

**STATEMENT OF CASE**

**FOR**

**ARGYLL AND BUTE COUNCIL  
LOCAL REVIEW BODY**

**18/0004/LRB**

**REVIEW AGAINST CONDITION 11 ON APPROVAL 17/00420/PP FOR THE ERECTION  
OF TWO LODGE HOUSES**

**CASTLE TOWARD ESTATE, TOWARD**

**11/05/2018**

## STATEMENT OF CASE

The Planning Authority is Argyll and Bute Council (“the Council”). The appellant is Mr and Mrs Keith Punler (“the appellant”) who are the acting on their own behalf.

Planning application 17/00420/PP, which proposed the erection of two lodge houses within the grounds of Castle Toward Estate (“the appeal site”), was approved subject to conditions on 25/01/2018.

The planning decision has been challenged on the basis of condition 11 which restricts the occupancy. This condition is replicated below:

*The lodges hereby approved shall be used for holiday occupancy only and shall not be used as a principal or main dwelling.*

*Reason: In order to define the permitted occupancy having regard to the amenities available and in order to comply with the provisions of policy SG LDP TOUR 1 of the Argyll and Bute Local Development Plan.*

It is the use of this condition that is subject of review by the Local Review Body.

### **Description of Site**

The Castle Toward designed landscape occupies a site at the southern end of the Toward Peninsula, 10km south-west of Dunoon and is accessed via the A815. The mansion house and grounds occupy the lower south-facing slopes of Toward Hill, at the southernmost point of the Toward Peninsula with views south to the Island of Bute and beyond to the Firth of Clyde.

It is proposed to erect two new estate lodges within existing wooded areas on or close to sites of two previous cottages that have long since disappeared.

#### *Heather Cottage replacement proposal*

It is proposed to erect a new estate cottage on the site of the former Heather Cottage. The site is located at the south-eastern end of the front lawn of Castle Toward within existing dense woodland. The site has no existing vehicular access although a series of discrete and informal footpaths surround the site.

#### *Single Cottage replacement proposal*

It is proposed to erect a new estate cottage close to the site of the former Single Cottage. The site is located west of the old southern entrance gate adjacent to the C10 within existing woodland. The site currently has no existing vehicular access but a former vehicular access exists from the gate north-east to Toward Castle then north to Castle Toward.

### **Site History**

A masterplan proposal (ref. 16/02356/MPLAN) in respect of Strategic Masterplan Area 1/2 and Potential Development Area 2/42 relating to mixed use development (including tourism/leisure/housing/business) was endorsed by the PPSL Committee at a discretionary hearing on 13th December 2016.

Listed Building Consent (ref. 16/01405/LIB) for the demolition of enclosed fire escape, metal fire escape and metal clad sheds. Installation of new doorway, ventilation louvre, balcony railings, 3 new windows, 2 sets of external doors, new glazed roof over existing courtyard. Internal alterations to accommodate leisure facilities at basement level, removal of wall between ballroom and function room, installation of lift and toilets at ground floor level, removal of partitions and installation of partition walls to provide en-

suites to first and second floor bedrooms was granted on 24th November 2016.

Planning permission (ref. 16/00996/PP) for a change of use from Class 8 (residential institution) to Class 9 (dwellinghouse), including ancillary housekeeper's accommodation and Sui Generis use as a commercial/leisure events venue was granted 14th December 2016.

An application for the reinstatement of the east driveway, erection of 2 gate lodges, vehicular and pedestrian entrance gates with stone piers and a secondary set of vehicular gates at the head of the driveway with stone piers (ref.17/00400/PP) was granted 24th November 2017.

An application for the erection of wedding venue comprising, storage building with gateway entrance to timber decking enclosed with decorative metal panels with posts and a decorative pergola for the wedding ceremony (ref.17/00401/PP) has been submitted and currently under consideration.

An application for the erection of metal gates for vehicular and pedestrian access on the existing west driveway at the road junction and additional set of gates further along the west driveway (ref. 17/00402/PP) was granted 16th October 2017.

An application for the erection of an 1800mm high deer fence (ref.17/02052/PP) has been submitted and currently under consideration.

### **STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED**

Section 25 of the Town & 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 and determination shall be made in accordance with the development plan unless material considerations indicate otherwise. This is the test for this planning application.

### **STATEMENT OF CASE**

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

- Whether the material planning considerations asserted by the appellant are sufficient to outweigh the fact that the planning application was correctly assessed on the basis of the information submitted and that the recommended conditions are all still applicable.

The Report of Handling (please refer to Appendix 1) sets out Planning and Regulatory Services assessment of the planning application in terms of policy within the current adopted Argyll and Bute Development Plan and all other material planning considerations.

### **REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING**

The proposal constitutes a Local Development in accordance with the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, has no complex or challenging issues and has only been the subject of 1 objection from local residents, it is not considered that a Hearing is required.

