

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

*Customer Services*  
*Executive Director: Douglas Hendry*



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11 June 2012

## **NOTICE OF MEETING**

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held in the **GIBSON HALL, GARELOCHHEAD** on **MONDAY, 18 JUNE 2012** at **10:30 AM**, 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 AND MRS JOHN SMITH: ERECTION OF DWELLINGHOUSE, INSTALLATION OF PRIVATE SEWAGE TREATMENT FACILITY AND FORMATION OF NEW ACCESS: LAND NORTH WEST OF FINNART FARMHOUSE, FEUINNS ROAD, PORTINCAPLE (REF: 12/00818/PP)**  
Report by Head of Planning and Regulatory Services (Pages 1 - 28)

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

Councillor Gordon Blair  
Councillor Robin Currie  
Councillor George Freeman  
Councillor David Kinniburgh  
Councillor Robert Graham MacIntyre  
Councillor Alex McNaughton  
Councillor Richard Trail

Councillor Rory Colville  
Councillor Mary-Jean Devon (Vice-Chair)  
Councillor Fred Hall  
Councillor Alistair MacDougall  
Councillor Donald MacMillan  
Councillor Sandy Taylor (Chair)

Contact: Fiona McCallum

Tel. No. 01546 604392

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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**

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**Reference No:** 12/00818/PP

**Planning Hierarchy:** Local

**Applicant:** Mr and Mrs John Smith

**Proposal:** Erection of dwellinghouse, installation of private sewage treatment facility and formation of new access

**Site Address:** Land north west of Finnart Farmhouse, Feuins Road, Portincaple

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### **SUPPLEMENTARY REPORT 1**

#### **1.0 SUMMARY**

The purpose of this report is to advise Members of a late letter of representation which has been received in connection with the above planning application.

#### **2.0 ADDITIONAL INFORMATION**

A letter with photographs dated 25<sup>th</sup> May 2012 has been received from Jerry Bernau, Road End Cottage, Portincaple. The main points of the letter and my comments on them are noted below:

- The site is covered in bluebells which are protected by the Wildlife and Countryside Act which makes it an offence to uproot the plant.

*Comment: The Wildlife and Countryside Act 1981 (as amended) makes it an offence to intentionally or recklessly uproot any wild plant without the permission of the owner or occupier of the piece of land in question. The bluebell is listed under Schedule 8 but only receives partial protection which means that it is not an offence to pick bluebells but it is an offence to sell, offer, advertise or possess for sale live or dead plants. The presence of bluebell does not preclude the development of the site and it would not be an offence for the owner to excavate for development.*

- Should the application be approved the soil containing the bluebells should be carefully stored and thereafter used for natural landscaping on the site.

*Comment: It would be open to the applicant to do this, however, it would be unreasonable to require it as a planning condition.*

- The land in question is home to a wide variety of wildlife including nightjars, cuckoos and bullfinches which are all species selected for action in the Argyll and Bute Biodiversity Action Plan.

*Comment: The site does not have any statutory or non-statutory nature designations and the presence of above species would not provide a competent reason for the refusal of the planning application.*

The above noted representation does not change the recommendation in the original report, namely that planning permission be granted as a 'minor departure' to development plan policy subject to conditions and a PAN 41 Hearing.

**Author: Sandra Davies**

**Contact Point: Howard Young 01436 658884**

**Angus J Gilmour**

**Head of Planning & Regulatory Services**

**28<sup>th</sup> May 2012**

**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:** 12/00818/PP

**Planning Hierarchy:** Local Application

**Applicant:** Mr and Mrs John Smith

**Proposal:** Erection of a single dwellinghouse, installation of private sewage treatment facility and formation of new access

**Site Address:** Land north west of Finnart Farmhouse, Feuins Road, Portincaple

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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 dwellinghouse;  
Installation of sewage treatment plant;  
Formation of access.

**(ii) Other specified operations**

Connection to public water supply.

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**(B) RECOMMENDATION:**

It is recommended that planning permission be approved as a minor departure to development plan policy subject to conditions and a PAN 41 Hearing.

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**(C) HISTORY:**

11/01591/PP - Erection of dwelling house, installation of private sewage treatment facility and formation of new access. Application withdrawn.

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**(D) CONSULTATIONS:**

**Development Policy** (dated 30/4/12): Provides clarification on the policy issues surrounding the site.

**SEPA** (dated 2/5/12): An issue in relation to potential flooding resulting from surface water run-off at the site is a matter for the Planning Authority in conjunction with their Building Control colleagues with assistance from the Council's Flood Prevention Team.

