

STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

18/0008/LRB

**REVIEW AGAINST REFUSAL OF PLANNING PERMISSION
IN PRINCIPLE REF. 18/01267/PPP**

**LAND SOUTH OF 91 BULLWOOD ROAD, DUNOON,
ARGYLL**

29/10/2018

STATEMENT OF CASE

The Planning Authority is Argyll and Bute Council (“the Council”). The appellant is Mr. Robert McNeil, 91 Bullwood Road, Dunoon. The agent is Colin Potter of Architeco Ltd.

Planning application ref. 18/01267/PPP, which proposed the erection of a dwellinghouse on land south of 91 Bullwood Road, Dunoon (“the appeal site”), was refused on 27th August 2018.

The planning decision has been challenged on the basis of the appellant’s agent’s comments below that are the subject of review by the Local Review Body.

DESCRIPTION OF SITE

In the adopted Argyll and Bute Local Development Plan (LDP), the appeal site is located within the Countryside Zone which forms the backdrop to the Bullwood / Dunoon coastal settlement zone. The appeal site is located off a private road currently serving five dwellinghouses.

The appeal site occupies an exposed and elevated location on the western periphery outwith the Dunoon settlement area above the A815, south-west by some 85m of a group of three modern dwellinghouses (Briensco, Allanbank and Lasata) and west of and above Ardallow House and Thie Vane by some 42m. The applicant’s own dwellinghouse Garhallow, is situated at a higher level north-west of the application site. The appeal site is served by a private access from the A815 Bullwood Road which serves Ardallow Gate Lodge before climbing the wooded hillside with the lower spur serving the three dwellinghouse and the application site and a higher spur serving Garhallow with a connection through mixed woodland to the main Dunoon to Innellan Timber Haul Route, approximately 1km to the west.

Planning Permission in Principle is sought to erect a single dwellinghouse on a narrow strip of woodland (approximately 80 x 13m) south-west of an existing cluster of three dwellinghouses. Only indicative details have been submitted at this stage which show a rectangular building footprint of 15 x 6 metres located centrally within the site with the long front elevation facing the Firth of Clyde. The existing private access serving the three dwellinghouses nearby would be extended to create an access for the proposed dwellinghouse. An indicative parking and turning layout is shown at the northern end of the site. The remainder of the site would be garden ground. It is proposed to connect to the public water supply and public sewer network and remove trees to create the development site.

SITE HISTORY

There is an extensive site history detailed in the report of handling in Appendix A. However, the most notable and recent is referred to below for ease of reference. The site has previously been referred to as ‘plot 4’ and part of a wider scheme of development.

A detailed application (ref. 02/01249/DET) for the erection of a dwellinghouse on ‘Plot 4’ was refused by Committee on 3rd September 2002 and a subsequent appeal (ref. 03/00003/REFPLA, P/PPA/130/94) dismissed on 28th April 2003. These applications were refused primarily against the provisions of the Cowal Local Plan 2004 on the basis that a dwellinghouse would be out of context in terms of settlement character and the three dwellings adjacent, inappropriate design and siting, and loss of woodland as a key environmental feature.

A further detailed application (ref. 04/02235/DET) was withdrawn on 22nd November 2004 under Section 39 of the Town and Country Planning (Scotland) Act 1997 where the Council declined to determine the application having regard to the appeal decision and the fact that the application was submitted within two years from the date of the appeal decision. The

applicants were advised that they would be entitled to submit another application two years after the date of the appeal decision i.e. after 28th April 2005 where the views of the Reporter in his appeal decision would weigh most heavily in any recommendation, the Reporter noting that:

“I have taken into account the existing dwellings on the track leading to this site, but I am not persuaded that it would form infill or rounding off. They form a separate group distinct from the appeal site. Neither would it reflect the general pattern of coastal development in this part of Bullwood..... I am satisfied that the reasons for granting permission for these other houses were based on a different premise from this proposals.”

The applicants however were advised that should an application be submitted after 28th April 2005, the department would not support the principle of development.