### **THE APPELLANTS' SUBMISSION**

The appellants' statement can be summarised under the following key issues:

- Condition 11 of the consent states that, "*the lodges shall only be used for holiday occupation only and shall not be used as a principal or main dwelling*". No discussion

had taken place with the Planning Authority with regard to this matter and as a result, the imposition of the condition was a surprise. The application is part of a wider redevelopment of the estate which is a multi-million pound investment in the restoration of a Grade B Listed mansion. The two lodges that form part of the application are located on the sites of previous houses, Heather Cottage having been believed to have been the residence of either the estate head gardener or falconer. The second unit of the application known as single lodge is believed to be on the location of a former gate lodge, the ruins of which remain. Both lodges are shown on old Ordnance Survey plans.

- The proposed plans and elevations for the lodges are identical and have been designed in a manner to be in keeping with the historic origins of what once may have stood on the site. The design of the lodges is similar to two lodges granted planning permission (ref. 17/00400/PP) at the former Eastern Gateway. This permission does not have any occupancy restriction which would appear to demonstrate that the design of the units under application ref/ 17/00420/PP would be suitable as a permanent dwelling.

The reason given for the condition is *“in order to define the permitted occupancy having regard to the amenities available and in order to comply with the provisions of Policy SG LDP TOUR 1 of the Argyll and Bute Local Development Plan*. This policy states a presumption in favour of new and improved tourist facilities and accommodation and is to be welcomed but we do not consider that it is correctly attributable here.

We are unsure as to the reference *“having regard to the amenities available”* as the properties are proposed to be located in their own gardens within the general policies of the wider estate which is in the same ownership as the applicants.

- Heather Cottage is shown on the application as being accessed through a network of private paths and access ways. Reference is made on drawing no. 1544\_L(P.4) 401 to access the new cottage *“is by woodland track or by walking or golf cart. Main car parking for this cottage is at the main house”*. However a programme of improvements to the access ways within the estate is underway and vehicular access direct to the cottage would be easy to achieve should this be a requirement. In deleting Condition 11 (see drawing no. 1544\_L(P.4) 400 showing application site includes a link road to serve both cottages.

Other properties within the estate do not have any occupancy restrictions. Furthermore, several cottages (such as Strathclyde Cottage and The Old Smiddy) have been sold off historically many years ago, believed with no occupancy restrictions.

Allocated garden space can be increased if necessary but would not seem to be required to meet required standards.

- A site meeting between Mrs. Denise Punler and Planning Officers took place prior to the determination of the application and no reference was made by the Officers to the likelihood of an occupancy restriction being included. Had it been mentioned then we would have entered dialogue with the Officers to determine why the imposition of this condition might have been under consideration.

The implication of the condition is that the development finance for construction is effectively unavailable and that the long term occupation of the dwelling is excluded. This will mean that the implementation of the consent is highly unlikely.

- Condition 10 of the consent requires on-site parking for a minimum of two cars / vehicles at single lodge and one space to serve Heather Cottage located close by. As previously advised, vehicular access to Heather Cottage is straightforward and a number of parking spaces adjacent to the cottage can be achieved. We therefore do not believe that this is what is being referred to with reference to “*amenities*”.
- In the circumstances, we do not believe that the inclusion of Condition 11 is either justified or warranted. The properties would appear to meet the test of all requirements for permanent occupation in terms of standards of accommodation, access, garden amenity space, drainage, utilities etc. (this being supported by the Local Authorities consent ref. 17/00400PP for near identical properties in similar locations. The application should also be considered with relevance to other proposed development within the overall estate including the Estate Masterplan which was considered and endorsed by Argyll and Bute Council Planning, Protective Services and Licensing (PPSL) Committee on 13<sup>th</sup> December 2016 and application 16/00996/PP for change of use of the mansion house to Class 9 with sui generis.

## COMMENT ON APPELLANTS’ SUBMISSION

The Planning Department can only respond to information made available at the time of an application and the crux of this matter relates to information provided by the applicants and their agents in the submission of Planning Permission ref. 17/00420/PP which includes the Planning Application Form and submitted drawings.

In the Planning Application Form dated 14<sup>th</sup> February 2017, the applicants’ agent stated that, *“Heather Cottage is in a slightly remote location and access by foot or golf cart, this accommodation will form part of the running of the main house as a holiday lodge, therefore refuse and recycling will be collected and encompassed within the main house (Castle Toward) waste storage. The Single Lodge will act as a stand-alone cottage, with bins for waste and recycling to be put out for refuse collection by the council on the incoming road off road C10”*.

The agents also stated that only one space is proposed for the two lodges and it was presumed that this would be for the proposed Single Cottage as Heather Cottage is in a remote inaccessible location with no direct access proposed. The application for also stated that trees are to be removed although no details were provided at that time.

Additionally, Drawing no. 1544\_L(P.4) 401 dated January 2017 received 17<sup>th</sup> February 2017 included annotated notes for Heather Cottage which clearly states in the Scope of Works, *“The construction of this lodge is to create additional estate accommodation used for holiday let and contributing to the financial running of the estate.....It is intended that access to this cottage would be by woodland track capable of taking a golf cart, the courtyard of the main house would act as the car park for whoever occupied this cottage”*.

