

STATEMENT OF CASE
FOR
ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY

**APPEAL AGAINST CONDITION NO.2 OF THE PLANNING
PERMISSION REQUIRING ALTERATIONS TO THE JUNCTION OF A
PRIVATE ACCESS**

**LAND WEST OF BUNN-NA-SCHAIRBH, BUNNAHABHAIN, ISLE OF
ISLAY**

LOCAL REVIEW BODY REF. 17/00006/LRB

**PLANNING PERMISSION APPLICATION REFERENCE NUMBER
16/02185/PP**

2ND OCTOBER 2017

STATEMENT OF CASE

The Planning Authority is Argyll and Bute Council ('the Council'). The appellant is H & S Cobb ('the appellant'). The appellant has no agent.

Planning application, reference number 16/02185/PP, appeal against Condition 2 relative to planning permission reference 16/02185/PP (Erection of dwellinghouse with attached garage and installation of septic tank). This condition has been appealed as the appellant does not consider it necessary and accordingly is the subject of referral to a Local Review Body.

SITE LOCATION

This application relates to the access at Land West of Bunn-Na- Schairbh, Bunnahabhain, Isle of Islay.

SITE HISTORY

Most recent planning permission related to this appeal, planning permission ref. 16/02185/PP which was granted on 16.06.17 for erection of dwellinghouse with attached garage and installation of septic tank).

Previous permission ref. 06/01006/DET was granted on 30.11.06 for Erection of a dwellinghouse and ancillary outbuilding.

Planning Permission in Principle ref. 13/01120/PPP was granted on 09.08.13 for site for the erection of dwellinghouse and ancillary building.

CONDITION NO2. OF PLANNING PERMISSION 16/02185/PP

Notwithstanding the provisions of Condition 1, no development shall be commenced until the junction between the private access serving the development and the public road has been formed in accordance with the Council's Roads Standard Detail Drawing SD 08/004 Rev a. and visibility splays of 2.40 metres to point X by 75 metres to point Y (south)/40 metres to point Y (north) from the centre line of the proposed access. The access shall be surfaced with a bound material in accordance with the stated Standard Detail Drawing. Prior to work starting on site the access hereby approved shall be formed to at least base course standard and the visibility splays shall be cleared of all obstructions such that nothing shall disrupt visibility from a point 1.05 metres above the access at point X to a point 0.6 metres above the public road carriageway at point Y. The final wearing surface on the access shall be completed prior to the dwelling first being occupied and the visibility splays shall be maintained clear of all obstructions thereafter.

Reason: In the interests of road safety, to ensure the development is served by an adequate and safe standard of vehicular access.

STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED

Section 25 of the Town & Country Planning (Scotland) Act 1997 provides that, in making any determination under the Planning Acts, regard is to be had to Road Safety.

The Roads department have recommended the condition on road safety grounds for road users such as deliveries, bin lorries and visitors etc. The retention of a substantial unsurfaced access is likely to give rise to damage to the carriageway edge of the public road along the width of the junction and could lead to debris being carried out onto the road, both of which would be detrimental to the safety of road users.

In addition the key policies within the Development Plan which relate to the use of an existing access for further development are LDP 11 and SG LDP TRAN 4, which state the following:

“Argyll and Bute Council will support all development proposals that seek to maintain and improve our internal and external connectivity and make best use of our existing infrastructure by ensuring that:

An appropriate standard of access is delivered to serve new developments, including off-site highway improvements where appropriate” (Policy LDP 11 - Improving our Connectivity and Infrastructure)

Approved Supplementary Guidance LDP TRAN 4 further states that

“Further development that utilises an existing private access or private road will only be accepted if:

(i) the access is capable of commensurate improvements considered by the Roads Authority to be appropriate to the scale and nature of the proposed new development and that takes into account the current access issues (informed by an assessment of usage).

In addition it states:

The construction standards to be applied are as follows:-

Public Roads: (i) shall be constructed to a standard as specified in the Council’s Roads Development Guide.