A pre-application enquiry (ref. 11/01556/PREAPP) to site a dwellinghouse on the application site was received 19th August 2011 where the proposed development was not regarded as infill, rounding-off, change of use or redevelopment in a wooded and prominent area of Countryside Around Settlement, therefore contrary to both the Argyll and Bute Structure Plan and Argyll and Bute Local Plan (August 2009). It was also considered that the previous reasons for refusal were still relevant albeit covered by updated policies. On this basis and the surrounding landscape character and settlement pattern, the department were unable to offer support for a dwellinghouse in this location.

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 siting of the proposed dwellinghouse is acceptable in terms of the existing settlement character within the wooded Countryside Zone?
- Whether the proposed development would adversely affect the immediate settlement character?
- Whether the proposed dwellinghouse represents acceptable infill, rounding-off or redevelopment within the Countryside Zone?
- Whether the proposed development on a prominent site would result in adverse visual impact?
- Whether the proposed development on a prominent site would result in adverse impact on the wooded hillside?

The Report of Handling dated 24th August 2018 [Appendix 1] sets out the Council's assessment of the application in terms of Development Plan policy and other material considerations. Photographs are included within this response to illustrate the nature of the site surroundings and help explain the issues related to in the text below.

COMMENT ON APPELLANT'S SUBMISSION

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

1. The refusal seems to misconstrue the nature and setting of the site. The refusal completely disregards our application for development on a brownfield site, failing to address the brownfield status of the site at all. The refusal states that the site is 'unrelated and uncoordinated' with the existing settlement. In fact, the site sits perfectly comfortably within the boundaries of an existing settlement and would contribute to a Sustainable Siting settlement pattern, as described in the authority's Design Guidance.

2. The refusal cites adverse environmental impact of a site at this location, related to visual quality of the dwelling. This would surely be almost totally dependent on the proposed design of the building, which, as this is an application for permission for Planning in Principle, has not been designed and therefore does not have a 'visual quality' as yet. Excellence of design could contribute a sustainable, positive environmental impact at this site.

3. The refusal states that a large number of trees would need to be felled. This is untrue. No trees would need to be felled.

Taking each of the appellant's agent's expanded comments in turn:

1. Nature and setting of the site.

In the Argyll and Bute Local Development Plan, Brownfield sites are described as:

"sites comprising land which has previously been developed. The term may encompass vacant or derelict land, infill sites, land occupied by redundant or unused buildings, and developed land within the settlement boundary where further intensification of use is considered acceptable.*

**In addition to brownfield land, the settlements can include land which has not previously been developed such as infill and rounding off land on the settlement periphery within the settlement boundary."*

In the Argyll and Bute Local Development Plan, Redevelopment is described as:

"a development of new buildings involving significant demolitions; or the extension of a building involving more than a doubling of the cubic volume of the building but not exceeding three times the cubic volume (less than a doubling being treated as a building extension and more than a trebling, as new build)."

Contrary to the agent's comments, the appeal site is clearly not a brownfield site with no sign of any evidence of recent or historic development. The appeal site is characterised by a thick cover of semi-mature trees with very limited areas of clearings where trees have been unable to take root due to damp ground conditions. There is currently no visibility outwards from the appeal site as can be clearly seen from the photographs which were taken from the centre of the site.



There is however evidence of a World War II observation post on the upper tier beyond the existing three dwellinghouses but there is no evidence of any form of development that would constitute either a redevelopment in the Countryside Zone or classified as a Brownfield site. The appeal site has been zoned within a Rural / Countryside Zone since the Cowal Local Plan was adopted in 1995 and currently within the Argyll and Bute Local Development Plan 2015. The essence of the policy governing this area type has not significantly altered during this time.

The agent has referred to a cleared site where there once were buildings / structures. Visits to the site revealed that it is heavily vegetated and cannot be readily viewed from the end of the private access road. Officers do not recognise the appeal site described by the appellant's agent. With all Brownfield sites there is an environmental benefit to remediating and developing land. However, in this instance, as seen from the photographs above, there is no evidence of previous development and certainly no cleared areas. Significant semi mature trees would need to be felled in order to create a cleared area for development. There would not be an environmental gain but rather an unfortunate intrusion into the unbuilt countryside edge to the settlement. It is not clear to what former development works the agent is referring to in their submission.

It should be noted for the sake of clarity that the reference to policy SG LDP HOU2 is incorrect. This is a minor typographical error where policy SG LDP HOU1 is the policy referred to and assessed in the Report of Handling.