The starting point for the department in assessing and determining all applications is the information provided by applicants or their agents in the Planning Application Form, submitted drawings and other supporting information. In this particular case, the department (and external consultees) correctly assessed the proposed lodges on the basis of the information submitted i.e. as additional estate accommodation and in the case of Heather Cottage, as holiday accommodation as proposed. Whilst the proposed buildings are considered to be acceptable as holiday lets they lacked sufficient details on what would normally be expected for mainstream dwellinghouses i.e. clearly defined domestic curtilage, clearly defined amenity spaces (which should include an external drying area), vehicular and

pedestrian access to the application site, parking and turning provision and boundary treatments.

Whilst the department would have no objection to the insertion of sensitively designed dwellinghouse within the woodland to be used for either mainstream or holiday purposes, this would be materially different to what was originally submitted, proposed and approved under Planning Permission ref. 17/00420/PP. Therefore, this would require a fresh planning application and to be re-assessed when all of the details and expected amenities highlighted above would be submitted for consideration.

The pair of replacement gate lodge dwellings at the former Eastern Driveway (ref. 17/00400/PP) were assessed and approved as mainstream dwellings as there was no mention of 'holiday use' in the application form or submitted drawings. An extract from the Report of Handling for this permission clarifies, "*The original gate lodges were single-storey with shallow hipped slated roofs. It is proposed to recreate these traditional cottages with new versions based on the original footprints and designs. The lodges will have two bedrooms with open plan lounge/ dining/ kitchen area. The lodges will be built into the boundary wall with their main entrances facing north. Whilst the lodges will be sited close to each other there are no privacy or overlooking issues as there are no habitable room windows on the internal elevations. The use of the lodges are not stated but they could be used for either mainstream use, staff or holiday accommodation. For the purposes of the Town and Country Planning (Scotland) 1997 (as amended) they are considered use class 9.*"

In the approved Masterplan (ref. 16/02356/MPLAN), mention is made in the Development Concept drawing of converting existing cottages into holiday lets. The approved Masterplan document dated August 2016 also indicates that new holiday cottages will be created within the estate.

## **CONCLUSION**

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

The department considers that it was correct in its assessment and determination of the information and supporting details as part of Planning Permission ref. 17/00420/PP. The applicants and their agent clearly stated that the purpose of the properties were for either holiday lets or staff accommodation.

The department has consistently discussed the Masterplan proposals within the applicants and would have no objection in principle to the siting of two suitably designed dwellings on the former sites of Heather Cottage and Single Cottage but with appropriate vehicular access provision, defined curtilages and meaningful amenity spaces. Such a proposal would however require to be the subject of separate application(s) for Planning Permission.

It is respectfully requested that the review be dismissed and the original conditions remain as per the existing approval.

## Appendix 1

### 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:** 17/00420/PP

**Planning Hierarchy:** Local Application

**Applicant:** Mr and Mrs Keith and Denice Punler

**Proposal:** Erection of 2 lodges

**Site Address:** Castle Toward, Toward, Argyll

---

#### DECISION ROUTE

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

---

#### (A) THE APPLICATION

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

- Erection of 2 lodges;
- Installation of septic tanks and soakaway systems.

##### (ii) Other specified operations

- Connection to public water supply network;
- 

#### (B) RECOMMENDATION:

It is recommended that Planning Permission be granted subject to the conditions, reasons and advisory notes set out below.

---

#### (C) HISTORY:

Listed Building Consent (ref. 97/00883/LIB) for internal alterations and installation of wheelchair ramp was granted on 25<sup>th</sup> July 1997 and implemented.

A masterplan proposal (ref. 16/02356/MPLAN) in respect of Strategic Masterplan Area 1/2 and Potential Development Area 2/42 relating to mixed use development (including tourism/leisure/housing/business) was endorsed by the PPSL Committee at a discretionary hearing on 13<sup>th</sup> December 2016.

Listed Building Consent (ref. 16/01405/LIB) for the demolition of enclosed fire escape, metal fire escape and metal clad sheds. Installation of new doorway, ventilation louvre, balcony railings, 3 new windows, 2 sets of external doors, new

glazed roof over existing courtyard. Internal alterations to accommodate leisure facilities at basement level, removal of wall between ballroom and function room, installation of lift and toilets at ground floor level, removal of partitions and installation of partition walls to provide en-suites to first and second floor bedrooms was granted on 24<sup>th</sup> November 2016.

Planning permission (ref. 16/00996/PP) for a change of use from Class 8 (residential institution) to Class 9 (dwellinghouse), including ancillary housekeeper's accommodation and Sui Generis use as a commercial/leisure events venue was granted 14<sup>th</sup> December 2016.

An application for the reinstatement of the east driveway, erection of 2 gate lodges, vehicular and pedestrian entrance gates with stone piers and a secondary set of vehicular gates at the head of the driveway with stone piers (ref.17/00400/PP) was granted 24<sup>th</sup> November 2017.