Commensurate Improvements

In situations where development aims to utilise an existing private access or private roads regime an informed assessment requires to be made. This needs to examine the access issues related to the proposed additional development and the current

situation on the private access or private road, including any capacity for improvement. The assessment requires to be an integral part of the design stage. These factors will be used to determine the level of commensurate improvement required. (Policy SG LDP TRAN 4 New & Existing, Public Roads & Private Access Regimes)

These policies clearly state that the access serving development must be acceptable by the Council's Roads Authority with improvements where necessary. The access must meet with standards specified within the Council's Roads Development Guide.

The proposal was therefore deemed to be contrary with the relevant provisions of the Development Plan and advice from the Roads Department and as such was recommended for refusal.

DETERMINING ISSUES

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

- Whether the proposal could be accepted without raising a road safety issue whereby following advice from the Roads Department it was concluded that to remove this condition from the permission would raise a road safety issue and is highly likely to set a precedent.

RELEVANT POLICY

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, so it is not intended to reiterate that here. The text of relevant policies are below with relevant sections highlighted in bold, given their particular relevance to the issues presented by this appeal.

"Policy LDP 11 – Improving our Connectivity and Infrastructure

Argyll and Bute Council will support all development proposals that seek to maintain and improve our internal and external connectivity and make best use of our existing infrastructure by ensuring that:

- *rights of way and public access are safeguarded;*
- *public access within the development is delivered, as appropriate, ensuring that any special mobility and safety requirements are addressed;*
- *consideration is given to the promotion of access to adjoining areas, in particular to the foreshore, core path network and green network;*
- *integration of the development with existing and potential public transport is taken fully into account;*

- *the proposed development is accessible by a range of modes of transport, including walking, cycling, public transport and car;*
- *an appropriate standard of access is delivered to serve new developments, including off-site highway improvements where appropriate;*
- *maximum and minimum car parking standards are applied;*
- *the location and design of new infrastructure is appropriate;*
- *standards for drainage, sewage, waste water and water supply are applied;*
- *new telecommunication proposals are encouraged where they comply with the criteria established in SG LDP TEL 1;*

SG LDP TRAN 4 – New & Existing, Public Roads & Private Access Regimes

(2) further development that utilises an existing private access or private road will only be accepted if:-

(i) the access is capable of commensurate improvements considered by the Roads Authority to be appropriate to the scale and nature of the proposed new development and that takes into account the current access issues (informed by an assessment of usage); AND the applicant can;

(ii) Secure ownership of the private road or access to allow for commensurate improvements to be made to the satisfaction of the Planning Authority; OR,

(iii) Demonstrate that an appropriate agreement has been concluded with the existing owner to allow for commensurate improvements to be made to the satisfaction of the Planning Authority.

(B) The construction standards to be applied are as follows:-

1. Public Roads:

shall be constructed to a standard as specified in the Council's Roads Development Guide⁴. This takes account of Designing Streets to create a strong sense of place related to the development's location i.e. in a settlement, in a rural or remote rural situation, or in a Conservation Area. All roads submitted for adoption as a public road should form a continuous system with the existing public roads.

1.Private Access

(i) shall be constructed to incorporate minimum standards to function safely and effectively as set out in the Council's Road Development Guide, in particular in relation to adequate visibility splays, access gradients, geometry, passing places, boundary definition, turning capacities, integrated provision for waste management and recycling.

(ii) It must be demonstrated to the Planning Authority that consideration has been given by the applicant in the design process to the potential need to make future improvements to the access up to and including an adoptable standard.

(iii) which connect to or impact significantly on a Trunk Road will require consultation with Transport Scotland.

SG LDP TRAN 5 – Off-site Highway Improvements

This policy provides additional detail to policy LDP 11 – Improving our Connectivity and Infrastructure of the Adopted Argyll and Bute Local Development Plan.

Where development proposals will significantly increase vehicular or pedestrian traffic on substandard private or public approach roads, then developments will be required to contribute proportionately to improvements to an agreed section of the public or private road network.

REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING

The issues in this case are straightforward and are covered in the Report of Handling which is contained in Appendix 1. As such it is considered that Members have all the information necessary to determine the case. Given the above and that the proposal is 'local' development, has no complex or challenging issues and has not been subject of significant body of conflicting representation, then it is considered that a Hearing is not required.

COMMENT ON APPELLANTS' SUBMISSION

Point i

For the purpose of clarification it is advised that the note referred to on p136 of the LDP Supplementary Guidance is provided in relation to the Council's powers as Roads Authority having regard to the provisions of the Roads (Scotland) Act.