2. Environmental Impact

Planning response:

The review site has been the subject to significant numbers of planning applications over the years and each time they have been refused. There has been no real change in policy terms with the site always having been considered a 'rural / countryside' zone. Planning history is a

material consideration in the determination of planning applications and officers have applied a consistent approach over the years refusing each application. This approach was supported by the Scottish Government Reporter during the most recent appeal in 2004. A pre-application enquiry was made in 2011 and assessed under the auspices of the Local Plan 2009. Again, the policy position from the former Cowal Plan had not changed and the appellant advised accordingly. We are now in a position where the appellant has decided to apply under the current Local Development Plan which has essentially adopted the same policy approach as per previous plans.

3. Woodland

The issue of the site as Brownfield land has already been addressed. The appeal site is characterised by a dense cover of semi-mature trees and saplings with very limited clearings which appear too damp for trees to take root. There is currently no visibility outwards from the appeal site as can be clearly seen from the photographs above which were taken from the centre of the site looking in all directions.

Whilst no design details were submitted with the current application for Planning Permission in Principle, the drawings provided an indicative building footprint and driveway access to suggest how the site may be developed. Any development within the appeal site would require a significant amount of trees and shrubs to be cleared as the site is currently heavily overgrown with a variety of semi-mature trees and saplings. Such trees and shrubs provide some general landscape, habitat and biodiversity value. To afford a proposed dwellinghouse sufficient daylight and aspect, this would necessitate the creation of a further clearing south of the existing group of three dwellinghouses.

The ground clearing works necessary for the development would result in further erosion of the wooded hillside with adverse visual impacts when viewed from further afield. No visual images were submitted by the agent at the time of the application demonstrating the successful integration of a dwellinghouse on this part of the wooded hillside.

Further matters:

Since the refusal of the planning application Historic Environment Scotland has notified the planning authority that the Ardhalow Battery and Defences has been designated a Scheduled Ancient Monument (SM13683). The area of the SAM lies immediately to the west and south of the appeal site and may have implications for development of the site. A plan of the Ardhalow Battery and Defences is attached below.



Boundary of Scheduled Ancient Monument with Appeal site adjacent the east edge.

The monument comprises a coast artillery battery and landward defences built between 1901 and 1905 with alterations during the First and Second World Wars. It is visible as the remains of three gun emplacements with subterranean magazines, a battery observation post, trenches, dugouts and the earthworks of a number of blockhouses. The battery and defences are located on the east-facing slopes of Corlarach Hill, around 3km south of Dunoon, on the Firth of Clyde.

This monument is of national importance as a well-preserved example of pre-First World War coast artillery battery in Scotland, used and modified during the First and Second World Wars when it formed part of a wider network of coastal batteries to defend the important port and ship-building centre on the Clyde. Key structural elements of a coast battery survive to a marked degree at Ardhalow, including the gun emplacements, magazines, command post and battery observation post. The site is also notable for a very rare surviving network of landward defences in the form of trenches and blockhouses. These imposing concrete structures and associated defences are a tangible and powerful reminder of two of the defining events of the 20th Century. If this monument was to be lost or damaged, it would significantly affect our ability to understand the nature and scale of the efforts made to defend Britain against enemy naval threats in the early 20th Century and during the First and Second World Wars.

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 attached Report of Handling [Appendix 1] clearly details why Planning Permission in Principle could not be supported due to the siting of the proposed dwellinghouse in a prominent wooded location which was contrary to the surrounding settlement pattern with adverse visual and landscape impacts. The application necessitated a straight forward policy refusal against LDP DM 1 and LDP HOU 1.

The original reasons for refusal are set out below.