An application for the erection of wedding venue comprising, storage building with gateway entrance to timber decking enclosed with decorative metal panels with posts and a decorative pergola for the wedding ceremony (ref.17/00401/PP) has been submitted and currently under consideration.

An application for the erection of metal gates for vehicular and pedestrian access on the existing west driveway at the road junction and additional set of gates further along the west driveway (ref. 17/00402/PP) was granted 16<sup>th</sup> October 2017.

An application for the erection of an 1800mm high deer fence (ref.17/02052/PP) has been submitted and currently under consideration.

---

**(D) CONSULTATIONS:**

**Roads Bute and Cowal** (response dated 20<sup>th</sup> February 2017): No objections subject to conditions regarding sightlines, access design, car parking and requirement for Roads Construction Consent and Road Opening Permit.

**Public Protection** - (response dated 23<sup>rd</sup> February 2017): Comments regarding foul drainage, water supply, operating hours during construction and demolition and construction activities.

**Historic Environment Scotland** (response dated 3<sup>rd</sup> March 2017): Advise contacting Archaeology Service. No comments to make. Advice on national policy guidance.

**Scottish Water** (response dated 3<sup>rd</sup> March 2017): No objection in principle. No Scottish Water infrastructure in the vicinity so applicant advised to investigate private treatment options. Advisory comments.

**Local Biodiversity Officer** (response dated 27<sup>th</sup> June 2017): Recommendations in respect of tree protection, ecology survey report, programme for Rhododendron ponticum and other Invasive Non-Native Species eradication, Landscape Planting Plan.

**Forestry Commission Scotland** (response dated 19<sup>th</sup> July 2017): Area to be felled likely to be small in context to the woodland. Area to be felled should be quantified in the application and if appropriate compensatory planting should be sought.

---



- (E) **PUBLICITY:** Regulation 20 advert (publication date 3<sup>rd</sup> March 2017, expiry date 24<sup>th</sup> March 2017). Site notice advertising development affecting the setting of a listed building publication date 3<sup>rd</sup> March 2017, expiry date 24<sup>th</sup> March 2017. Neighbour notification expired 10<sup>th</sup> March 2017.
- 

(F) **REPRESENTATIONS:**

One letter of objection has been received from Mr R Trybis, Stonewood, Toward (email dated 10<sup>th</sup> March 2017). The concerns raised relate to the proposed two lodges acting as a barrier to public access between the east and west sides of the estate in an area where it was claimed that the public would still have access. The construction will also result in further loss of natural woods.

The application does not include an ecological report where protected species are known to be present nor does it include an eradication and restoration plan for invasive species which are also known to be present on the estate.

**Comment:** The Core Path C208(c) is confirmed by the Council as the only recognised public right of way. Parts of the estate are outwith the scope of access for reasons of privacy and commercial requirements. The applicants' previously commented that by summer 2017 they intend to provide an additional footpath from the Chinese Lakes down the eastern side of the estate. However, due to poor weather and ground conditions, this aspect of the development has been delayed but addressed via planning conditions contained in other associated permissions (i.e. ref. 17/02052/PP) which also require the formation of an alternative southern access route. The development would not affect the designated Core Path C208 (c) which affords the public access to the western side of the estate.

The proposed lodges will be key-holed within the woodland settings but subject to conditions requiring further details to be submitted on habitats and species and in this instance such concerns can be addressed via planning conditions. Refer to report below.

---

(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**

**Is a Section 75 obligation 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 (26<sup>th</sup> March 2015)

LDP STRAT 1 Sustainable Development;  
LDP DM1 Development within the Development Management Zones (the application site is located within PDA 2/42 and MAST 1/2);  
LDP PROP 3 The Proposed Potential Development Areas;  
LDP 3 Supporting the Protection, Conservation and Enhancement of our Environment;  
LDP 5 Supporting the Sustainable Growth of our Economy;  
LDP 9 Development Setting, Layout and Design;  
LDP 11 Improving our Connectivity and Infrastructure

Argyll and Bute Supplementary Guidance (March 2016)

SG LDP ENV 1 Development Impact on Habitats, Species and our Biodiversity;  
SG LDP ENV 6 Development Impact on Trees / Woodland;  
SG LDP ENV13 Development Impact on Areas of Panoramic Quality (APQs);  
SG LDP ENV 15 Development Impact on Historic Gardens and Designed Landscapes;  
SG LDP ENV 16(a) Development Impact on Listed Buildings;  
SG LDP ENV 20 Development Impact on Sites of Archaeological Importance;  
SG LDP SERV 1 Private Sewage Treatment Plants and Wastewater (i.e. drainage) Systems;  
SG LDP TRAN1 Access to the Outdoors;  
SG LDP TRAN3 Special Needs Access Provision;  
SG LDP TRAN 4 New and Existing, Public Roads and Private Access Regimes;  
SG LDP TRAN 6 Vehicle Parking Provision;  
SG2 Sustainable Siting and Design Principles;

**(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.**

Scottish Planning Policy (SPP) (June 2014);  
Scottish Historic Environment Policy 2014;  
Land Reform (Scotland) Act 2003;  
Planning history;  
Views of statutory and other consultees;  
Legitimate public concern expressed on 'material' planning issues.