**Flood Alleviation Officer** (dated 1/5/12): No objections subject to conditions.

**Roads Helensburgh and Lomond** (dated 8/5/12): No objections.

**Scottish Water** (dated 20/4/12): No objections.

**Garelochhead Community Council** (dated 9/5/12): Object to the proposal.

**Ministry of Defence**: No response to date.

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**(E) PUBLICITY:**

ADVERT TYPE: Regulation 20 Advert Local Application

EXPIRY DATE: 11.05.2012

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**(F) REPRESENTATIONS:**

**Objections to the proposal have been received from one local Member and 53 letters from individuals as detailed in Appendix 1.**

**(i) Summary of issues raised**

A portion of the site is located outwith the settlement boundary.

*Comment: See my assessment below.*

The existing road is unsuitable for further traffic.

*Comment: The Area Roads Engineer has no objections to the proposal on road safety grounds.*

The proposed access would be dangerous

*Comment: The access could attain visibility splays which are acceptable to the Area Roads Engineer, the provision and maintenance of which could be secured by way of condition.*

The design of the house would be out of keeping with any others in the area.

*Comment: See my assessment.*

The positioning of the house to the west of Feuins Road is not in keeping with the settlement.

*Comment: See my assessment.*

The proposed house would spoil the view at an important vantage point in an area of outstanding natural beauty.

*Comment: See my assessment with regard to the impact on the Area of Panoramic Quality.*

It is recommended that Councillors visit the site before evaluating the application.

*Comment: In the event of a local hearing being held it would be routine to hold a site familiarisation beforehand.*

The proposed house has insufficient space available for visiting vehicles and the delivery of goods.

*Comment: The Area Roads Engineer is satisfied with the proposed parking arrangements which are in accordance with Policy LP TRAN 6 of the Local Plan.*

A number of trees would be affected in the process of construction.

*Comment: While the site is largely clear of trees, it would appear that one Rowan at the front of the site would be required to be removed to form the visibility splay and a further, smaller self-seeded tree would be removed to make way for the attenuation tank. This is considered to be acceptable as neither of these trees is considered worthy of a Tree Preservation Order.*

There are wild orchids, newts, buzzards and deer in this area.

*Comments: There are no statutory or non statutory nature designations covering the site.*

Has the applicant investigated who owns the intervening land required for the sewage outfall?

*Comment: The outfall is included within the red line of the site and the land owner has been notified of the application in line with application certification requirements.*

The proposal would cause further drainage problems.

*Comment: The Flood Alleviation Officer has no objections to the application subject to conditions.*

The applicant's supporting statement is not written in clear English and therefore lacks clarity and transparency.

*Comment: The content of the supporting design statement is considered acceptable.*

The proposal would put a further strain on schools and Garelochhead Health Centre.

*Comment: The impact of a single dwelling is considered to be insignificant in terms of both education and health provision.*

The proposal would be contrary to a number of the policies contained within the Local Plan.

*Comment: See my assessment.*

The proposal would have underbuilding visible at the north east corner and at the south west corner elevation.

*Comment: See my assessment.*

The Council have a duty to consult the Community Council and Scottish Natural Heritage.

*Comment: Community Councils are advised of all applications by means of the weekly list of planning applications with agreement that they will engage in the process as they see fit. As the site does not have any statutory nature designations and does not provide any potential habitat for European Protected Species it was not considered necessary to consult SNH.*

Concern that there will be disruption and road safety issues during the construction phase.

*Comment: Disruption during the construction phase is not a material planning consideration.*

The settlement zones identified on the plan in this vicinity are unsuitable for such a land use and this designation should be reviewed.

*Comment: All planning applications are assessed against Development Plan policies provide the statutory policy framework for decision-making for the life of the plan. Engagement in the Local Development Plan process is the vehicle to request a review to these policies and not through the determination of a planning application.*

There are often bats seen in the vicinity of the application site.

*Comment: While bats may forage across this area is it not considered that the site provides potential for bat roosts.*

Areas of Panoramic Quality (APQ) should have a Landscape Capacity Study produced.

