

STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

17/0001/LRB

**REFUSAL OF PLANNING PERMISSION 16/02775/PP
ERECTION OF DWELLINGHOUSE & FORMATION OF
VEHICULAR ACCESS
LAND SOUTHEAST OF 15 ARAY GARDENS, OBAN**

24/02/17

STATEMENT OF CASE

The Planning Authority is Argyll and Bute Council ('the Council'). The appellant is Joseph MacIntyre ('the appellant').

Planning permission 16/02775/PP for erection of a dwellinghouse on land south of 15 Aray Gardens, Oban, ('the appeal site') was refused under delegated powers on 26 January 2017.

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

DESCRIPTION OF SITE

The site subject of the review is situated within the garden ground of the donor dwellinghouse 15 Aray Gardens and comprises a triangular area of land which tapers to a point adjacent to the main A816 Oban to Lochgilphead public road. The site has a limited level area where it is proposed to site the dwellinghouse before it slopes down towards the public road. To the north of the proposed site is the donor house.

The site benefits from an area of established trees and shrubbery along the western boundary of the site adjacent to the public road providing a buffer between the site and the public road and a setting for the existing dwellinghouses.

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 a dwellinghouse on the site would extend the existing settlement in an inappropriate manner towards the public road resulting in the loss of valuable open space which provides a setting for the existing development.*

The Report of Handling (Appendix 1) sets out the Council's full 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

The appellant contends that the refusal has been based on a matter of opinion.

The appellant contends that the development of the site with a dwellinghouse would finish off the site as was originally intended and would not involve the removal of any trees or undergrowth, and, if required, the appellant advises he would be willing to undertake additional planting to the roadside to further screen the proposed dwellinghouse from the public road.

The appellant contends that there will be no real impact on the green space of the area as the proposed dwellinghouse and works would be within the fence line and would have no adverse impact on the built environment as seen from entering Oban from the south.

The appellant further contends that the real green space within this area is the fields to the rear of the site for the proposed dwellinghouse with none of this area affected by the proposed development.

The appellant makes reference to two dwellinghouses further to the north of the site stating that they must have been met with the same constraints as the current site.

The appellant also makes reference to pre-application advice given by the Planning Service in 2012.

Comment:

The decision has been made in accordance with the terms of the current Development Plan.

The comments made by the appellant are noted, however it remains the view of the Planning Service that development of the site with a dwellinghouse will extend the settlement in an inappropriate manner towards the public road resulting in the loss of valuable open space as set out in the Report of Handling appended to this statement.

It is noted that the green space to the rear of the site, and existing dwellinghouses, providing a backdrop to the development will not be affected by the proposal.

The dwellinghouses referred to by the appellant (1-4 Glenburn) are situated to the north of the site subject of review and were approved in 1997 under the Development Plan in force at the time. The records for the permission are not available, however the streetscene within this particular area is characterised by development situated closer to the public road. The site subject of review is the last residential area as you leave the main town of Oban heading south and it is considered that the donor house represents a natural termination to the built development at this location.

With regards to the reference made to previous pre-application advice given for the site, all pre-application advice is given with the caveat that the advice is informal advice of officers and the final decision, through the processing of a formal planning application, may be differ from the initial assessment.

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, it remains the view of the Planning Service, as set out in the Report of Handling appended to this statement, that development of the site with a dwellinghouse would result in an unacceptable environmental impact resulting in a development which would extend the existing settlement in an inappropriate manner towards the public road. It is considered that the donor house represents a natural termination to the extent of built development at this location with the undeveloped nature of the site providing a setting for the existing development making a positive contribution to the extent of built development relieved by open green space. It is considered that extending the settlement further towards the public road would result in the loss of the open space to the point at which the characteristics and amenity of the locality would be undermined by the extent of built development and would result in an incongruous feature in the landscape when viewed from the public road on the approach into Oban from the south.