Notwithstanding the above it is noted that the planning permission was granted by the Council in its role as Planning Authority. In this respect the effect of proposed new development upon road safety is a material planning consideration and is identified as such by S25 of the Act and by the relevant provisions of policies LDP 11, SG LDP TRAN 4 and SG LDP TRAN 5 which seek to ensure that new development is served by an appropriate standard of access to serve the needs of the development.

Roads & Amenity Services have advised that the proposed development will give rise to increased usage of the junction between the private access and the public road. It has been expressed that the existing junction with the public road is unsatisfactory and the increased usage of the unbound junction will in time give rise to damage to the edge of the public road along the width of the junction which could lead to debris being carried onto the road, both of these circumstances would be detrimental to road safety.

In addition to the above should the removal of this condition be permitted it is likely to set precedent for further developments of the same nature which will result in further road safety concerns.

Point ii

Roads & Amenity Services have provided the following clarification which would confirm that the applicant has misunderstood the comments provided in the Roads Consultation.

“Roads & Amenity Services do not regard the existing access as being satisfactory. The applicant appears to have failed to understand the planning conditions. The planning condition clearly states that the access has to be constructed as per standard detail drawing reference SD 08/004 Rev a. Standard detail drawing reference SD 08/004 Rev a is for a single dwelling with an access connecting to a single track road. The standard detail drawing shows an access width of 4.50 metres. Roads & Amenity Services added a comment to the planning response to make the applicant aware that should they wish to construct another dwelling, the access width would need to be increased to 5.50 metres. It would be more cost effective to construct the access to 5.50 metres at the time of construction rather than later. The applicant has stated that they do not wish to construct another access so the access width will be the same as that stated on the standard detail drawing. 4.50 metres.”

Having regard to the above it is confirmed that the specified junction improvement is based solely upon the expectation of increased vehicle movements relating to the proposed single dwellinghouse and as such is deemed to be necessary in relation to the current application.

Point iii

Further comment requested from Roads & Amenity Services disagrees with the applicant as there is a material difference between existing and proposed circumstances. The access will now serve a dwelling, a service bay will be required for refuse collection and other deliveries, the application will also result in an intensification of use in relation to traffic generated by the occupants of the dwelling and any visitors to that property.

The requirement for a junction improvement is considered to be commensurate with the scale of development proposed and would be consistent with the Council's approach elsewhere.

Previous applications required these conditions. Planning ref 06/01006/DET and 13/01120/PP. The original applicant did not object to these conditions and the current applicant will have purchased the land with these conditions.

APPENDIX 1 – REPORT OF HANDLING

Argyll and Bute Council
Development & Infrastructure Services

Delegated 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: 16/02185/PP
Planning Hierarchy: Local
Applicant: Mr and Mrs Howard Cobb
Proposal: Erection of a dwellinghouse with attached garage and installation of septic tank.
Site Address: Land West of Bunn-Na-Schairbh, Bunnahabhain, Isle of Islay

DECISION ROUTE

Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997

(A) THE APPLICATION

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

- Erection of dwellinghouse with attached garage and log store
- Formation of vehicular access to private road
- Installation of septic tank
- Connection to existing private water supply

(ii) **Other specified operations**

- N/A
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(B) RECOMMENDATION:

Recommend that planning permission be granted subject to the conditions and reasons attached.

(C) CONSULTATIONS:

Health and Safety Executive – responded: 11.10.2016 – No comment

Council's Area Roads team – responded: 27.10.2016 – Recommended refusal, but with suggested conditions – *the recommendation for refusal was on the basis that the public road junction, for which the Area Roads Engineer required upgrades, was not included within the application site. Written consent from the landowner has now been provided confirming that the requisite works can be carried out; a 'pre-commencement' condition will be attached to this permission ensuring the work is carried out prior to any other development commencing*

Council's Environmental Health team – responded: 02.11.2016 – No objection subject to conditions

(D) HISTORY:

13/01120/PPP – Site for the erection of dwellinghouse and ancillary building – permitted: 09.08.2013

06/01006/DET – Erection of a dwellinghouse and ancillary outbuilding – permitted: 30.11.2006

(E) PUBLICITY:

Regulation 20 advert – expired: 03.11.2016

(F) REPRESENTATIONS: None

(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 |
| (iv) A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc: | No |
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(H) PLANNING OBLIGATIONS

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' Adopted March 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 9 – Development Setting, Layout and Design

LDP 10 – Maximising our Resources and Reducing our Consumption

LDP 11 – Improving our Connectivity and Infrastructure

'Supplementary Guidance to the Argyll and Bute Local Plan 2015' (Adopted March 2016)

Landscape and Design

SG LDP ENV 14 – Landscape

General Housing Development

SG LDP HOU 1 – General Housing Development Including Affordable Housing Provision

Sustainable Siting and Design

SG LDP Sustainable – Sustainable Siting and Design Principles

Resources and Consumption

SG LDP SERV 1 – Private Sewage Treatment Plants & Wastewater Systems

SG LDP SERV 2 – Incorporation of Natural Features / SuDS

SG LDP SERV 6 – Private Water Supplies and Water Conservation

Transport (Including Core Paths)

SG LDP TRAN 4 – New & Existing, Public Roads & Private Access Regimes

SG LDP TRAN 5 – Off-site Highway Improvements

SG LDP TRAN 6 – Vehicle Parking Provision

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

Circular 3/2013.

- Scottish Planning Policy
- Planning history
- Consultation responses

(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 (PAN41 or other): No

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

This application relates to a plot of land at Bunnahabhain, Isle of Islay. Planning permission is sought for the erection of a single dwellinghouse with associated development.

Principle of development

The site lies within the 'settlement zone' of Bunnahabhain, with respect to the LDPs settlement strategy. The relevant policies of the Development Plan, LDP DM 1 and SG LDP HOU 1, offer broad encouragement to 'small-scale' residential development on appropriate sites within such areas.

There is a history of planning permissions for a single house on the site and it is considered that it offers an appropriate opportunity for the erection of a single dwelling. The principle of the proposal is therefore consistent with the relevant provisions of the Development Plan.

Siting/design

The application site is located a short distance down a private track from the public road which leads down to Bunnahabhain Distillery. It occupies an area of flat but prominent unmanaged grassland which is elevated with respect to the coast and overlooks Bunnahabhain Bay. The footprint of the proposed dwellinghouse will be contained within the concrete remains of an old sheep fank which will be retained.

The proposed dwellinghouse itself will be a substantial building; a one and a half storey main body will be supplemented with smaller, single storey timber clad wings to the side and rear. The result is a building which will be relatively grand but retaining traditional vernacular features, most notably:

- Narrow gables and steeply pitched, symmetrical roof;
- Windows with a strong vertical emphasis;
- Chimneys and skews;
- Dormer windows with pitched roofs

Similarly, the proposed external finishes will be sympathetic to traditional architecture with a mixture of timber cladding, stone/render cladding, slate roofs and timber windows/doors. The site is one which can accommodate a building of this scale which will command a significant presence above the bay and the form and finishes of the building are consistent with the design principles set out in policy SG LDP Sustainable of the Development Plan; there is established planning history for a dwelling of significant scale. A proposed site plan included with the application includes spot levels and a finished floor level for the building which shows it to be grounded within the site and not excessively elevated.

The proposed site plan includes a plan for surface/boundary treatments which are simple and will have limited visual impact and intrusion into the landscape. Boundaries will be demarcated by post and wire fencing and the majority of the site will be retained as grass with a small amount of gravel and a patio area.

The proposed dwelling is sufficiently far removed from neighbouring dwellings that there will be no adverse privacy/amenity relationships.

Overall, the siting and design of the proposed dwelling are considered to be acceptable and consistent with the relevant provisions of the Development Plan.

Access/servicing

The development will be served by an existing private access from the public road, with an extension provided to serve the new dwelling. Upgrades to the public road junction will be executed to facilitate the new development and, whilst this area not contained within the application site, written confirmation from the owners of the land has been provided confirming their consent to this work being carried out. Parking and turning will be provided on site. The Area Roads Engineer is satisfied with the proposal subject to conditions requiring these elements to be carried out to an appropriate standard.

Foul drainage will be provided on site via a septic tank and soakaway; the area is not served by a public sewer. Potable water will be achieved through connection to an existing private system and will be subject to a condition requiring demonstration of adequate wholesomeness and sufficiency.