1. In the absence of any sound locational need for a dwelling, development of this hillside on the western periphery of Bullwood is unrelated and uncoordinated with the existing settlement pattern of the area contrary to the provisions of policies LDP STRAT1, LDP DM1, LDP8, LDP9 and SG LDP HOU2 of the Argyll and Bute Local Development Plan in that the Countryside Zone in which the application site is located, does not have the general capacity to successfully absorb any scale of new housing development located away from existing buildings. The proposed development does not represent infill, rounding-off, or redevelopment and there is no specific locational need for a dwellinghouse in this location.
2. The proposed development would result in an adverse environmental impact having regard to the divorced, exposed, elevated and unduly prominent location within this sensitive and fragile woodland within the Countryside Zone. The landscape quality of the area is neither maintained nor enhanced and a new dwelling at this site would fail to reflect the coastal development of this area which are key features of the landscape that provide visual relief and a significant contribution to the landscape. The western slopes above Bullwood do not have the capacity to assimilate new individual isolated dwellinghouses that are separated or divorced from the existing coastal corridor having regard to the established settlement pattern.

By virtue of its divorced location and undue prominence within this sensitive and fragile woodland, development of the site for a dwellinghouse would be clearly visible from the A815 and the site cannot be developed without establishing an adverse environmental impact to the detriment of the rural landscape. The proposal will represent an intrusive structure within the surrounding rural landscape contrary to the provisions of policies LDP 10 and SG LDP ENV14 of the Argyll and Bute Local Development Plan.

3. The proposal by virtue of the necessity to fell a large number of trees within this woodland is contrary to the provisions of policies LDP 3 and SG LDP ENV6 of the Argyll and Bute Local Development Plan which states that the Council will resist development likely to have an adverse impact on trees by ensuring through the development management process that adequate provision is made for the preservation of and where appropriate the planting of new woodland/trees, including compensatory planting and management agreements.

The agent's argument is based on the fact that the appeal site is a Brownfield site that could accommodate a dwellinghouse as a rounding-off or extension to the existing group of three dwellinghouses and that the previous planning history and appeal decision has little weight.

Officers do not share the view of the appellant's agent and consider that no argument has been made for the locational need of a dwellinghouse in this wooded location and that it cannot be regarded as an exception to adopted policies. It is up to the decision makers what weighting to apply to the planning history and given the consistent policy stance since the Cowal Plan 2004 it is logical to maintain this position.

The western slopes above Bullwood do not have the capacity to assimilate new individual isolated dwellinghouses that are separated or divorced from the existing coastal corridor having regard to the established settlement pattern. By virtue of its divorced location and undue prominence within this sensitive and fragile woodland, development of the site for a dwellinghouse would be clearly visible from the A815 and the site cannot be developed without establishing an adverse environmental impact to the detriment of the rural landscape.

The proposal by virtue of the necessity to fell a large number of trees within this wooded hillside would have an adverse impact that could not be mitigated against given the requirements for daylighting and aspect for a proposed dwellinghouse.

Accordingly, and on the basis of all of the above, the department maintains its position of refusal under the terms of policies LDP STRAT1, LDP DM1, LDP 3, LDP 8, LDP 9, SG LDP ENV6, SG LDP ENV14, and LDP HOU1 and SG2 of the Argyll and Bute Local Development Plan, all of which presume against the nature of the development proposed.

Taking account of all of the above, it is respectfully requested that the appeal be dismissed and Planning Permission in Principle refused as per original recommendation.

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: 18/01267/PPP

Planning Hierarchy: Local application

Applicant: Mr McNeil

Proposal: Site for the erection of a dwellinghouse.

Site Address: Land south of 91 Bullwood Road, Dunoon, 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 dwellinghouse (no details submitted other than an indicative plan identifying a rectangular shaped dwellinghouse with a footprint of 15 x 6 metres) within a wooded area in an elevated location above the A815;
- Extension and alteration to existing private access road.
- Formation of on-site car parking and turning (indicative);

(ii) Other specified operations

- Connection to public water main;
 - Connection to public sewer;
 - Clearance and removal of vegetation within site.
-

(B) RECOMMENDATION:

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

(C) HISTORY:

The proposal to site a dwellinghouse on this prominent wooded site (*also known as 'Plot 4'*) has an extensive planning history and this is summarised below.

Ref. 15,290: Detailed planning permission was granted on the 12th August 1974 for the erection of 27 chalets which included part of this application site. This permission was never implemented.

An outline application (ref.01/01331/OUT) for the erection of a dwellinghouse on 'Plot 4' was refused by Committee on 5th October 2001.