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: 16/02775/PP

Planning Hierarchy: Local Development

Applicant: Mr Joe MacIntyre

Proposal: Erection of Dwellinghouse and Formation of Vehicular Access

Site Address: Land South of 15 Aray Gardens, 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

- Erection of dwellinghouse
- Formation of vehicular access

(ii) Other specified operations

- Connection to public water main
 - Connection to public drainage system
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(B) RECOMMENDATION:

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

(C) HISTORY:

16/00903/PREAPP

Erection of dwellinghouse – Letter dated 25/04/16 providing negative response.

14/02438/PREAPP

Erection of dwellinghouse – Letter dated 29/10/14 providing negative response.

(D) CONSULTATIONS:

Area Roads Authority

Report dated 26/10/16 advising no objection subject to conditions regarding provision of turning head, clearance of visibility splays and provision of an appropriate parking and turning area within the site.

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.

(E) PUBLICITY:

The proposal has been advertised in terms of Regulation 20 procedures, closing date 17/11/16.

(F) REPRESENTATIONS:

An objection submitted by Donald Hunter, 11 Aray Gardens, Oban was subsequently withdrawn.

(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, drainage impact etc:	No

(H) PLANNING OBLIGATIONS

(i)	Is a Section 75 obligation 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 Local Development Plan, 2015

LDP STRAT 1 – Sustainable Development
LDP DM 1 – Development within the Development Management Zones
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 TRAN 4 – New and Existing, Public Roads and Private Access Regimes
SG LDP TRAN 6 – Vehicle Parking Provision

(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
Third Party Representations

(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:	No
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(P) Assessment and summary of determining issues and material considerations

Planning permission is sought for the erection of a detached dwellinghouse within the garden ground of 15 Aray Gardens, Oban.

In terms of the adopted Argyll and Bute Local Development Plan the application site is located within the defined settlement of Oban where Policy LDP DM 1 offers

qualified encouragement to sustainable forms of suitable development on appropriate sites subject to compliance with other relevant policies and supplementary guidance.

Policy LDP 3 assesses applications for their impact on the natural, human and built environment. Policy LDP 8 supports new and appropriate sustainable development proposals that seek to strengthen communities. Supplementary Guidance SG LDP HOU 1 expands on this policy giving qualified support to suitable forms of new housing development in the settlements on appropriate sites provided there are no unacceptable environmental, servicing or access issues.

Policy LDP 9 seeks developers to produce and execute a high standard of appropriate design and ensure that development is sited and positioned so as to pay regard to the context within which it is located. Associated supplementary guidance SG 2 expands on this policy, seeking development layouts to be compatible with, and consolidate, the existing settlement and take into account the relationship with neighbouring properties to ensure no adverse privacy or amenity issues.

Policy LDP 11 supports all appropriate development proposals that seek to maintain and improve internal and external connectivity by ensuring that suitable infrastructure is delivered to serve new developments. Supplementary Guidance SG LDP TRAN 4 and SG LDP TRAN 6 expand on this policy seeking to ensure developments are served by a safe means of vehicular access and have an appropriate parking provision within the site.

Whilst the general presumption in favour of appropriate scales and forms of residential development within this area of Oban is established by current policy, this is qualified by the requirement to ensure developments accord with the existing and established pattern of development and do not result in any unacceptable environmental, servicing or access impact, or otherwise give rise to any other materially detrimental or undesirable impact upon any and all relevant material planning considerations. Development proposals that involve, for instance, inappropriate densities or over-development shall be resisted. Supplementary Guidance SG 2 advises on the standards that will be applied to all developments. As well as indicating the minimum standards to be applied for private open space and plot ratios, there is a material and significant emphasis on respecting the character and setting of the area into which the individual development is to be located, taking account of local spacing, layout, densities, privacy and amenity standards together with the impact of the proposed development on its site and wider surroundings. This remains the main criteria against which the suitability or otherwise of a development shall be evaluated.

