

**STATEMENT OF CASE**

**FOR**

**ARGYLL AND BUTE COUNCIL  
LOCAL REVIEW BODY**

**REFUSAL OF PLANNING PERMISSION 17/03128/PP  
ERECTION OF DWELLINGHOUSE – LAND  
NORTHWEST OF ASHLEA, CROFT DRIVE, OBAN**

**11 JULY 2018**

## **STATEMENT OF CASE**

The Planning Authority is Argyll and Bute Council ('the Council'). The appellant is Dunollie Estate ('the appellant').

Planning permission 17/03128/PP for erection of dwellinghouse on land northwest of Ashlea, Croft Drive, Oban ('the appeal site') was refused under delegated powers on 13 April 2018.

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

### **DESCRIPTION OF SITE**

The site is an elevated area of land with a covering of gorse and scrub accessed from a private access track spurring from Croft Road. The site is bounded to the south by long established row of dwellinghouses adjacent to Croft Road with rough ground sloping upwards to the north and west.

### **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 development of the site with a dwellinghouse represents overdevelopment and whether or not the proposal would result in the intensification of use of a sub-standard private access to the detriment of road and pedestrian safety.*

The Report of Handling (Appendix 1) sets out the Council's detailed 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 development of this site with a dwellinghouse would not represent overdevelopment and has submitted a plan showing the house to plot ratio of a number of dwellinghouses surrounding the site subject of this review.

The appellant refers to the fact that the ROH makes reference to the site representing a suitable opportunity for development with a single dwellinghouse with the siting and design of the dwellinghouse proposed considered to be acceptable.

*Comment: The Planning Service accepted that the site subject of the review has the ability to accommodate the proposed dwellinghouse and therefore it is not clear why the house to plot ratios of the surrounding houses have been submitted. However, whilst the ROH makes reference to the site representing a suitable opportunity for development, the site subject of the review is the lower part of a larger site which has been sub-divided contrary to the advice of the Planning Service who remain of the view that the development of both the lower and higher sites, cumulatively, would represent overdevelopment of the wider site.*

*Full details outlining the complicated history of this site and its sub-division is provided in the ROH appended to this report.*

*The appellant also refers to the neighbouring site to the west which has planning permission for two sites which is noted by the Planning Service, however the overall site referred to is larger in size than the site subject of review and has more*

*opportunity to absorb the proposed development of two dwellinghouses into the landscape without creating an overdeveloped site.*

The appellant further contends that any reasonable improvements to the private access could be undertaken as the appellant owns the road and the ground on the north alongside the access road.

*Comment: The Roads Authority has been in discussion with the appellant previously regarding development within this area and has been advised that the private access is not of a suitable standard being too narrow with a poor junction at the public road and therefore not capable of accommodating further traffic over and above the permissions already granted. The application does not indicate that the appellant owns any other land other than the application site edged red to undertake any improvements to the junction or access.*

## **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, as set out in the ROH appended to this Statement of Case, it remains the view of the Planning Service that development of the site with a dwellinghouse would represent overdevelopment of the wider site and also the intensification in use of a sub-standard private access road to the detriment of road and pedestrian safety.

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

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**Reference No:** 17/03128/PP

**Planning Hierarchy:** Local Development

**Applicant:** Dunollie Estate per Bell Ingram Ltd

**Proposal:** Erection of Dwellinghouse

**Site Address:** Plot 2, Land Northwest of Ashlea, Croft Drive, Oban

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### DECISION ROUTE

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

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#### (A) THE APPLICATION

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

- Erection of dwellinghouse

##### (ii) Other specified operations

- Utilisation of existing vehicular access
  - 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.

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#### (C) HISTORY:

15/01983/PPP

Site for erection of dwellinghouse (revised location to 14/02799/PPP) – Granted: 28/08/15

14/02799/PPP

Site for the erection of one dwellinghouse (renewal of 11/01463/PPP) – Granted:  
20/01/15

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**(D) CONSULTATIONS:**

Area Roads Authority

Report dated 26/02/18 deferring decision as the applicant is attempting to split a building plot into two plots when they have been previously advised that no further development would be permitted off of this access. The applicant requires to decide which of the two plots he wishes to develop.

Scottish Water

Letter dated 16/02/18 not objecting to the proposal but providing comments on the positioning of the proposed passing place and the potential impact on Scottish Water infrastructure.

The above represents a summary of the issues raised. Full details of the consultation responses are available on the Council's Public Access System by clicking on the following link <http://www.argyll-bute.gov.uk/content/planning/publicaccess>.

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**(E) PUBLICITY:**

The proposal has been advertised in terms of Regulation 20 procedures, closing date 01/02/18.

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**(F) REPRESENTATIONS:**

No representations have been received regarding the proposed development.

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**(G) SUPPORTING INFORMATION**

Has the application been the subject of:

(i)	Environmental Statement:	No
(ii)	An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:	No
(iii)	A design or design/access statement:	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

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**(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	No
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**Regulation 30, 31 or 32:**

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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 4 – Supporting the Sustainable Development of our Coastal Zone

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

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

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

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

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

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

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

The principle of a dwellinghouse on the site subject of the current application was established by the granting of planning permission in principle 14/02799/PPP on 20 January 2015 which has since expired.