A detailed application (ref. 02/01249/DET) for the erection of a dwellinghouse on 'Plot 4' was refused by Committee on 3rd September 2002 and a subsequent appeal (ref. 03/00003/REFPLA, P/PPA/130/94) dismissed on 28th April 2003. These applications were refused primarily against the provisions of the Cowal Local Plan on the basis that a dwellinghouse would be out of context in terms of settlement character and the three dwellings adjacent, inappropriate design and siting, and loss of woodland as a key environmental feature.

A further detailed application (ref. 04/02235/DET) was withdrawn on 22nd November 2004 under Section 39 of the Town and Country Planning (Scotland) Act 1997 where the Council declined to determine the application having regard to the appeal decision and the fact that the application was submitted within two years from the date of the appeal decision. The applicants were advised that they would be entitled to submit another application two years after the date of the appeal decision i.e. after 28th April 2005 where the views of the Reporter in his appeal decision would weigh most heavily in any recommendation, the Reporter noting that:

"I have taken into account the existing dwellings on the track leading to this site, but I am not persuaded that it would form infill or rounding off. They form a separate group distinct from the appeal site. Neither would it reflect the general pattern of coastal development in this part of Bullwood..... I am satisfied that the reasons for granting permission for these other houses were based on a different premise from this proposals."

The applicants however were advised that should an application be submitted after 28th April 2005, the department would not support the principle of development.

A pre-application enquiry (ref. 11/01556/PREAPP) to site a dwellinghouse on the application site was received 19th August 2011 where the proposed development was not regarded as infill, rounding-off, change of use or redevelopment in a wooded and prominent area of Countryside Around Settlement, therefore contrary to both the Argyll and Bute Structure Plan and Argyll and Bute Local Plan (August 2009). It was also considered that the previous reasons for refusal were still relevant albeit covered by updated policies. On this basis and the surrounding landscape character and settlement pattern, the department were unable to offer support for a dwellinghouse in this location.

Associated History of the former Caravan Park

Ref 386/80: Detailed planning permission was granted on the 27th August 1980 for 9 caravans on land to the north of this application site.

95/05081/OUT: Outline permission was granted on the 22nd February 1996 for three houses within the confines of the former caravan park at Ardallow. The application was supported on the basis that it would result in an environmental gain through the removal of the existing caravans, which had become somewhat dilapidated.

98/01328/DET: Detailed planning permission was granted on the 10th November 1998 for the erection of a house within plot 2 (now Allanbank) of the outline permission site.

99/01600/DET: Detailed planning permission was granted on the 10th November 1999 for the erection of a house within plot 2 (now Allanbank) of the outline permission site.

00/01540/DET: Detailed planning permission was granted on the 8th December 2000 for the erection of a house within plot 1 (now Lasata) of the outline permission site.

01/00587/DET: A detailed application for a house within plot 3 was withdrawn by the applicants on the 22nd May 2001. A detailed application (ref. 01/01442/DET) for a house within plot 3 (now Briensco) was granted 18th October 2001 with a variation to that permission ref. 04/00465/VARCON of condition 6 of planning permission 01/01442/DET to retain raised front patio and side conservatory granted 5th May 2004.

(D) CONSULTATIONS:

Roads (response dated 13th July 2018): No objections subject to conditions regarding sightlines and parking requirements.

Scottish Water (response dated 29th June 2018): No objections in principle. Capacity in public water system but wastewater capacity issues. General advice on surface water and regulatory matters.

(E) PUBLICITY: The application was advertised under Regulation 20(1) Advert (publication date 13th July 2018, expiry date 3rd August 2018). Neighbour notification expired on 18th July 2018.

(F) REPRESENTATIONS: None.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) Environmental Statement:** No
- (ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No
- (iii) A design or design/access statement:** No
- (iv) A report on the impact of the proposed development e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** No

(H) PLANNING OBLIGATIONS

- (i) Is a Section 75 obligation required:** No

(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 (26th March 2015)

LDP STRAT1 Sustainable Development;
LDP DM1 Development within the Development Management Zones;
LDP 3 Supporting the Protection, Conservation and Enhancement of our Environment;
LDP 8 Supporting the Strength of Our Communities;
LDP 9 Development Setting, Layout and Design;
LDP 10 Maximising our Resources and Reducing Our Consumption;
LDP 11 Improving our Connectivity and Infrastructure.

