

**REQUEST FOR REVIEW OF DECISION TO  
REFUSE PLANNING PERMISSION FOR THE  
ERECTION OF 2 DWELLINGHOUSES, LAND  
EAST OF CAMIS ESKAN FARMHOUSE,  
HELENSBURGH (REFERENCE 18/01382/PP)**

**GROUND FOR REVIEW**

**Submitted on behalf of Rainheath Limited by**



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Associates

# REQUEST FOR REVIEW OF DECISION TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF 2 DWELLINGHOUSES, LAND EAST OF CAMIS ESKAN FARMHOUSE, HELENSBURGH (REFERENCE 18/01382/PP)

## GROUNDNS FOR REVIEW

### 1. Site Description:

- 1.1 The review application site is to the north-east of Camis Eskan Farm and is within the Greenbelt. It contains the footings and lower walls of a building, which were constructed pursuant to a building warrant issued by the Council in 2007 (see Relevant Planning History below). The site has been derelict for approximately 10 years (see aerial photograph below, and also photographs in **Appendix 1**).



**Figure 1:** Aerial Photograph © Google Earth

### 2. Relevant Planning History:

- 2.1 In 2007 planning permission was granted for the conversion of the barn that stood on the review site into two dwellinghouses (LPA reference 06/00085/COU). The 2007 approved plans are submitted.
- 2.2 Notwithstanding the terms of this planning permission, for reasons that are now not known, a building warrant application was submitted (and approved) for the demolition of the barn and the erection of two

dwellings (LPA reference 07/00444/ERECDW). The 2008 approved plans are submitted.

2.3 Following the issuing of the building warrant, and on the basis of the Council's approval of this, the barn was demolished, and the erection of the two dwellings commenced. The foundations were cast, and the first courses of blockwork were laid, up to DPC level. All works then appear to have stopped.

2.4 In 2015 an application for the erection of two dwellings was submitted (LPA reference 15/01652/PP). Planning permission was refused for the following reason:

"1. Policy LDP DM1 (G) seeks to ensure that new developments in the greenbelt are acceptable only where they relate to, and fulfil, an essential or important function associated with operational characteristics of the greenbelt to help sustain and enhance the use of greenbelt. In order to manage the pressure for development new residential developments must meet one of the exemption criteria set out in Policy LDP DM1 (G). The proposal does not fall within any of the permitted categories of development acceptable with the greenbelt under LDP DM1 (G) (i-vi) or constitute development falling within Criteria 1-3 and there are no material considerations which count against the refusal of this planning application in accordance with the requirements of Section 25 of the Town and Country Planning (Scotland) Act 1997. Housing which does not meet a greenbelt need or meet a policy exception does not contribute positively to the function or operation of the greenbelt and its objectives. The current proposals are considered to represent the provision of sporadic new housing development in an unsustainable location. The introduction of an inappropriate and unjustified form of new development into the greenbelt will be visually intrusive, visually discordant, result in sporadic development in the countryside and will therefore have a detrimental impact upon the character and appearance of the area. As such the proposal is contrary to policy LDP DM1 (G) of the adopted Argyll and Bute Local Development Plan 2015 and to SPP advice as set out at paragraphs 49 and 52."

### **3. The Review Application:**

3.1 The proposed development is essentially the rebuilding of the barn, and the formation of the two dwellings and garages, as per the previously approved building warrant.

3.2 The review application (LPA reference 18/01382/PP) was refused on 16 August 2018, for the following two reasons:

- "1. Policy LDP DM1 (G) seeks to ensure that new development in the greenbelt is acceptable only where they relate to, and fulfil, an essential or important function associated with operational characteristics of the green belt to help sustain and enhance the use of greenbelt. In order to manage the pressure for development new residential developments must meet one of the exemption criteria set out in policy LDP DM1 (G). Private housing which does not meet a greenbelt need or meet a policy exception does not contribute positively to the function or operation of the greenbelt and its objectives. The current proposals are considered to represent the provision of sporadic new housing development in an unsustainable location which fails to positively contribute to the objectives of the greenbelt. The two dwelling houses do not comply with any of the permissible forms of development set out at LDP DM1 (G) and therefore it is considered that the proposed residential development should be refused. The introduction of an inappropriate and unjustified form of new development into the greenbelt will be visually intrusive, visually discordant, result in sporadic development in the countryside and will therefore have a detrimental impact upon the character and appearance of the area. As such the proposal is contrary Policy LDP DM1 (G) of the adopted Argyll and Bute Local Development Plan 2015.
2. The design of the proposed dwelling houses are not appropriate for this location. Their design character, comprising essentially two new build conjoined houses fails to reflect the historic relationship of the previous barn on this site. The previous building comprised a single storey and continuous linear feature of stone rubble construction. The design and detailing of the proposed new dwellings does not fit appropriately into the site having regard to the details of the previously approved conversion of the barn and the contribution this made to the appearance and historic integrity of the locality. The proposal is therefore also considered to be contrary to Policy LDP 9 of the adopted Argyll and Bute Local Development Plan as the setting, layout and design of the new housing is not reflective of historic and linear form of the original stone building on the site and therefore would undermine the character and appearance of the locality."