*Comment: The area forms part of the East Loch Long Area of Panoramic Quality. Appendix 2A of the adopted Local Plan refers to landscape capacity studies being carried out within National Scenic Areas and Areas of Panoramic Quality. These landscape capacity studies have been undertaken in order to address the concerns raised by the Reporters around the general presumption in favour of small scale development established by the plan within areas of open countryside, where these had been designated as Rural Opportunity Areas in the Local Plan. As there are no Rural Opportunity Areas designated within the East Loch Long APQ, accordingly no landscape capacity study was required for this area*

Fumes from the wood burning stove will be carried in the direction of Finnart Farmhouse.

*Comment: This is not a material planning issue.*

The watercourse does not have the capacity to serve any more septic tanks.

*Comment: A sewage treatment plant is proposed where the sewage is treated on site and therefore the outfall would not pollute the burn.*

No neighbour notification was received by Finnart Farmhouse.

*Comment: The neighbour notification notice to that property was generated on 12.04.2012 at 15:58 by the Council's application processing system. Neighbour Notification Notice are then sent by TNT post and delivered by Royal Mail. We do not record proof of postage, but can confirm that should any of these notices not be able to be delivered by Royal Mail they are returned to the Council with details of why they were not delivered. The resident of Finnart Farmhouse has, however, confirmed that he is aware of the application and has submitted objections (email dated 9/5/12).*

The orientation of the building is unacceptable with the gable of the house facing the road.

*Comment: The orientation and siting of the dwelling is considered to be acceptable.*

The visibility sightlines cannot be achieved within land owned by the applicant and a section 75 would be required to ensure that visibility splay was maintained in perpetuity.

*Comment: The visibility splays are contained within the red line of the site. Land ownership is not a material planning issue providing that all owners are duly notified through the planning application process. For the control of visibility splays, a section 75 would only be required if the works were outwith the red line of the site.*

The size of the building in proportion to the size of the site is unduly large.

*Comment: The footprint of the building occupies approximately 12% of the proposed plot. Appendix A of the adopted Local Plan states that detached houses should occupy a maximum of 33% of the plot. The development is well within these limits.*

The proposal will destroy views towards Loch Long.

*Comment: It is not considered that the house will destroy these views. The house when developed will form a small grouping with Finnart Farmhouse. The site is largely located within the settlement boundary which presumes in favour of small scale development and the orientation, siting and design of the house is considered compatible with the landscape.*

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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

The applicant has submitted a design statement dated 18/8/11. In this the applicant advises that he believes that the design respects the historic vernacular of rural Argyll and careful consideration has been given to the landscape setting. It has been designed taking account to the Council's Sustainable Design Guide and Development Plan Policy. The plan form is that of a single room depth as advocated by the design guide and most of the windows are to the south and west with smaller windows north and east thus maximising solar gain. The plan form will allow for life usage and capable of adaption to meet reasonable expectations for special needs users.

(iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** Yes. A drainage assessment has been submitted in support of the application.

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(H) **PLANNING OBLIGATIONS**

**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 2 – Development within the Countryside Around Settlements  
STRAT DC 8 – Landscape and Development Control

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment  
LP ENV 2 – Impact on Biodiversity  
LP ENV 6 – Impact on Habitats and Species  
LP ENV 7 – Impact on Tree/Woodland  
LP ENV 10 – Impact on Areas of Panoramic Quality (APQs)  
LP ENV 19 – Development Setting, Layout and Design

LP HOU 1 – General Housing Development  
LP HOU 3 – Special Needs Access Provision in Housing Developments

LP SERV 1 – Private Sewage Treatment Plants and Wastewater Systems  
LP SERV 2 – Incorporation of Natural Features/Sustainable Drainage Systems  
LP SERV 3 – Drainage Impact Assessment (DIA)  
LP SERV 8 – Flood and Land Erosion – The Risk Framework for Development  
LP SERV 9 – Development in the Vicinity of Notifiable Installations

LP TRAN 3 – Special Needs Access Provision  
LP TRAN 4 – New and Existing Public Roads and Private Access Regimes  
LP TRAN 6 – Vehicle Parking Provision

Appendix A – Sustainable Siting and Design Principles  
Appendix C – Access and Parking Standards

**(ii) List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 4/2009.**

Argyll & Bute Sustainable Design Guidance (2006)

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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):** In view of the number of representations received and the 'minor departure' to the provisions of the Development plan it is considered appropriate to hold a PAN 41 Hearing.