---

**(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.**  
No

---

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

---

**(N) Does the Council have an interest in the site:** No. The Castle Toward Estate was purchased from the Council by Mr. and Mrs. Punler on 21<sup>st</sup> October 2016.

---

**(O) Requirement for a hearing:** No

---

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

Settlement Strategy

The Castle Toward estate is identified as Potential Development Area (PDA) 2/42 within the adopted LDP as being suitable for mixed uses, comprising tourism, education, leisure, housing and business. Castle Toward is also identified as a Strategic Masterplan Area (SMA) MAST 1/ 2 which is identified for the same uses as the PDA. The PDA and SMA areas are bounded by the C10 Glenstriven Road to the west and south and by Ardyne Farm and Strathclyde Cottage to the north. The site is bounded to the east by farmland belonging to Toward Farm.

The Castle Toward estate is identified as being within a Garden and Designed Landscape that stretches north and east beyond the PDA / SMA boundaries. With the exception of land around Toward Castle, the majority of the PDA / SMA site also lies within a wider Area of Panoramic Quality.

Policy LDP STRAT 1 – Sustainable Development sets out sustainable development principles. It is considered that the proposed development would make efficient use of dilapidated estate buildings with proposed uses that would be compatible within the range of potential uses prescribed for PDA 2/42. The proposed initial phase of development would be consistent with the settlement strategy and visions for the successful long term development of PDA 2/42 and MAST 1 / 2 as set out in the accompanying Masterplan submission.

Policy LDP DM 1 establishes the acceptable scales of development in each of the zones with the boundaries of all the settlements and countryside zones mapped in the LDP's Proposal Maps. It should be noted that where specific proposals such as Allocations, PDAs or Areas for Action are defined these would override the general stance towards development for a particular development management zone. That is the case here given the PDA designation of the site.

Policy LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment allows sustainable forms of development to proceed within a clear policy and SG framework that provides protection from inappropriate forms of development; that encourages and supports regeneration; and maintains and enhances the quality of the natural heritage, built environment, landscape features and landscape character of the area.

Policy LDP 5 – Supporting the Sustainable Growth of Our Economy supports the development of new business which helps deliver sustainable economic growth by taking full account of the economic benefits of any proposed development and focussing regeneration activity and promoting environmental enhancement.

The proposal is for the erection of two new estate lodges which are to be sited close to previous estate cottages that are no longer standing. The principle of limited residential development within the estate grounds would be consistent with the settlement strategy and preferred uses prescribed in the PDA / SMA briefs and approved Masterplan covering the whole of the PDA site (ref. 16/02356/MPLAN).

#### Location, Nature and Design of Proposed Development

The Toward – Castle Toward PDA site is located on the south eastern coast of the Cowal Peninsula and bounded by the Firth of Clyde to the east and south and by farmland and woodland to the west, north and east. In a wider context, the PDA is bounded by Ardyne PDA 2/43 and Knockdow Estate PDA 2/44 to the west. The nearest settlement is Toward which lies some 2km to the south-east.

The Castle Toward designed landscape occupies a site at the southern end of the Toward Peninsula, 10km south-west of Dunoon and is accessed via the A815. The mansion house and grounds occupy the lower south-facing slopes of Toward Hill, at the southernmost point of the Toward Peninsula with views south to the Island of Bute and beyond to the Firth of Clyde.

The designed landscape designation at Castle Toward extends northwards up Toward Hill to include the Chinese Lakes (reservoirs on Toward Hill to supply the estate which were made into an attractive landscape feature) and Ardyne Farm to the north-west. The C10 Glenstriven Road forms the southern and western boundaries, and to the east, the boundary takes in old estate parkland and is bounded by a commercial coniferous plantation on what was probably former policy woodland. A belt of old policy woodland is included in the designed landscape, which stretches east of the old ruins of Toward Castle. The principal features of the designed landscape, except for the Chinese lakes, are contained within the current estate boundary comprising approximately 150ha (370 acres).

#### The Proposal

It is proposed to erect two new estate lodges within existing wooded areas on or close to sites of two previous cottages that have long since disappeared. No drainage systems exist at both locations and it is therefore proposed to install two new septic tanks with soakaway systems but connect to the public water supply network.

The application form indicates that Heather Cottage is in a slightly remote location with access by foot or by golf cart. This accommodation will form part of the running of Castle Toward mansion house as a holiday lodge.

Scale and design for the two lodges are identical. The proposed 2-bedroom holiday dwellings would be single storey traditional cottages with slate shallow hipped roofs and chimney. Proposed materials are off-white render for external walls, timber windows and doors and natural slates for roofs with Sarna membrane for flat roof sections over entrance porches.