#### 4. The Relevant Development Plan Policies:

4.1 Section 25 of the Town and County Planning (Scotland) Act 1997 states that “where in making any determination under the planning act regard is to be had to the Development Plan, the determination shall be in accordance with the plan unless material considerations indicate otherwise”

4.2 The following policies are referred to in the above reasons for refusal:

**Policy LDP DM1**, which under (G) states that within the Greenbelt encouragement will only be given to very limited and specific categories of countryside based development. These comprise:

- (i) Agricultural-related development.
- (ii) Farm diversification – tourism and rural business related development (excluding dwelling houses)
- (iii) Outdoor sport and recreational development.
- (iv) Development required to manage and sustain the natural heritage and access resources of the Greenbelt.
- (v) Demolition and replacement of buildings and alterations or extensions of such buildings, including dwelling-houses, subject to no change of use occurring.
- (vi) Change of use of buildings to residential institutional use.

A development outwith categories G(i) to (vi) may however accord with this policy when it is successfully demonstrated that the proposal will:

- 1) Retain a significant building at risk; or
- 2) Directly support the provision of essential infrastructure; or
- 3) Involve building development directly supporting recreational use of land.

**Policy LDP 9**, which states that the Council will require developers and their agents to produce and execute a high standard of appropriate design in accordance with the following criteria:

Development Setting

- (A) Development shall be sited and positioned so as to pay regard to the context within which it is located.

## Development Layout and Density

- (B) Development layout and density shall effectively integrate with the urban, suburban or countryside setting of the development. Layouts shall be adapted, as appropriate, to take into account the location or sensitivity of the area. Developments with poor quality or inappropriate layouts or densities including over development and overshadowing of sites shall be resisted.

## Development Design

- (C) The design of developments and structures shall be compatible with the surroundings. Particular attention shall be given to massing, form and design details within sensitive locations such as National Scenic Areas, Areas of Panoramic Quality, Greenbelt, Very Sensitive Countryside, Sensitive Countryside, Conservation Areas, Special Built Environment Areas, Historic Landscapes and Archaeologically Sensitive Areas, Historic Gardens and Designed Landscapes and the settings of listed buildings and Scheduled Ancient Monuments. Within such locations, the quality of design will require to be higher than in other less sensitive locations and, where appropriate, be in accordance with the guidance set out in "New Design in Historic Settings" produced by Historic Scotland, Architecture and Place, Architecture and Design Scotland.

## 4. Grounds for Review

- 4.1 Having regard to the above reasons for refusal, the matters to be addressed in the context of the current review are considered to be:
1. Would the application proposal comply with the requirements of **Policy LDP DM1 (G)** of the Local Development Plan, which relates to development in the Greenbelt and, if not, would material considerations indicate that planning permission could be granted as a 'minor departure' to the provisions of this policy? and
  2. Would the design of the proposed dwellinghouses comply with the requirements of **Policy LDP 9** of the Local Development Plan?

### **Reason for Refusal 1**

- 4.2 Taking each of these in turn, it is accepted that the proposal does not comply with any of the exceptions set out in categories G(i) to (vi) of Local Development Plan **Policy LDP DM1**. Neither does the proposal retain

a significant building at risk; directly support the provision of essential infrastructure; or involve building development directly supporting recreational use of land.

- 4.3 This does not however automatically mean that planning permission should be withheld. Local Development Plan **Policy SG LDP DEP 1** allows the Council to grant planning permission as a departure from policy when material planning considerations so justify. The following are considered to be relevant material planning considerations that should be afforded sufficient weight so as to allow the approval of application 18/01382/PP as a “minor departure” from **Policy LDP DM1 (G)**.

### ***Scottish Planning Policy (SPP)***

- 4.4 SPP states that the Scottish Government have stated that planning should take a positive approach to enabling high-quality development and making efficient use of land to deliver long-term benefits for the public while protecting and enhancing natural and cultural resources. The SPP thus introduces a presumption in favour of development that contributes to sustainable development. This means that the planning system must support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. Policies and decisions should therefore give due weight to net economic benefit, and should support the delivery of accessible housing, business, retailing and leisure development. It is clear from this that the Scottish Government are of the firm opinion that the planning system exists to promote, not to prevent, development.
- 4.5 The SPP also notes that NPF3 aims to facilitate new housing development, particularly in areas within our cities network where there is continuing pressure for growth, and through innovative approaches to rural housing provision. House building makes an important contribution to the economy. Planning can help to address the challenges facing the housing sector by providing a positive and flexible approach to development. In particular, provision for new homes should be made in areas where economic investment is planned or there is a need for regeneration or to support population retention in rural and island areas.
- 4.6 Paragraph 83 of the SPP further states that in remote rural areas, where new development can often help to sustain fragile communities, plans and decision-making should, where appropriate, allow the construction of single houses outwith settlements provided they are well sited and designed to fit with local landscape character, taking account of landscape protection and other plan policies.

