

STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

**REFUSAL OF PLANNING PERMISSION IN
PRINCIPLE 16/01424/PPP
SITE FOR ERECTION OF 2 DWELLINGHOUSES,
LAND EAST OF ACHARA, OBAN**

15 NOVEMBER 2016

STATEMENT OF CASE

The Planning Authority is Argyll and Bute Council ('the Council'). The appellant is Mr Duncan Blainey ('the appellant').

Planning permission in principle 16/01424/PPP for site for erection of two dwellinghouses on an area of land east of Achara, Oban ('the appeal site') was refused under delegated powers on 9 August 2016.

The planning application has been appealed and is subject of referral to a Local Review Body.

DESCRIPTION OF SITE/PROPOSAL

In terms of the adopted 'Argyll and Bute Local Development Plan' (LDP) 2015, the application site is located within Potential Development Area (PDA) 5/5 which has been allocated for the expansion of the golf course with possible ancillary low density, high amenity, small-scale housing development with a 25% affordability requirement.

Through the LDP mini development briefs have been prepared for relevant PDAs which set out the constraints and requirements of the site. In this instance the brief highlights that a key aspect to the development of the PDA is the requirement for a Masterplan approach.

In this instance, as the PDA has been allocated in the main for expansion of the golf course, with any housing development to be ancillary. This standalone planning application for two dwellinghouses cannot be supported by the Planning Service as it is contrary to the Council's requirements for a masterplan approach to the development of the PDA.

The application was for planning permission in principle only, with no detailed drawings submitted but indicative plot layouts shown on the site plan.

STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED

Section 25 of the Town and Country Planning (Scotland) Act 1997 provides that where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise. This is the test for this application.

STATEMENT OF CASE

Argyll and Bute Council considers the determining issues in relation to the case are as follows:

- *Whether or not the requirement for a Masterplan approach to the development of the PDA should be set aside to allow for development of two dwellinghouses on the periphery of the PDA.*

The Report of Handling (Appendix 1) sets out the Council's assessment of the application in terms of Development Plan policy and other material considerations.

REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING

It is not considered that any additional information is required in light of the appellant's submission. The issues raised were assessed in the Report of Handling which is contained in Appendix 1. As such it is considered that Members have all the information they need to determine the case. Given the above and that the proposal is small-scale, has no complex or challenging issues, and has not been the subject of any significant public representation, it is not considered that a Hearing is required.

COMMENT ON APPELLANT'S SUBMISSION

In summary, the appellant contends that the application should be considered on the practical merits of what the practical and actual aspirations might be in relation to this particular PDA where the Planning Authority has previously accepted, through the processing of a previous planning application, that the area subject of this application does not form a functional or effective part of the wider PDA.

Comment: A full assessment of the proposal is contained within the Report of Handling appended to this Statement of Case. With regards to the Planning Services comments made during the processing of a previous application, the permission referred to was approved under the terms of the former Argyll and Bute Local Plan, 2009. The current LDP, against which this current application was assessed, was adopted in March 2015 and through Policy LDP PROP 3, and associated development briefs for PDAs, the adopted LDP requires key PDAs to have a masterplan approach to justify the approach being taken to development, either in part or in whole. This requirement was recently confirmed and underpinned by the fact that updated Masterplan Guidance was approved by Members of the PPSL Committee at their June 2016 meeting and now forms a significant material consideration in the determination of planning applications within PDAs, where the requirement for a masterplan approach has now been significantly strengthened.

CONCLUSION

Section 25 of the Town and Country Planning Act 1997 requires that all decisions be made in accordance with the development plan unless material considerations indicate otherwise.

Taking all of the above into consideration, in the absence of a masterplan approach for the development of the wider PDA, the proposal does not comply with the necessary requirements for development of a PDA contrary to the provisions of Policy LDP PROP 3 of the adopted LDP the requirement of which has recently been confirmed and underpinned by the Council's adoption of updated Masterplan Guidance (June 2016) which reinforces the requirement for and the purpose of masterplan submissions for PDAs in order to provide a comprehensive development framework within which individual proposals are to be assessed.

