove advised no and that only Mr Markov, who had submitted the petition, had been advised of the hearing. Mr Reppke explained the procedure that was followed and that it was the responsibility of the person who submitted the petition to inform those

who signed it of the hearing if they so wished.

Councillor Mackay referred to the concerns of the objectors regarding the wildlife habitat and asked Planning to clarify if policy LP ENV 7 took account of this and, if so, did this prejudice the policy. Mr Gove advised that this site had no nature conservation designation or protected species interests. He referred to separate legislation linked to European protected species and if found during development it was the responsibility of the developer to advise the relevant bodies if this was established. He advised there was no foundation to prejudice development.

Councillor McCuish referred to consultation on the masterplan and asked if there had been any objection to it. Mr Gove advised that no representations were received regarding the consultation on the masterplan.

Councillor McCuish asked the objectors if they were aware of the consultation on the masterplan. Mr Beedles advised that he was not aware of the opportunity to object to the masterplan and that adverts placed in the Buteman were usually very small and that he had not seen the advert about this consultation.

## **SUMMING UP**

### **Planning Authority**

Mr Gove referred to the amenity of the area and that the wider area included the application site which was first zoned for housing in 1991. He referred to the previous application for 11 houses and that this was for 3 houses with the potential for a possible 4<sup>th</sup> house which would be the subject of a separate application. He advised that the Local Plan has encouraged development in this area and that there has been no real objection to this and that it has always been expected that there would be development in this area.

### **Applicant**

Mr Stewart advised that the Applicant was a botanist. He referred to the replacement of trees and that work on this had started but had been affected by the storm on 3 January 2012. He advised that his client was in the process of planting Scot Pines. He referred to the development being relatively small in context with the size of the site and that it was entirely appropriate.

### **Statutory Consultees**

Mr Farrell advised that he had nothing further to add.

### **Supporters**

Councillor Macintyre advised that he had nothing further to add.

### **Objectors**

Mr Beedles referred to the upgrade of the road which was privately owned by Mountstuart and queried who would take responsibility for its upkeep. He advised that Mr Markov was a Biochemist and aware of the habitat of the area and stressed the importance of this amenity for the island.

Mrs Williamson advised that she had nothing further to add.

The Chair asked all parties to confirm if they had received a fair hearing and they all replied that they had.

## **DEBATE**

Councillor Mackay advised that like every hearing this Committee has attended the site visit has been invaluable and that the former Hydro at the top of the hill was similar to many towns including Oban where development has since taken place and advised that this development was well thought out. He acknowledged that the size of the dwellings did fit in and that they would not be very prominent and that he thought that the design was good. He advised that the presentation by the Applicant's Agent had been valuable and that improvements to the track would be appreciated by all that may use it. In respect of maintenance of the track he took comfort from the fact that users of the road would make sure their vehicles did not bottom out on it. He advised that he was happy with the answers to his questions regarding planning policies and that he was happy to support the Planner's recommendation.

Councillor McNaughton advised that he had listened to the objectors and could understand their concerns about the wildlife. However he did not think this development would impinge on the wildlife and that there was a lot of other similar habitats around the area. He referred to the Local Plan duly encouraging development in this area. He advised that 3 houses was not a big development but would be big for Port Bannatyne and supported the Planning recommendation.

Councillor McQueen advised that he was more than happy with the proposed development.

Councillor MacMillan advised that this was a modest application considering previous applications before it and that he supported it.

Councillor Kinniburgh referred to the planning history of site and that this development accorded with planning policy. He advised that the track was a track and not a road and that upgrade of this would improve access to the site. He advised that he had no concerns whatsoever and would support the application.

Councillor McCuish advised that having listened to everything that had been said today and having visited the site it was his opinion that the application would not have a detrimental impact on the area. He advised that the development conformed with 7 Local Plan policies and 2 Structure Plan policies. He congratulated the Applicant on engaging in the pre application planning process and referred to development of this area being in the Local Plan since 1991 and moved the recommendation contained within the Planning report.

## **DECISION**

Agreed unanimously to approve the planning application subject to the following conditions, reasons and notes to the applicant:



1. The development shall be implemented in accordance with the details specified on the approved drawings numbers: Drawing No. 0918/P01; Drawing No. 0918/P02; Drawing No. 0918/P03; Drawing No. 0918/P04; Drawing No. 0918/P05; and Drawing No. 0918/P08 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. The landscaping scheme shown on the plan titled 'Site Plan as Proposed' (Drawing Number 0918/P03) shall be implemented no later than the first planting and seeding season following the commencement of the development (or such other timescale agreed with the Planning Authority prior to the commencement of the development) and, thereafter, shall be maintained to the satisfaction of the Planning Authority for a period of ten years. No trees shall be felled or lopped within the landscaping scheme without the prior written consent of the Planning Authority and any losses of plant species through disease, weather exposure, neglect or damage shall be replaced with equivalent species within one growing season.

*Reason: In the interests of visual amenity in order to successfully integrate the proposal into its surrounding townscape setting and having due regard to Policies LP ENV 7 and LP ENV 14 of the Argyll and Bute Local Plan 2009.*

3. The root system of the trees to be retained within the site shall be suitably protected in accordance with BS 5837 'Trees in Relation to Construction' (2005) prior to the commencement of the development and during the course of the development. Prior to works commencing on site, fences shall be erected below the canopy edge of the trees to prevent encroachment by machinery and vehicles and these fences shall be maintained during building works on site.

*Reason: In the interests of visual amenity in order to ensure that reasonable and appropriate measures are taken to secure the viability of the trees within the site.*

4. Prior to the commencement of the development, a programme of works to improve the road between the site and Ardbeg Road shall be submitted to and approved in writing by the Planning Authority. Such a programme shall, at a minimum, include the following:
  - i. The surfacing and drainage of the private road between Gortans Road and the site frontage;
  - ii. The provision of two passing places along the section of the private road between Gortans Road and the site frontage;
  - iii. The widening of the carriageway along the frontage of the site to 5.5 metres;
  - iv. The implementation of a 'Twenty's Plenty' traffic calming scheme for the entire length of Gortans Road with signage defining the extent of the adopted road.

No development shall commence until the works have been undertaken in accordance with the approved programme unless the prior written consent of the Planning Authority is obtained for variation.

*Reason: In the interests of road safety having regard to policy LP TRAN 4 of the Argyll and Bute Local Plan 2009.*

## **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 for the signage associated with the "Twenty's Plenty" scheme.

(Reference: Report by Head of Planning and Regulatory Services dated 6 February 2012, submitted)