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

Planning permission is sought for the erection of a dwelling and the installation of an associated sewage treatment plant and access. The majority of the house plot site (approximately 93%) lies within the 'settlement' boundary of the minor settlement of Portincaple / Whistlefield as defined by the adopted Local Plan. Within this area there is a presumption in favour of small scale residential development subject to other local plan policies being satisfied. The remaining 7% of the site which is located at the north western corner of the plot lies within an area defined as 'countryside around settlement' (CAS). There is a presumption against residential development in these areas in order to avoid pressure for development to creep beyond defined settlement boundaries. However, given the small size of this area, the fact that it is to form part of the garden, and will not accommodate any built development, and given the opportunity to preclude ancillary structures such as outbuildings by means of condition, I consider its incorporation within the proposed curtilage can be justified as a 'minor departure' from Structure Plan Policy STRAT DC 2 and Local Plan Policy LP HOU1.

The site also lies within an area designated as an Area of Panoramic Quality (APQ) where careful consideration must be given to the impact of proposed development upon the scenic qualities of its landscape setting. It is considered that the proposal would be acceptable in this regard given its siting, scale and design.

The Road Network Manager has no objections to the proposal and the Flood Alleviation Officer is satisfied with the drainage proposals.

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

No, the proposal represents a minor departure from Policy STRAT DC2 of the Argyll and Bute Structure Plan and Policy LP HOU 1 of the adopted Argyll and Bute Local Plan.

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

The majority of the proposal is located within the settlement boundary of Portincaple / Whistlefield within which there is a presumption in favour of small scale housing development. The proposed dwelling is of an acceptable scale and design and would

not adversely impact upon the scenic qualities of the Area of Panoramic Quality within which the site is located. Whilst a small part of the site is located within the adjacent 'countryside around settlement' zone, this will only form part of the dwelling's rear garden which can be retained free of built development by way of condition, and in that context it is considered to be an acceptable 'minor departure' from Development Plan policy.

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

The area of the site which lies within the Countryside Around Settlement zone amounts to approximately 7 per cent of the overall plot size. This small area will form the bottom part of the garden and will not contain any part of the dwellinghouse and can be retained free of built development by way of condition. In these circumstances it is considered that a 'minor departure' is acceptable.

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**(T) Need for notification to Scottish Ministers or Historic Scotland: Not required**

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**Author of Report: Sandra Davies**

**Date: 23<sup>rd</sup> May 2012**

**Reviewing Officer: Howard Young**

**Date: 23<sup>rd</sup> May 2012**

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

**CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO.12/00818/PP**

1. The development shall be implemented in accordance with the details specified on the application form dated 4/4/12 and the approved drawing reference numbers 11.10.05, 11.10.07, 11.010.09, 11.010.10A, 11.010.08, 11.010.2B, 11.010.04A, 11.010.3A and GD01B 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. Prior to the commencement of works the following shall be submitted to and approved in writing by the Planning Authority:
  - i) A Method Statement detailing surface water containment during construction;
  - ii) Construction details of porous paving, attenuation tank, filtration trench and hydrobrake;
  - iii) Written details of maintenance requirements and vesting of SuDS/SWD system.

The dwelling shall not be occupied until the duly approved drainage scheme has been constructed and is operational.

Reason: In order to ensure that there are acceptable drainage arrangements on the site in order to prevent flooding.

3. Notwithstanding the provisions of Classes 3A, 3B, 3C and 3D of the Town and Country Planning (General Permitted Development)(Scotland) Amendment Order 2011 no development shall be built / installed within the curtilage of the dwelling hereby approved without planning permission having been granted by the Planning Authority.

Reason: In order to restrict 'permitted development' rights otherwise available, having regard to the encroachment of the approved curtilage of the dwelling beyond the defined limits of the settlement boundary defined by the approved development plan.

4. The proposed access shall be formed in accordance with drawing number 11.010.04A. Prior to work starting on site these visibility splays shall be cleared of all obstructions over 1.05 metres in height above the level of the adjoining carriageway and thereafter shall be maintained clear of all obstructions over 1.05 metres in height to the satisfaction of the Planning Authority.

Reason: In the interests of road safety.

5. Development shall not begin until samples of materials to be used (on external surfaces of the buildings) and/or in construction 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.

6. Development shall not begin until details of a hard and soft landscaping scheme has been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:
  - i) existing and finished ground levels in relation to an identified fixed datum;

- ii) location and design, including materials, of walls, fences and gates;
- iii) soft and hard landscaping works, including the location, type and size of each individual tree and / or shrub;
- iv) details of landscaping to soften the impact of underbuilding on the north west elevation.