#### *Heather Cottage replacement proposal*

It is proposed to erect a new estate cottage on the site of the former Heather Cottage. The site is located at the south-eastern end of the front lawn of Castle Toward within existing woodland. The site has no existing vehicular access although a series of discrete and informal footpaths surround the site.

#### *Single Cottage replacement proposal*

It is proposed to erect a new estate cottage close to the site of the former Single Cottage. The site is located west of the old southern entrance gate adjacent to the C10 within existing woodland. The site currently has no existing vehicular access but a former vehicular access exists from the gate north-east to Toward Castle then north to Castle Toward.

The erection of two isolated cottages within the woodland would be consistent with the masterplan approach for the Castle Toward estate which seeks to introduce limited forms of holiday and residential accommodation in less conspicuous parts of the estate grounds. Such development would assist in safeguarding the future of Castle Toward mansion house and estate, whilst providing a catalyst for investment in other associated buildings and neglected estate land. The proposal would serve to both conserve the natural and built heritage resource as well as creating local economic development and employment opportunities.

#### Natural Environment

Policy LDP 3 seeks to protect the natural environment. The proposal for the erection of two lodges within the woodland area to the south of Castle Toward mansion house will result in the removal of mainly sycamore and other self-seeding trees although no firm details have been submitted. A suspensive condition states that no development can take place until a specific habitat, tree and construction environment management plan has been submitted for the written approval of the Planning Authority. This will allow an area of development to be identified precisely and suitably key-holed into the woodland with appropriate buffer zone which will dictate the area for habitat and species surveys.

#### Impact on Trees

Policy LDP 3 states a presumption in favour of development which will protect, conserve or where possible enhance biodiversity, woodland and green networks. The proposal for the erection of two lodges within the woodland area to the south of Castle Toward mansion house will result in the removal of mainly sycamore and other self-seeding trees although no firm details have been submitted. Whilst The Forestry Commission consider that the removal of trees will be small in the context of the woodland, the actual development area should be quantified and if necessary compensatory planting should be sought. A suspensive condition states that no development can take place until a specific tree survey including and construction environment plan has been submitted for the written approval of the Planning Authority. This will allow an area of development to be suitably key-holed into the woodland with no adverse impact on the surrounding habitats.

The approved Masterplan envisages woodland management for the entire PDA area. It is considered that with suitable safeguarding conditions, the scope of the proposal will have limited impact on existing trees or woodland.

#### Built Environment – Listed Buildings and Designed Landscape

Policy LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment, seeks to protect, conserve and enhance the built, human and natural environment.

The isolated siting of the two holiday lodges within dense woodland would have no significant impact on the setting or Gardens and Designed Landscape of Castle Toward or Toward Castle. Access to the proposed lodges would be via existing or improved path networks.

#### Road Network, Parking and Associated Transport Matters

The proposed development is accessed from the C10 Glenstriven Road which begins at the Toward Lighthouse junction. No objections are raised subject to conditions regarding sightlines, access design and car parking. Advisory notes concerning Road Construction Consent for the section east of The Single Lodge potentially serving new estate housing.

#### Public Access

The scope of public access arrangements is outwith the terms of this application but access details have already been assessed as part of the Masterplan application ref. 16/02356/MPLAN and other associated application ref. 17/02052/PP.

In summary, Core Path C208(c) runs up the western side of the estate whilst objectors have suggested that a further public right of way exists through the estate from the eastern side. The Council have taken independent legal advice which confirms that only the Core Path is a legitimate right of way. The applicants have however confirmed that the existing track which leads from Toward Castle around the walled garden then up to the Chinese Lakes on the western side of the burn will be re-routed to provide a new alternative access on the eastern side of the burn which would maintain a link on from Toward Castle to the Chinese Lakes.

For information the applicant previously agreed a curtilage area with the council as offered by the Land Reform (Scotland) Act. This includes the site boundary minus the paddock areas to the north of the house. This is shown within the Masterplan submission drawings 1544 L (MP) 003 and 1544 L (MP) 005 of 16/02356/MPLAN.

A planning condition will seek to improve access around the estate by requiring a footpath along the southern edge linking the east and west driveways. This, coupled with other access improvements elsewhere, will ensure that there is the ability for the public to walk around the estate without having to walk along the public road. This is a considerable improvement over the existing situation.

#### Landscape

The site is located within an Area of Panoramic Quality which derives from the scenic qualities of the wider landscape and the interrelationship between narrow sea channels, sea lochs and surrounding steep sided hills. The Kyles of Bute National Scenic Area is to the north-west but does not cover the site.

The proposal for two dwellinghouses in discrete locations within the established woodland to the south of the mansion house would not impact in any material way on the immediate Garden and Designed Landscape, the surrounding Area of Panoramic Quality or the wider National Scenic Area (Kyles of Bute).

#### Infrastructure

Policy LDP 11 – ‘Improving our Connectivity and Infrastructure’ seeks to make best use of our existing infrastructure by ensuring that:

- *the location and design of new infrastructure is appropriate; and*
- *standards for drainage, sewage, waste water and water supply are applied.*

Castle Toward is currently served by a private water supply. The applicants have however confirmed that they are in discussion with Scottish Water to connect to the public water main. Regardless of this the applicants can opt to maintain the status quo of water supply without the need for further authorisation.