All elements of the access and servicing arrangements are considered to be acceptable and consistent with the relevant provisions of the Development Plan.

Summary

The proposal is wholly consistent with the relevant provisions of the Development Plan and there are no material considerations which warrant departure from these provisions.

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

(R) Reasons why Planning Permission or Planning Permission in Principle Should be Granted:

The proposal is wholly consistent with the relevant provisions of the Development Plan and there are no material considerations which warrant departure from these provisions.

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

N/A

(T) Need for notification to Scottish Ministers: No

Author of Report: Rory MacDonald **Date:** 14.06.2017

Reviewing Officer: Richard Kerr **Date:** 16.05.2017

Angus Gilmour
Head of Planning & Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 16/02185/PP

1. The development shall be implemented in accordance with the details specified on the application form dated 4th August 2016 and the approved drawings numbered 1 to 11 and stamped approved by Argyll and Bute Council 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. Notwithstanding the provisions of Condition 1, no development shall be commenced until the junction between the private access serving the development and the public road has been formed in accordance with the Council's Roads Standard Detail Drawing SD 08/004 Rev a. and visibility splays of 2.40 metres to point X by 75 metres to point Y (south)/40 metres to point Y (north) from the centre line of the proposed access. The access shall be surfaced with a bound material in accordance with the stated Standard Detail Drawing. Prior to work starting on site the access hereby approved shall be formed to at least base course standard and the visibility splays shall be cleared of all obstructions such that nothing shall disrupt visibility from a point 1.05 metres above the access at point X to a point 0.6 metres above the public road carriageway at point Y. The final wearing surface on the access shall be completed prior to the dwelling first being occupied and the visibility splays shall be maintained clear of all obstructions thereafter.

Reason: In the interests of road safety, to ensure the development is served by an adequate and safe standard of vehicular access.

3. Notwithstanding the provisions of Condition 1, no development shall be commenced until details of a refuse collection point to be provided adjacent to the public road have been submitted to and approved in writing by the Planning Authority. The collection point shall be provided prior to the first occupation of the dwellinghouse and maintained thereafter.

Reason: In order to facilitate the collection of waste.

4. The parking and turning area shall be laid out and surfaced in accordance with the details shown on the approved plans prior to the dwelling first being occupied and shall thereafter be maintained clear of obstruction for the parking and manoeuvring of vehicles.

Reason: In the interest of road safety, to ensure the development is served by an adequate volume of parking spaces within the application site.

5. Notwithstanding the effect of Condition 1, no development shall be commenced until full written details of the external wall finishes to be used in the development have been submitted to and approved in writing by the Planning Authority. The development shall thereafter be completed 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 and prevent inappropriate finishes which will appear incongruous, in the interests of clarity.

6. Prior to development commencing a full appraisal to demonstrate the wholesomeness and sufficiency of the private water supply to serve the development shall be submitted to and approved in writing by the Planning Authority. This assessment shall be carried out by a qualified and competent person(s). Such appraisal shall include a risk assessment having regard to the requirements Schedule 4 of the Private Water Supplies (Scotland) Regulations 2006 and shall on the basis of such risk assessment specify the means by which a wholesome and sufficient water supply shall be provided and thereafter maintained to the development. Such appraisal shall also demonstrate that the wholesomeness and sufficiency of any other supply in the vicinity of the development, or any other person utilising the same source or supply, shall not be compromised by the proposed development. Furthermore, the development itself shall not be brought into use or occupied until the required supply has been installed in accordance with the agreed specification.

Reason: In the interests of public health and in order to ensure that an adequate private water supply in terms of both wholesomeness and sufficiency can be provided to meet the requirements of the proposed development and without compromising the interests of other users of the same or nearby private water supplies.

NOTE TO APPLICANT

- **The length of the 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).]
- 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.
- 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.
- A Road Opening Permit under the Roads (Scotland) Act 1984 must be obtained from the Council's Roads Engineers prior to the formation/alteration of a junction with the public road.
- The access shall be constructed and drained to ensure that no surface water is discharged onto the public road.

APPENDIX TO DECISION APPROVAL NOTICE

Appendix relative to application **16/02185/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 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 approved:

The proposal is wholly consistent with the relevant provisions of the Development Plan and there are no material considerations which warrant departure from these provisions.