However, in 2015, the applicant sought pre-application advice from the Planning Service for a dwellinghouse on a higher site further to the north of the site approved under 14/02799/PPP and was advised by the Planning Service that, subject to revocation of 14/02799/PPP, the Planning Service would support an application for the alternative site. Revocation was considered necessary as it was considered that two dwellinghouses would represent overdevelopment of the site.

However, when planning permission in principle was granted for the higher site under 15/01983/PPP, a revocation was not undertaken but the report by the Planning Service at the time advised that *"In this instance it is not considered necessary to require revocation of the live planning permission in principle 14/02799/PPP as works cannot commence on this permission without the approval of matters specified in condition which would be withheld by the Planning Authority should an application be submitted"*.

It would appear that the landowner has since sold off the higher site which benefits from a live planning permission in principle as the Planning Service has a current application 17/03123/PP for the higher site currently with them for consideration.

Accordingly, in this instance, support cannot be given to the application for the lower site subject of the current application given the history of the site and pre-application advice given by the Planning Service to the landowner.

Whilst it is acknowledged that the current application was submitted within the lifetime of the planning permission in principle for the site, this has since expired with the site now not benefiting from any live permission. Furthermore, the existence of the live permission in principle for the higher site, and the pre-application advice given previously by the Planning Service to the applicant, represent material considerations.

With regards to the site, it is an elevated area of land with a covering of gorse and scrub accessed from a private access track spurring from Croft Road. The site is bounded to the south by long established row of dwellinghouses adjacent to Croft Road with rough ground sloping upwards to the north and west. The site was deemed to represent a suitable opportunity for development with a single dwellinghouse without any detrimental impact on the wider area. This application represents the detailed arrangements for the site proposing a modest one and a half storey pitched roof dwellinghouse finished in render with a natural slate or equivalent roof. The siting and design of the proposed dwellinghouse is considered to be acceptable and would be supported by the Planning Service if the higher site was not to be developed. Development of both sites would represent overdevelopment contrary to the provisions of Policy LDP 9 and SG 2.

The application proposes to utilise the existing vehicular access from Croft Road to serve the proposed dwellinghouse. The Area Roads Authority was consulted on the proposal and in their response deferred decision due to there currently being two applications seeking permission off of Croft Road which they deem as not suitable for further development over and above those sites already granted permission.



Accordingly, in this instance, as the Planning Service is not supporting the current application for the reasons outlined above, the proposal is contrary to the provisions of Policy LDP DM 11 and SG LDP TRAN 4 which seek to resist intensification in use of sub-standard accesses and junctions, other than in cases where the improvements required can be achieved as part of the overall development. In the absence of such improvements the proposal is considered to be contrary to the interests of highway safety.

The application indicates water supply and drainage via connection to the public systems. Scottish Water was consulted on the proposal and raised no objection but provided advisory comments for the applicant regarding the positioning of the proposed passing place and the potential impact on Scottish Water infrastructure. The proposal is considered acceptable in terms of Policy LDP DM 11 which seeks to ensure suitable infrastructure is available to serve proposed developments.

Accordingly, notwithstanding the above assessment that the lower site could accommodate the proposed dwellinghouse, this would be on the basis that there was no development on the higher site. However, due to the overall plot now having being sub-divided, and a proposal for a dwellinghouse on the higher site due to be granted by the Planning Service, the development of the lower site would represent overdevelopment. Furthermore, the Roads Authority has advised that private access is unable to accommodate additional traffic.

In light of the above the proposal is considered to be contrary to the requirements of Development Plan Policies LDP DM 9, LDP DM 11 and Supplementary Guidance SG 2 and SG LDP TRAN 4 and it is recommended that permission be refused for the reasons appended to this report.

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

**Yes**

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**(R) Reasons why planning permission should be refused**

See reasons for refusal below.

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

N/A

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

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**Author of Report: Fiona Scott Date: 22/03/18**

**Reviewing Officer: Tim Williams Date: 13.04.18**

**Angus Gilmour  
Head of Planning**

## **REASONS FOR REFUSAL RELATIVE TO APPLICATION REFERENCE 17/03128/PP**

- 1.** The site subject of this application is the lower part of a larger site which has been sub-divided contrary to the advice of the Planning Service with a detailed planning permission having been recently granted for development on the higher part of the site. The development of the lower site in addition to the consented development of the upper site would result in overdevelopment contrary to the provisions of Policy LDP 9 and SG 2 of the adopted 'Argyll and Bute Local Development Plan' 2015.
  
- 2.** The proposed development would result in the intensification in vehicular use of a sub- standard private access road with no delineation between pedestrian or vehicular use. The improvements which would be required to upgrade the road that serves the proposed site cannot be achieved within the confines of the application site or other land within the applicant's control, and there is no indication that the applicant can complete any improvements remotely from the site. The proposal is therefore contrary to the provisions of Policy LDP DM 11 and Supplementary Guidance SG LDP TRAN 4 of the adopted 'Argyll and Bute Local Development Plan' 2015 which resist intensification in the use of sub-standard accesses and junctions, other than in cases where the improvements required can be achieved as part of the overall development. In the absence of such improvements the proposal is considered to be contrary to the interests of highway safety.

## APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **17/03128/PP**

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

**No**

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- (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**

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

See reasons for refusal above.