The applicant has advised that the foul drainage system is currently served by septic tanks with a sea outfall. This would remain appropriate for the intended uses which would not impose a greater loading than that associated with past uses. The system would not however be adequate to serve the wider Masterplan proposals and future planning applications would be expected to demonstrate a new system of foul water treatment requiring the benefit of planning permission and authorisation from SEPA.

A condition requires the submission of detailed information regarding the installation of septic tanks and suitable discharge arrangements.

#### Conclusion

Whilst the application is for detailed Planning Permission, the general principle of erecting two traditionally designed holiday lodges within the southern woodland area of Castle Toward Estate on or close to the site of former estate cottages, is acceptable. However, the precise siting of these two lodges and area of development to provide a suitable buffer needs to be quantified. Appropriate suspensive conditions are recommended in respect of tree surveys, habitat and species surveys and requirement for compensatory planting.

The main issue associated with this application would appear to be concerns about potential obstruction to continuous public access through the Castle Toward Estate. Presently, there is an existing Core Path route which runs through the estate and this will be retained in full. Suggestions that other rights of way exist have been investigated and whilst they may have been used by members of the public they do not constitute formal rights of way. In order to assist with continued access, the applicants propose that an existing track leading from the walled garden to the Chinese Lakes will be re-routed to the eastern side of the Himalayan Glen, ensuring that a continuous path will be available around the estate. A planning condition will allow for a path along the southern boundary therefore encouraging a route all the way round the estate.

The proposal is subject to safeguarding suspensive conditions consistent with the relevant development plan policies. There are no other material considerations, including responses from consultees and representations from third parties, nor matters raised in the assessment of the proposals, which would warrant the setting aside of the presumption in favour of the development established by development plan policy.

---

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

---

**(R) Reasons why Planning Permission should be granted**

The proposed development meets with the aims of both the Potential Development Area and Strategic Masterplan Area designations applicable to Castle Toward as defined by the Argyll and Bute Local Development Plan. The development of these proposals would result in the positive regeneration of Castle Toward, the wider estate and secure a sustainable future for the preservation of the building, as well as delivering tourism and other economic development benefits. The proposals accord with all other relevant development plan policies and it is therefore appropriate that planning permission be granted in line with development plan policy, subject to recommended safeguarding conditions.

---

(S) Reasoned justification for a departure from the provisions of the Development Plan N/a

---

(T) Need for notification to Scottish Ministers: No

---

Author of Report: Brian Close

Date: 24<sup>th</sup> January 2018

Reviewing Officer: *David Love*

Date: 25<sup>th</sup> January 2018

Angus Gilmour  
Head of Planning & Regulatory Services



## CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 17/00420/PP

1. The development shall be implemented in accordance with the details specified on the application form dated 14<sup>th</sup> February 2017 and the approved drawing reference numbers: 1544\_L(P.4)400, 1544\_L(P.4)401, 1544\_L(P.4)402, unless the prior written approval of the planning authority is obtained 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 above, no development shall commence until the proposed footprints of the dwellings hereby approved have been clearly demarcated on site, inspected by and approved in writing by the Planning Authority. The Planning Authority shall be afforded a period of 21 days to allow a site inspection to be undertaken upon receiving notification from the developer that the demarcation has occurred. Thereafter the development shall be implemented in accordance with the agreed details.

**Reason:** *For the purpose of clarity, there being a degree of ambiguity within the submitted plans as to the exact position of the dwellings within the application site.*

3. Prior to the commencement of any development works on site, full details of proposed sewage treatment plants including soakaway details shall be submitted to and approved in writing by the Planning Authority.

**Reason:** *In the interest of public health and amenity and to ensure a method of foul drainage.*

4. Notwithstanding the submitted information and prior to any construction works on site (including demolition), full details shall be submitted for the prior written approval of the Planning Authority of a drainage scheme that shall incorporate the basic principles of Sustainable Urban Drainage Systems identified in 'Planning Advice Note 61' which shall provide details of a totally separate drainage system with the surface water discharging to a suitable outlet. The drainage system shall include measures to slow down run-off; methods of treatments and its release into the system, existing and proposed drainage of the site and temporary surface water drainage system during construction phases; unless prior written consent for variation is obtained in writing from the Planning Authority. The scheme, as may be approved shall be implemented commensurate with this development at a timescale as may be agreed in writing with the Planning Authority.

**Reason:** *In order to provide for a sustainable drainage scheme for the development.*

5. No development including any tree works shall commence until the developer has secured a programme for the management of woodland within a 30m radius of the centre point of the proposed dwellinghouses. Such a woodland management plan shall clearly indicate the selective felling, management and re-stocking of this area in accordance with details to be submitted to and approved by the Planning Authority. The plan should also include details of construction activities and mitigation measures to safeguard the surrounding woodland habitats. Thereafter this area shall be retained and managed in accordance with the duly approved programme, unless otherwise agreed in writing with the Planning Authority.