Argyll and Bute Supplementary Guidance (approved March 2016)

SG LDP ENV 1 Development Impact on Habitats Species and our Biodiversity;
SG LDP ENV6 Development Impact on Trees / Woodland;
SG LDP ENV14 Landscape;
SG LDP HOU1 General Housing Development;
SG LDP SERV1 Private Sewage Treatment Plants and Wastewater Systems;
SG LDP SERV2 Incorporation of Natural Features / Sustainable Drainage Systems (SuDS);
SG LDP TRAN4 New and Existing Public Roads and Private Access Regimes;
SG LDP TRAN6 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.**

Planning history;
SPP, 2016;
Consultee responses;
Argyll and Bute Council Sustainable Design Guide, 2006.

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

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

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

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

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

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

The Proposal

In the Argyll and Bute Local Development Plan (LDP), the application site is located within the Countryside Zone which forms the backdrop to the Bullwood / Dunoon coastal settlement zone. The application site is located off a private road currently serving five dwellinghouses.

The site occupies an exposed and elevated location on the western periphery outwith the Dunoon settlement area above the A815, south-west by some 85m of a group of three dwellinghouses (Briensco, Allanbank and Lasata) and west of and above Ardhalow House and Thie Vane by some 42m. The applicant's own dwellinghouse Garhallow, is situated at a higher level north of the application site. The application site is served by a private access from the A815 Bullwood Road which serves Ardhalow Gate Lodge before climbing the wooded hillside with the lower spur serving the three dwellinghouse and the application site and a higher spur serving Garhallow with a connection through mixed woodland to the main Dunoon to Innellan Timber Haul Route, approximately 1km to the west.

Planning Permission in Principle is sought to erect a single dwellinghouse on a narrow strip of woodland (approximately 80 x 13m) south-west of an existing cluster of three dwellinghouses. Only indicative details have been submitted at this stage which show a rectangular building footprint of 15 x 6 metres located centrally within the site with the long front elevation facing the Firth of Clyde. The existing private access serving the three dwellinghouses nearby would be extended to create an access for the proposed dwellinghouse. An indicative parking and turning layout is shown at the northern end of the site. The remainder of the site would be garden ground. It is proposed to connect to the public water supply and public sewer network.

It is also proposed to remove trees to create the development site.

Settlement Strategy

Policy LDP DM1– Development within the Development Management Zones states that:

“Encouragement shall be given to sustainable forms of development as follows:-

(E) Within the Countryside Zone up to small scale on appropriate infill, rounding off and redevelopment sites and changes of use of existing buildings. In exceptional cases development in the open countryside up to and including large scale* may be supported on appropriate sites if this accords with an ACE**. There is a presumption against development that seeks to extend an existing settlement into the Countryside Zone.”*

Furthermore the supporting text provides the following commentary:

“1.1.6 Housing in Countryside Zone

The Countryside Zone does not have the general capacity to successfully absorb any scale of new housing development when it is located away from existing buildings.

Consequently, the presumption in favour of new housing development is restricted to change of use of existing buildings or small-scale development in close proximity to existing buildings on infill, rounding-off, and redevelopment sites, where these are not immediately adjacent to defined settlement boundaries.

1.1.7 Notwithstanding the initial presumption against new housing development, on a bareland croft or where an operational need has been established and the applicant demonstrates that there is a specific locational need to be on, or in the near vicinity of the proposed site, small-scale housing may be considered in locations away from existing buildings within this zone. This is provided there is sufficient capacity to successfully integrate the proposed housing development within the landscape. The planning authority will conduct an Area Capacity Evaluation (ACE) in order to assess the direct and cumulative landscape impact of any such development. The ACE process is further explained in SG Area Capacity Evaluation.”