Thereafter works shall be carried out in accordance with these details unless otherwise approved in writing by the Planning Authority. All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting and seeding seasons following the commencement of development unless otherwise agreed in writing with the Planning Authority.

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

## NOTES TO APPLICANT

1. **The length of this planning permission:** 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 and 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 and 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 completed.
3. A Road Opening Permit will be required to form the vehicle cross over.

**APPENDIX A – RELATIVE TO APPLICATION NUMBER: 12/00818/PP**

**PLANNING LAND USE AND POLICY ASSESSMENT**

**A. Settlement Strategy**

The site is located mainly within the 'settlement' boundary of Portincaple. Portincaple / Whistlefield is defined as a 'minor settlement' within Table C of the adopted Argyll and Bute Local Plan. Policy STRAT DC1 of the Argyll and Bute Structure Plan gives support to 'small scale' development which is compatible with an essentially rural settlement location on appropriate infill, rounding off and redevelopment sites.

A small part of the north western corner of the site is located within land defined as 'countryside around settlement' (CAS). Policy STRAT DC2 presumes against development where it would result in the extension of an established settlement boundary. It is calculated that this area amounts to approximately 7 per cent of the site within which no built development would take place and 'permitted development' rights for outbuildings and so on could be removed by way of condition. On this basis and as this would comprise and remain an undeveloped part of the garden, it is considered that this would constitute an acceptable 'minor departure'.

Policy LP HOU 1 is supportive of small scale development in minor settlements.

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

The application site is located on the west side of Feuins Road across the road from Finnart Farmhouse. The proposal is for a three bedroom house which would have accommodation over two levels. The upper floor would have the accommodation within the roof space and would have roof lights wrapping around from under the eaves to the roof slope. The house would have a mix of wet dash render and stained timber clad walls with a natural slate roof. Ground floor windows would be timber framed and double glazed with the roof lights having grey frames above.

The house would have a simple narrow plan which would be sympathetic to traditional proportions, with more contemporary window openings and detailing. The gable of the house would face onto Feuins Road with the front elevation being orientated to the south west.

As this is a sloping site there would necessarily be a level of underbuilding to the rear of the site. At the greatest point this would measure approximately 2.3 metres, however in this case, I am of the view that this would not be visually discordant because of the narrow gable and deeper corner lounge window. Both the principal and rear elevations would therefore appear to be balanced. I am therefore of the opinion that Policy LP ENV 19 would be satisfied along with the principles of the Council's Sustainable Design Guide.

Taking account of the above, I am of the view that although there would be a degree of underbuilding, this would satisfy the aims of Appendix A as the design of the building overall would not be unsightly or detrimental to amenity.

In terms of Policy LP HOU3, the applicant has taken account of the need for special needs access and has advised that the house could be easily adaptable as a lifetime house.

**C. Natural Environment**

A number of the letters of objection have raised concerns about the impact of the development upon plants and wildlife including European protected species, namely bats. The site is not subject to any statutory or non-statutory nature designations and the site does not have any attribute, by way of buildings or trees, which would provide a suitable habitat for roosting bats. It is not therefore considered that the proposal would conflict with policies LP ENV 2, and LP ENV 6.

**D. Landscape Character**

The application site slopes downwards from east to west and is currently an open unmanaged area which is covered in bracken. There is a group of trees to the north of the site which would appear to be the result of natural regeneration. The south of the site is generally more open; however, there are a few scattered trees. The application site is open and it is the proposal would not impact on any significant trees.

Structure Plan Policy STRAT DC 8 presumes against development which by reason of location, siting, scale, form, design or cumulative impact damages or undermines the key environmental features of a visually contained or wider landscape or coastscape. Under this policy areas of panoramic quality are noted as important and vulnerable landscapes in Argyll and Bute. In a similar vein, Local Plan Policy LP ENV 10 notes that development in or adjacent to Areas of Panoramic Quality (APQ's) will be resisted where its scale, location or design will have a significant adverse impact on the character of the landscape.