Taking account of the above, it is respectfully requested that the application for review be dismissed.

APPENDIX 1

Argyll and Bute Council
Development and Infrastructure

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 2013 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 16/01424/PPP

Planning Hierarchy: Local Development

Applicant: Mr Duncan Blainey

Proposal: Site for Erection of 2 Dwellinghouses

Site Address: Land East of Achara, Oban

DECISION ROUTE

Section 43 (A) of the Town and Country Planning (Scotland) Act 1997 (as amended)

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Site for erection of 2 dwellinghouses
- Installation of septic tank
- Formation of vehicular access

(ii) Other specified operations

- Connection to public water main
-

(B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission in principle be refused for the reasons appended to this report.

(C) HISTORY:

15/01227/PPP

Site for erection of 2 dwellinghouses – Withdrawn on officer advice 29/09/15

14/02693/PREAPP

Site for erection of 2 dwellinghouses – Negative advice 08/07/15

Adjacent Site

15/00450/PNAGRI

Erection of agricultural shed – Granted: 09/03/15

14/02605/PP

Erection of holiday chalet – Granted: 08/01/15

14/00852/PP

Erection of dwellinghouse – Granted 06/10/14

13/00613/PNAGRI

Erection of polytunnel – Granted: 11/04/13

(D) CONSULTATIONS:

Area Roads Authority

Report dated 17/06/16 advising no objection subject to conditions regarding construction of access, clearance of visibility splays and provision of an appropriate parking and turning area.

Scottish Water

No response at time of report and no request for an extension of time.

Oban Airport

No response at time of report and no request for an extension of time.

Scottish Natural Heritage

E-mail dated 26/05/16 advising that the proposal does not meet with their criteria for consultation.

(E) PUBLICITY:

The proposal has been advertised in terms of Regulation 20 procedures, closing date 23/06/16.

(F) REPRESENTATIONS:

No representations have been received regarding the proposed development.

(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: | No |
| (iv) | A report on the impact of the proposed development e.g. retail impact, transport impact, noise impact, flood risk, | No |

drainage impact etc:

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: No

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

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

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

Argyll and Bute Local Development Plan, 2015

LDP STRAT 1 – Sustainable Development
LDP DM 1 – Development within the Development Management Zones
LDP PROP 3 – The Proposed Development Areas
LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment
LDP 8 – Supporting the Strength of our Communities
LDP 9 – Development Setting, Layout and Design
LDP 11 – Improving our Connectivity and Infrastructure

Supplementary Guidance

SG 2 – Sustainable Siting and Design Principles
SG LDP ENV 14 – Landscape
SG LDP HOU 1 – General Housing Development including Affordable Housing
SG LDP SERV 1 – Private Sewage Treatment Plans & Wastewater Systems
SG LDP TRAN 4 – New and Existing, Public Roads and Private Access Regimes
SG LDP TRAN 6 – Vehicle Parking Provision

Local Development Plan Schedules

Potential Development Area (PDA) 5/5 – Glencruitten – *‘Golf course expansion with possible ancillary low density high amenity small scale housing development with 25% of housing units being affordable’.*

(i) List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 3/2013.

Argyll and Bute Sustainable Design Guidance, 2006
Scottish Planning Policy (SPP), 2014
Consultee Responses
Masterplanning Report, 2016

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

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

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

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

(O) Requirement for a hearing: No

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

Planning permission in principle is sought for erection of 2 dwellinghouses on an area of land to the east of Achara, Glencruitten, Oban.

In terms of the adopted Argyll and Bute Local Development Plan (LDP) 2015, the application site is located within Potential Development Area (PDA) 5/5 which has been allocated for the expansion of the golf course with possible ancillary low density, high amenity, small-scale housing development with a 25% affordability requirement.

Mini development briefs have been prepared for relevant PDAs which set out the constraints of the site. In this instance the brief highlights that this PDA has water capacity constraints, sewerage capacity constraints and access constraints and also that there may be European Protected Species (EPS) on the site and that these are all issues that would require to be fully investigated. The brief also highlights that a key aspect to the development of the PDA is the requirement for a Masterplan approach.