In this instance the proposal is located outwith the settlement boundary of Dunoon within a woodland setting and divorced from any other form of development. It is not, therefore, considered infill, redevelopment or rounding off. The applicant has not submitted an exceptional case such as that of a single house on a bareland croft but rather just an application for a house in open countryside. With this in mind the principle of development is not consistent with the LDP. Given that the proposal is recommended for refusal and there is no exceptional case being presented by the applicant an area capacity evaluation (ACE) as per policy SG LDP ACE is not required. **The application proposes a residential property in open countryside in a woodland setting divorced from the existing settlement of Dunoon and any other development. It cannot be considered infill, redevelopment or rounding off given its proximity to existing development. It is considered that there are plenty of development opportunities within the settlement boundaries of settlements in the Cowal peninsula and that the application is not of sufficient merit to justify either an exceptional case or a departure to the policy. With this in mind the application is not consistent with policies LDP STRAT 1, LDP DM 1 and supplementary guidance SG LDP HOU 1.**

Landscape Impact

The proposal would be located to the west of an existing small cluster of properties by some 80m. To the north west is another property some 85m whilst to the south east and south are further properties some 30m and 65m away respectively. The ground rises from sea level to some 40m AOD whilst it continues to rise up behind the site providing coastal backdrop to the settlement.

Policy SG LDP ENV 14 – Landscape states that:

“Outwith National Scenic Areas and Areas of Panoramic Quality, Argyll and Bute Council will consider landscape impact when assessing development proposals, and will resist development when its scale, location or design will have a significant adverse impact on the character of the landscape unless it is demonstrated that:

(A) Any such effects on the landscape quality are clearly outweighed by social, economic or environmental benefits of community wide importance; AND

(B) The Council is satisfied that all possible mitigation measures have been incorporated into the development proposal to minimise adverse effects.

Developments will be expected to be consistent with Policy LDP 9 – Development Setting, Layout and Design, associated SG.”

In this area of land at Bullwood there are two distinctive components to this landscape. Firstly, it is principally a low lying linear settlement that has evolved along the coast which is characteristic of the corridor between Innellan and Dunoon. This development corridor is narrow in character although in occasion as is the case as at Glengarr (250m to the south of the application site) it extends inwards where the topography permits. There is limited development along this strip in the form of infill, rounding off and redevelopment opportunities.

Secondly, there are the steeply rising wooded slopes which rise above the coastal strip. Within this area trees predominate the slopes, which are primarily semi ancient natural woodland, interspersed with rhododendron infiltration. This area is almost wholly free of any development apart from the three houses to the north on the site of a former caravan park. In addition and further up this hillside is another house close to the former gun emplacement and lookout (i.e. the applicant's house). The latter area is visible neither to public view nor from the application site.

The application site is in an elevated location on rising ground above the coastal strip and to the rear of and above dwellinghouses Ardhallow House and Thie Vane. In view of its physical and visual relationship with the rising wooded slopes above the coastal plain, the site is located within the second Area of Common Landscape Character as described above.

One of the key characteristics of the area of common landscape character within which the site is situated is that the wooded rising slopes above the coastal plain are largely free from any development. There are only two areas of development within these slopes, the existing house and gun emplacement which is completely screened and the three new houses to the north of the site which is well screened. The wooded slopes above the coastal strip which are free of any development and this is the Key characteristic of this area of Bullwood.

In light of the areas of common character as detailed above, the ability of this landscape to absorb further development varies between the coastal plain and the wooded slopes on the western periphery of Bullwood.

The coastal plain area is principally a low-lying linear settlement that has evolved along the coast which is characteristic of the narrow coastal corridor between Innellan and Dunoon. This development corridor is narrow in character although on occasion it extends inwards where the topography permits as is the case as at Glengarr. There exists limited development opportunities along this strip for infill, rounding off and redevelopment and it is important to recognise that these are examples of clusters of development as opposed to single divorced houses.

On the wooded slopes above Bullwood, opportunities for development are not readily apparent. The elevated wooded hillside along the boundaries of the A815 is almost wholly free from any development, the three dwellings at the former caravan park were only permitted on the basis that they would result in the removal of a dilapidated caravan site and represented an environmental gain and they form their own cluster of development. There is no element of environmental gain, which could be associated with the development of this site that might justify the proposal.

There exists a fragile relationship between the settlement and the rural fringe boundary of Bullwood and between Innellan and Dunoon is reflected in the boundaries of the Local Development Plan Countryside Zone to protect the woodland within which the site is situated. With the removal of trees and vegetation, the site itself would be clearly visible to public view along the A815 when travelling northwards to both short and long distance views.