**Reason:** *In order to ensure tree management and replacement in the interests of visual amenity.*

6. No tree felling works shall take place during the bird breeding season (March to July inclusive), unless otherwise agreed in writing by the Planning Authority.

**Reason:** *To minimise the impact of the development on breeding birds within the application site.*

7. No development (including any land engineering works or any associated operations) shall commence until pre-construction surveys and proposed mitigation measures to prevent disturbance towards protected species have been undertaken and submitted to and approved in writing by the Planning Authority.

**Reason:** *In order to safeguard and protect wildlife interests.*

8. The proposed access onto the C10 Glenstriven Road shall be constructed as per SD08/002a Private Drive Way and shall have minimum sightlines of 75 x 2.4 m in both directions. All walls fences and hedges within the visibility splays to be maintained at a height not greater than 1.0 meter above the road.

**Reason:** *In the interests of road safety and to ensure that an adequate level of access is provided for the proposed dwellinghouses.*

9. The driveway access from the individual properties shall have sightlines of 20m x 2m on the internal estate road in both directions. All walls fences and hedges within the visibility splays to be maintained at a height not greater than 1.0 meter above the road.

**Reason:** *In the interests of road and pedestrian safety and to ensure that an adequate level of access is provided for the proposed dwellinghouses.*

10. The lodges hereby approved shall not be occupied until on-site parking for a minimum of two vehicles have been provided for the Single Lodge and provision for one parking space to serve Heather Cottage located close to that holiday let to reasonably allow access, unless otherwise agreed in writing by the Planning Authority.

**Reason:** *To ensure that there is sufficient car parking for the proposed holiday accommodation.*

11. The lodges hereby approved shall be used for holiday occupancy only and shall not be used as a principal or main dwelling.

**Reason:** *In order to define the permitted occupancy having regard to the amenities available and in order to comply with the provisions of policy SG LDP TOUR 1 of the Argyll and Bute Local Development Plan.*

12. Prior to the commencement of works details of the boundary treatment that will demark the garden / curtilage ground of the lodges shall be submitted to the planning authority for approval.

**Reason:** *To ensure the development is designed in accordance within the larger estate setting and to separate and provide clarity as to the extent of the curtilage to which members of the public will not have a right of access.*

13. Prior to the commencement of works details shall be provided of a footpath that will link the east and west driveways within the southern area of the estate below to the 'haha'. Such details shall include but are not limited to:

- Location including start and finishing points,
- Construction details that shall include suitable drainage, 1.8m width and a type one finish,
- Timetable of works with the footpath to be completed within three months of the details approved.

The full details shall be submitted to the planning authority for approval and the works complete within three months from the date of approval unless otherwise agreed in writing with the planning authority.

***Reason:*** *To improve access around the estate and address any loss of access resulting from the development hereby approved.*

## ADVISORY NOTES TO APPLICANT

3. 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).]
4. 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.
5. 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.
6. The attention of the applicant / developer is drawn to comment made by Scottish Water in their response dated 3<sup>rd</sup> March 2017 and comments regarding connection to public water supply, surface water drainage and general advice. The applicant/developer is advised to contact Scottish Water directly concerning connection to public water supply - Planning and Development Services, The Bridge, Buchanan Gate Business Park, Cumbernauld Road, Stepps, Glasgow G33 6FB; Development Operations, Tel. 0800 3890379 or at DevelopmentOperations@scottishwater.co.uk
7. The applicant/developer is advised by Scottish Natural Heritage (SNH) that all bats and their roosts are legally protected in Scotland by the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) - "the Habitats Regulations" (for details of this protection, see Protected mammals - Bats and Regulations 39-41 and 44-46 of the Habitats Regulations).  
  
If bats are found to be roosting in any trees to be removed or within buildings to be renovated as part of this proposed development, under the Habitats Regulations the developer will need to apply to the Scottish Government for a licence to disturb/destroy bat roost(s) before works can commence. Any licence would need to be in place prior to any works affecting the roosts taking place. SNH can provide further advice as necessary.
8. The Area Roads Manager advises that Roads Construction Consent (S21) may be required for the section potentially serving future residential scheme to the west of the access. A Road Opening Permit (S56) will be required for all works within the road corridor. The applicant is advised to contact the Area Roads Manager (Mr. Paul Farrell, tel. 01369 708613) directly upon these matters.

## **APPENDIX TO DECISION APPROVAL NOTICE**

Appendix relative to application 17/00420/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 approved.

The proposed development meets with the aims of both the Potential Development Area and Strategic Masterplan Area designations applicable to Castle Toward as defined by the Argyll and Bute Local Development Plan. The development of these proposals would result in the positive regeneration of Castle Toward, the wider estate and secure a sustainable future for the preservation of the building, as well as delivering tourism and other economic development benefits. The proposals accord with all other relevant development plan policies and it is therefore appropriate that planning permission be granted in line with development plan policy, subject to recommended safeguarding conditions.