Updated Masterplan guidance was approved by Members of the Planning, Protective Services and Licensing Committee at their June 2016 meeting which forms a material consideration in the determination of planning applications within PDAs requiring a masterplan approach.

In broad terms, a Masterplan comprises an illustrative plan and accompanying written text describing how an area will be developed and how the masterplanning process has been taken forward. It is based upon an understanding of place and it is intended to provide a structured approach to creating a clear and consistent framework for development.

In this instance, as the PDA has been allocated in the main for expansion of the golf course, with any housing development to be ancillary. This standalone planning application for two dwellinghouses cannot be supported by the Planning Service as it is contrary to the Council's requirements for a masterplan approach to the development of the PDA.

Discussions have taken place with the applicant's agent advising that the application

cannot be supported and that it will be necessary for them to work with all parties involved in the PDA to agree a Masterplan approach to its development. The Planning Service has advised that they would be happy to work with all parties to achieve a suitable approach to the development of the PDA.

In the supporting statement submitted with the application, reference is made to permissions granted on a neighbouring site within the same PDA which were advanced without the requirement for a Masterplan approach.

At the time of the previous permission for a croft house on neighbouring land, the Planning Authority and Members of the Planning, Protective Services and Licensing (PPSL) Committee considered that the land did not form a functional or effective part of the wider PDA and it was accepted that despite its inclusion in the wider designation, the particular area of land in question benefitted from physical and functional separation from the wider PDA and that the croft related development proposed would not prejudice the delivery of development in a cohesive manner within the remainder of the PDA. Accordingly it was not considered at that time that there was any merit on insisting on a robust comprehensive masterplan being in place in advance of that permission.

The permission referred to above was approved under the terms of the former Argyll and Bute Local Plan, 2009. The current LDP, against which this current application is being assessed, was adopted in March 2015 and through Policy LDP PROP 3, and associated development briefs for PDAs, the now adopted Development Plan requires key PDAs to have a masterplan approach to justify the approach being taken to development, either in part or in whole. This requirement has recently been confirmed and underpinned by the fact that updated Masterplan Guidance was approved by Members of the PPSL Committee at their June 2016 meeting and this now forms a significant material consideration in the determination of planning applications within PDAs, where the requirement for a masterplan approach has now been significantly strengthened.

In light of the above, and in the absence of a masterplan submission to accompany this application, it does not comply with the necessary requirements for development of a PDA and it is recommended that planning permission be refused for the reasons appended to this report.

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

(R) Reasons why planning permission should be refused

See reasons for refusal detailed below.

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

N/A

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

Author of Report: Fiona Scott

Date: 26/07/16

Reviewing Officer: Richard Kerr

Date: 04/08/16

Angus Gilmour
Head of Planning and Regulatory Services

REASONS FOR REFUSAL RELATIVE TO APPLICATION REFERENCE 16/01424/PPP

1. The application site falls within Potential Development Area (PDA) 5/5 within which Policy LDP PROP 3 of the adopted Argyll and Bute Local Development Plan 2015 requires a Masterplan approach to the development of the PDA to ensure it is delivered in a co-ordinated manner. This requirement has been recently confirmed and underpinned by the Council's adoption of updated Masterplan Guidance (June 2016) which reinforces the requirement for and the purpose of masterplan submissions, in order to provide a comprehensive development framework within which individual proposals are to be assessed. The contents of any approved Masterplan would constitute a significant material consideration in the determination of planning applications within PDAs.

This application has not been preceded by an approved Masterplan nor has it been accompanied by a Masterplan for concurrent consideration, and therefore the Planning Authority has not been provided with sufficient information to allow a full assessment of the proposal sufficient to be able to conclude that the proposed development will not be prejudicial to the development of the remainder of the PDA. The proposal is therefore contrary to the provisions of Policy LDP PROP 3 of the adopted Argyll and Bute Local Development Plan 2015.

APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **16/01424/PPP**

- (A) Has the application required an obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended).

No

- (B) Has the application been the subject of any “non-material” amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing.

No

- (C) The reason why planning permission has been refused.

See reasons for refusal attached