The site is situated within the garden ground of the donor dwellinghouse 15 Aray Gardens and comprises a triangular area of land which tapers to a point adjacent to the main A816 Oban to Lochgilphead public road. The site has a limited level area where it is proposed to site the dwellinghouse before it slopes down towards the public road. To the north of the proposed site is the donor house.

The site benefits from an area of established trees and shrubbery along the western boundary of the site adjacent to the public road providing a buffer between the site and the public road and a setting for the existing dwellinghouses.

It is considered that the development of the site with a dwellinghouse would result in an unacceptable environmental impact resulting in a development which would extend the existing settlement in an inappropriate manner towards the public road. It is considered that the donor house represents a natural termination to the extent of

built development at this location with the undeveloped nature of the site providing a setting for the existing development making a positive contribution to the extent of built development relieved by open green space. Extending the settlement further towards the public road would result in the loss of this valuable open space to the point at which the characteristics and amenity of the locality would be undermined by the extent of built development and would result in an incongruous feature in the landscape when viewed from the public road on the approach into Oban from the south.

With regard to the dwellinghouse proposed, the application shows a one and a half storey pitched roof structure taking a rectangular form orientated with its main elevation facing the private road which reflects the neighbouring properties. The design is very similar to the donor house but does not include a garage. Whilst the overall design of the dwellinghouse might be considered to be acceptable, the site itself is not considered suitable for development and accordingly further discussion of the design and finishes of the proposed dwellinghouse are not required.

With regards to infrastructure to serve the proposed development, the application proposes to extend the existing private road serving three existing properties. The Roads Authority raised no objection subject to planning conditions regarding the provision of a turning head, clearance of visibility splays and provision of an appropriate parking and turning area within the site. Water and drainage are via connection to the public systems.

Taking all of the above into consideration, it is considered that the development of the site with a dwellinghouse would result in an unacceptable environmental impact resulting in a development which would extend the existing settlement in an inappropriate manner towards the main public road contrary to the provisions of Policies LDP STRAT 1, LDP DM 1, LDP 3, LDP 9 and Supplementary Guidance SG 2, SG LDP ENV 14 and SG LDP HOU 1 of the adopted 'Argyll and Bute Local Development Plan' 2015 and it is recommended that the application be refused for the reasons appended to this report.

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

(R) Reasons why planning permission should be refused

See reason 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 Environment Scotland:
No

Author of Report: Fiona Scott

Date: 02/12/16

Reviewing Officer: Tim Williams Date: 24/01/17

**Angus Gilmour
Head of Planning**

REASONS FOR REFUSAL RELATIVE TO APPLICATION REFERENCE 16/02775/PP

1. In terms of the adopted 'Argyll and Bute Local Development Plan' 2015, the application site is located within the Settlement Zone of Oban which is subject to the effect of Policy LDP DM 1 and Supplementary Guidance SG LDP HOU 1 which establish a general presumption in favour of housing development within settlements, provided it is of a scale and form compatible with the surrounding area and does not result in inappropriate densities or the loss of valuable open areas, and is acceptable in terms of siting and compatibility with the established settlement pattern.

It is considered that the development of the site with a dwellinghouse would result in an unacceptable environmental impact resulting in a development which would extend the existing settlement in an inappropriate manner towards the public road. It is considered that the donor house represents a natural termination to the extent of built development at this location with the undeveloped nature of the site providing a setting for the existing development making a positive contribution to the extent of built development relieved by open green space. Extending the settlement further towards the public road would result in the loss of this valuable open space to the point at which the characteristics and amenity of the locality would be undermined by the extent of built development and would result in an incongruous feature in the landscape when viewed from the public road on the approach into Oban from the south.

The proposal is therefore considered to be contrary to the provisions of Policies LDP STRAT 1, LDP DM 1, LDP 3, LDP 8, LDP 9 and Supplementary Guidance SG 2 and SG LDP HOU 1.

APPENDIX TO DECISION APPROVAL NOTICE

Appendix relative to application **16/02775/PP**

- (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 detailed above.