- 4.7 Finally, SPP advises that LPAs should always consider the re-use or re-development of brownfield land before new development takes place on greenfield sites, and that the generally accepted definition of 'previously developed, or 'brownfield' land is that this is land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure.

### **Planning Advice Notes**

- 4.8 Planning Advice Notes (PANs) provide the Scottish Government's advice and information on technical planning matters. **Planning Advice Note 73** (Rural Development) states:

*"Development Plan policies should encourage rehabilitation of brownfield sites in rural areas and in appropriate locations allow for their re-development. Brownfield sites are broadly defined as sites that have previously been developed. In rural areas this usually means sites that are occupied by redundant or unused buildings or where the land has been significantly degraded by a former activity"*.

### **Relevant Planning History**

- 4.9 The history of the site is also a very relevant material consideration. Planning permission was originally granted for the conversion of a building. Clearly what was applied for at the building warrant stage was not what was granted planning permission. This was for the demolition of the building, and the erection of a new building containing two dwellings. It can only be assumed that Building Control did not check the planning register prior to issuing their approval for a development that did not have planning permission.
- 4.10 The developer naturally assumed that the Council (as a corporate body) had given its consent to demolish the barn, and on the basis of the warrant approval, the development commenced. It was only after the barn had been demolished that the developer was advised that the planning permission that had been granted had in effect then been lost.

### **Other Matters**

- 4.11 Finally, with respect to the first reason for refusal, it is not accepted that the proposed development would be "visually intrusive, visually discordant, or result in sporadic development in the countryside". "Sporadic" means "occurring at irregular intervals or only in a few places;



scattered or isolated”. As can be seen from the aerial photograph below paragraph 1.1, the site is immediately adjacent to the group of buildings at Camis Eskan Farm, and thus cannot result in “sporadic development”.

### **Reason for Refusal 2**

- 4.12 The second reason for refusal cannot be substantiated. This states that the “design of the proposed dwelling houses are not appropriate for this location” and that the “design and detailing of the proposed new dwellings does not fit appropriately into the site having regard to the details of the previously approved conversion of the barn”
- 4.13 Below is an extract from the plans of the conversion that was granted planning permission by the Council in 2007.



1 Northeast  
1 : 200

- 4.14 And below is an extract from the plans submitted in respect of the refused application that is now the subject of the current review. As can be seen, the two are identical in every material respect.



- 4.15 The submitted Supporting Planning Statement furthermore noted that “the original stone will be used to face the external walls of the replacement building, and the roof will be covered in natural slate”. What would be

built, should this review be successful, would therefore be a faithful replica of the barn conversion that was previously approved. The precise details of the stone facing etc. would be able to be controlled through the imposition of a planning condition, so as to ensure a satisfactory standard of development.

## 5. Conclusions:

- 5.1 In conclusion, with respect to the first reason for refusal, it is considered that there is a significant material consideration that would allow planning permission to be granted as a minor departure from the provisions of **Policy LDP DM1 (G)** of the adopted Local Development Plan. This is that in 2008 the Council approved the demolition of the former barn that stood on the site, and the erection of exactly the same two dwellings that are now being proposed. Whilst this was in respect of a building warrant, not a planning permission, the applicant naturally took this to mean that the barn could be demolished and re-built. Acting on this legitimate expectation however has now meant that the planning permission that was granted has unfortunately been forfeit.
- 5.2 With respect to the second reason for refusal, the concerns expressed appear to be based on an incorrect assumption. As has been demonstrated above, the appearance of the development now being proposed is identical in every material respect to that which was granted planning permission in 2007. It cannot therefore be said that the design and detailing of the proposed new dwellings does not fit appropriately into the site having regard to the details of the previously approved conversion of the barn.
- 5.3 Finally, as can be seen from the photographs in Appendix 1, the site is now an 'eyesore'. It is also, having regard to **Planning Advice Note 73**, 'previously developed land', and **Scottish Planning Policy** advises LPAs that they should always consider the re-use or re-development of brownfield land before new development takes place on greenfield sites. The two new dwellings proposed cannot reasonably be considered to be "sporadic development". Granting the planning permission applied for will deliver two new homes and will 'complete' the development of the farm house and the steading. If planning permission is not granted, the site will remain in a semi-derelict condition in perpetuity.