The SNH 1996 'Landscape Assessment of Argyll and the Firth of Clyde' reveals that the site is close to the boundary between two landscape types, namely Open Ridgeland and Steep Ridgeland and Mountains. The site has more of an Open Moorland character with a backdrop of steeper ground behind and to the north. In terms of sensitivity to change the study notes that:

*"reflection increases the visual impact of built development on this shoreline landscape. Elevated areas are larger in scale and more open, with long framed views. They are therefore particularly sensitive to change"*

The 'settlement' boundary area within which the application site is located was introduced and accepted at the time of the preparation, consultation and subsequent adoption of the current Local Plan. The impact of development on the APQ was considered at that time and the extent of the settlement boundary defined by the plan was found to be acceptable in the context of the APQ designation. Accordingly, whilst the 'settlement' status confers a presumption in favour of the principle of the development proposed, the detail of the proposal requires to be considered as part of the assessment of this application, including its consequences for the APQ designation.

The current proposal is not considered to have a significant detrimental impact upon its surroundings for the reasons that it would be of a sympathetic scale and would sit below the height of Finnart Farmhouse across the road, with the elevation supported by underbuild facing away from public views. It would also have a visual association with the nearby farmhouse. The palette of materials would complement and blend in with the property across the road and there is already development to the north of the site which is accessed from the A814. The scale and proportions of the building are not inappropriate to its setting and its presence would not undermine the scenic qualities of the APQ within which it would be located. I am therefore of the view that the proposal would not be contrary to policies STRAT DC8 and LP ENV 10.

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

The proposal would involve the formation of a vehicular access onto Feuins Road. The plans show that the new driveway would have an acceptable gradient and visibility splay and would thus comply with the terms of Policy LP TRAN 4. On site vehicle parking would be provide in accordance with Policy LP TRAN 6. The site edged red includes the land required for the formation of the visibility sightline and the applicant has submitted a letter for the owner of this land confirming that he will give legal access for the maintenance of the visibility in perpetuity. In these circumstances and given the visibility splays are contained within the site edged red, it is considered that an appropriately worded condition will suffice and a section 75 agreement would not be required to secure this aim.

**F. Infrastructure**

Scottish Water has confirmed that there are no public sewers in the area and under these circumstances the proposed private drainage arrangements would accord with Policy LP SERV 1.

Issues relating to surface water runoff and the capacity of the ground to accept filtration have been raised. Due to concerns about drainage in this locality, a Drainage Assessment has been submitted in support of the application. The drainage of the site has been designed as a separate system, with the foul discharging into a BioDisc Treatment Plant. The outfall from this unit will be discharged into the burn adjacent to the house plot site as the soils from the site are not suitable for a soakaway.

The surface water run-off from roofs will be discharged into filter drains to provide a level of treatment and the run-off from the driveway will receive treatment via a gravel parking area which will be formed as a tanked system discharging into an attenuation tank. After attenuation, the surface water will discharge into the adjacent burn. The Drainage Assessment notes that after the development is in place, the rate of discharge to the burn for the 1:30 year and 1:200 year event will be less than or equal to the pre-developed situation. The Flood Alleviation Officer has reviewed this assessment and has confirmed that he has no objections subject to conditions. Taking account of the above, it is considered that the proposal would accord with Policies LP SERV 2, LP SERV 3 and LP SERV 8.

## APPENDIX C – REPRESENTATIONS RELATIVE TO APPLICATION NUMBER: 12/00818/PP

Mr Neil Ramsay	1/1, 166 Burnfield Road Glasgow G43 1EB	10/05/2012	O
Miss Aimee Firkins	108 Manners Road Portsmouth PO4 0BG	03/05/2012	O
Mr Thomas Fletcher	3 Queens Road Colmworth Bedford MK44 2LA	11/05/2012	O
Mr R D Watson	4 Ashquith Avenue Morley Leeds LS27 9PZ	10/05/2012	O
Mr C P Watson	4 Ashquith Avenue Morley Leeds LS27 9PZ	10/05/2012	O
Councillor George Freeman	8 Upland Wynd Garelochhead Helensburgh G84 0BL	25/04/2012	O
Scott Munro	Aspen Feuins Road Portincaple G84 0EU	09/05/2012	O
MS DEBBIE CARR	BRAESIDE COTTAGE PORTINCAPLE HELENSBURGH G84 0ET	12/04/2012	O
Debbie Carr	Braeside Cottage Portincaple Nr. Helensburgh G84 0ET	09/05/2012	O
Ron Fletcher	Bridgend Portincaple Garelochhead G84 0EU	27/04/2012	O
Mr Ron Fletcher	Bridgend Portincaple Garelochhead G84 0EU	13/04/2012	O
Ron Fletcher	Bridgend Portincaple Garelochhead Argyll And Bute G84 0EU	10/05/2012	O
Ron Fletcher	Bridgend Portincaple Garelochhead Argyll And Bute G84 0EU	10/05/2012	O
Ron Fletcher	Bridgend Portincaple Garelochhead Argyll And Bute G84 0EU	10/05/2012	O
Ron Fletcher	Bridgend Portincaple Garelochhead Argyll And Bute G84 0EU	10/05/2012	O

Ron Fletcher	Bridgend Portincaple Garelochhead ARgyll And Bute G84 0EU	10/05/2012	O
Mr R Fletcher	Bridgend Portincaple Garelochhead G84 0EU	03/05/2012	O
Ron Fletcher	Bridgend Portincaple Garelochhead G84 0EU	30/04/2012	O
Ron Fletcher	Bridgend Portincaple Garelochhead G84 0EU	04/05/2012	O
Ron Fletcher	Bridgend Portincaple Garelochhead G84 0EU	04/05/2012	O
Mr Peter Wilson	Carrick view Portincaple G84 0ET	10/05/2012	O
mrs angela angus	cedar cottage portincaple helensburgh g84 0et	05/05/2012	O
Mr Neil Smith	Dalriada Portincaple Garelochhead G84 0EU	05/05/2012	O
Mrs Chris Smith	Dalriada Portincaple Garelochhead G840EU	05/05/2012	O
Mr N Smith	Dalriada Portincaple Garelochhead G84 0EU	09/05/2012	O
Mrs C Smith	Dalriada Portincaple Garelochhead G84 0EU	09/05/2012	O
Ruth Chapman	Ferry House Portincaple Helensburgh G84 0ET	09/05/2012	O
Duncan Macpherson	Ferry House Portincaple Helensburgh G84 0RT	09/05/2012	O
Mr Grant Ross	Finnart Farmhouse Portincaple Garelochhead G84 0ER	02/05/2012	O
Ms Jean McFarlane	Finnart Farmhouse Portincaple Garelochhead G84 0ER	09/05/2012	O
Grant Ross	Finnart Farmhouse Portincaple	08/05/2012	O
Brian Mackay	Fion 2 Rhu Station Station Road Rhu G84 8LW	10/05/2012	O
Barry Lang	Glenview Feuins Road	14/05/2012	O

John And Rosalind Scott	Portincaple Inveralit Portincaple Nr Helensburgh G84 0EU	10/05/2012	O
James And Heather Cochran	Kiloran Portincaple Garelochhead G84 0EU	08/05/2012	O
Mrs Heather Lulham	Longview Feuins Road Portincaple Helensburgh Argyll And Bute G84 0EU	04/05/2012	O
Ian And Heulwen Hall	Lower Feolin Villa Portincaple Garelochhead G84 0EU	08/05/2012	O
Mrs Anne Wood	Midgee Hollow Portincaple Near Garelochhead G84 0EU	11/05/2012	O
Mrs Helen Antonelli	No Address Given	09/05/2012	O
S Helen Cameron	Oak Lodge Portincaple Garelochhead G84 0EU	10/05/2012	O
Mrs Laraine Rae	Pete@wacher.eclipse.co.uk	04/05/2012	O
Jerry Bernua	Road End Cottage Portincaple Garelochhead G84	08/05/2012	O
Lesley Forrest	Road End Cottage Portincaple Nr Helensburgh G84 0EU	08/05/2012	O
Mr. Colin Smith	Socair Portincaple Garelochhead G84 0ET	08/05/2012	O
Mrs Irene Smith	Socair Portincaple Garelochhead G84 0ET	05/05/2012	O
Mrs J S Irving	The Bungalow Portincaple Garelochhead Helensburgh G84 0ET	09/05/2012	O
Ms Polly Dunlop	The Croft Portincaple G84 0ET	09/05/2012	O
Mr Robert Brunswick	The Sheiling Portincaple Helensburgh G840EU	10/05/2012	O
Stephanie Carmichael	Tigh Na Clachan Portincaple Nr Helensburgh G84 0ET	14/05/2012	O
Mr Alan Pinder	Tigh na Mara Portincaple G84 0ET	08/05/2012	O
Mrs Alison Pinder	Tigh na Mara Portincaple G84 0ET	08/05/2012	O
Mr Jon More	WO +SNCO Mess RAF Waddington Lincoln	02/05/2012	O

LN5 9NB

Professor Vic Lally Dr Maddy  
Sclater

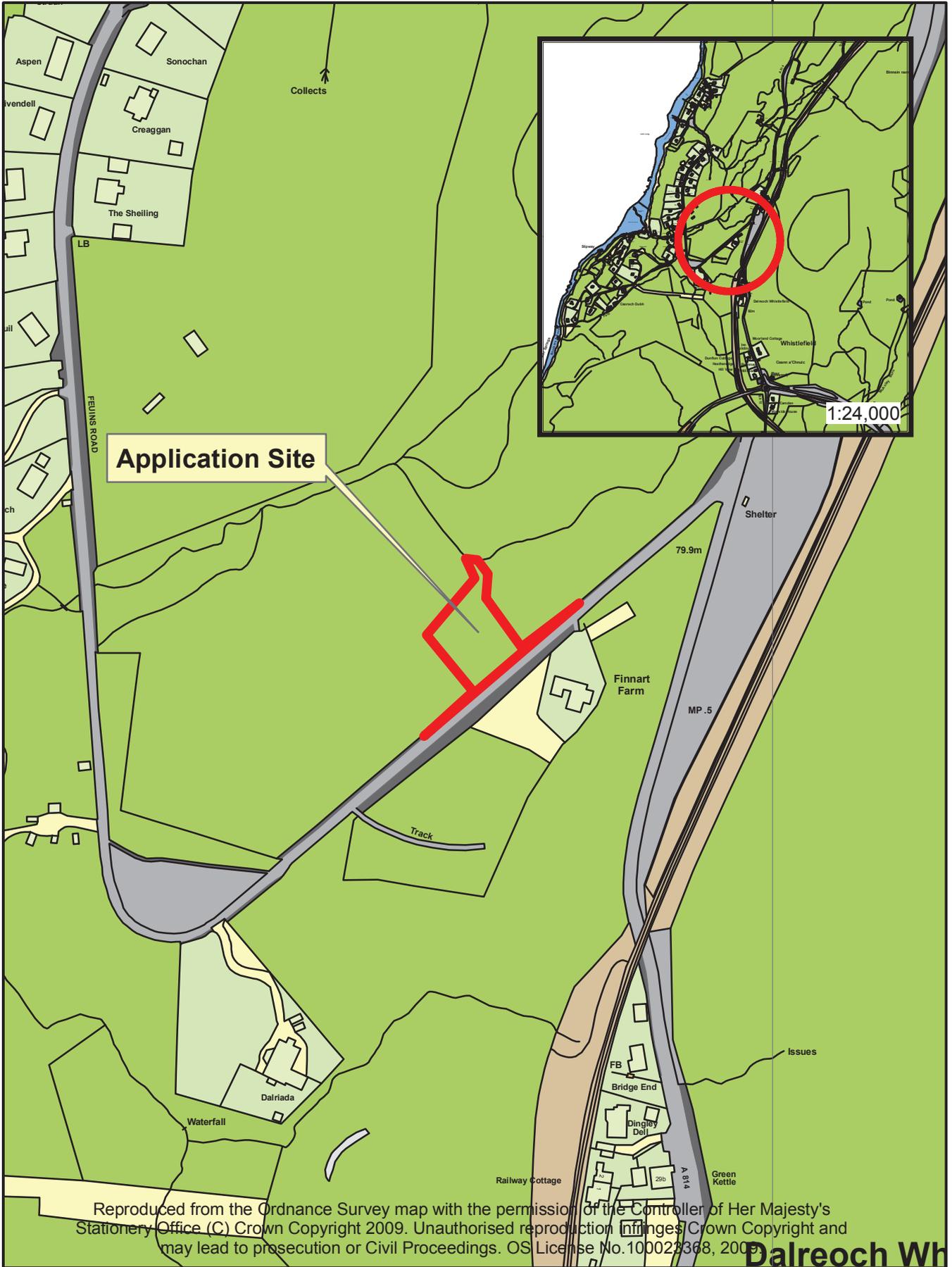
Woodburn  
Portincaple  
Helensburgh  
G84 0ET

10/05/2012 O

A G Naylor

Woodstoch  
Portincaple

04/05/2012 O



**Location Plan relative to  
Application Ref: 12/00818/PP**

Date: 16.05.2012

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>                      | <b>x</b>                 |
| <b>(3) Council Interest Application</b>        | <input type="checkbox"/> |
| <b>(4) Discretionary Hearing</b>               | <input type="checkbox"/> |

**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.