The development of this site to accommodate a dwelling would have an adverse environmental impact by its erosion and intrusion into this landscape, and would establish uncoordinated and unjustified development that would be at variance to the established settlement pattern of Bullwood. With this in mind the application is not consistent with the provisions of policy SG LDP ENV 14.

Impact on Trees / Woodland

The application proposes to clear the development site of trees. Policy SG LDP ENV 6 provides a general presumption against the loss of trees whilst also recognising the importance these areas play to biodiversity.

Policy SG LDP ENV 6 – Development Impact on Trees / Woodland states that:

“The Council will also resist development likely to have an adverse impact on trees by ensuring through the development management process that adequate provision is made for the preservation of and where appropriate the planting of new woodland/trees, including compensatory planting and management agreements.”

It is considered that the siting of the proposed development within this woodland would adversely affect its integrity and erode its setting contrary to the provisions of SG LDP ENV 6. To accommodate a dwellinghouse within the location will necessitate the felling of a large number of deciduous trees and rhododendrons on the eastern periphery of a woodland setting. This woodland is particularly important as it serves to both define the urban fringe of the settlement of Bullwood and contributes to the wider landscape setting of this area of Countryside Zone between Innellan and Dunoon

The applicant has not provided any details of those trees to be felled or a replanting regime. There are no habitat or species surveys to support the application. The planning authority recognises the value held by areas of undesignated woodland in landscape, visual and biodiversity terms. Therefore, the proposal is not consistent with the aims of policy SG LDP ENV 6.

Infrastructure

The proposed private road could hypothetically be extended to accommodate the proposed dwellinghouse and on the basis of the submitted plan, the site would be capable of car parking and turning provision. Roads offer no objections subject to conditions regarding sightlines and car parking.

The applicant intends to connect to Scottish Water’s infrastructure with which the planning authority would have no concerns.

With conditions the proposal could be consistent with policy SG LDP TRAN 4, SG LDP TRAN 6 and SG LDP SERV 1.

Conclusions

The proposed development is not in accordance with the Local Development Plan Policies LDP DM 1 and SG LDP HOU1 that allow for infill, rounding off and redevelopment related to the existing built form. For the reasons advanced in the report, the proposed development is not in keeping with the established settlement pattern of the area. If permitted, this would encourage piecemeal and uncoordinated development along the upper boundaries of Bullwood, eroding the existing woodland and undermining the fragile relationship that exists between the established settlement pattern of Bullwood and the coastal corridor between Innellan and Dunoon, contrary to the provisions of policies LDP DM1 and SG LDP HOU1.

The proposed dwellinghouse by virtue of its divorced location and siting would look out of place and at odds with the established settlement pattern of the area and would adversely affect the landscape setting of this wooded area within the Countryside Zone

to its detriment. Consequently, the fragile balance between the urban/rural fringe on the periphery of Bullwood would be distorted. The capacity of the area to assimilate new development is not readily apparent. The proposal would result in development conflicting with the established settlement pattern contrary to the provisions of policies LDP STRAT1, LDP DM1, SG LDP HOU1 and SG LDP ENV6 of the Argyll and Bute Local Development Plan (March 2016) including Argyll and Bute Supplementary Guidance (approved March 2016).

Given the above, the planning history of the site and having regard to the policies contained in the Argyll and Bute Local Development Plan, it is considered that the proposal to erect a dwellinghouse in woodland within the Countryside Zone is inconsistent with policies contained in the LDP and there are no special circumstances or material considerations which would justify approval.

(Q) Is the proposal consistent with the Development Plan: No

(R) Reason why Planning Permission in Principle should be refused.

1. In the absence of any sound locational need for a dwelling, development of this hillside on the western periphery of Bullwood is unrelated and uncoordinated with the existing settlement pattern of the area contrary to the provisions of policies LDP STRAT1, LDP DM1, LDP8, LDP9 and SG LDP HOU2 of the Argyll and Bute Local Development Plan in that the Countryside Zone in which the application site is located, does not have the general capacity to successfully absorb any scale of new housing development located away from existing buildings. The proposed development does not represent infill, rounding-off, or redevelopment and there is no specific locational need for a dwellinghouse in this location.
2. The proposed development would result in an adverse environmental impact having regard to the divorced, exposed, elevated and unduly prominent location within this sensitive and fragile woodland within the Countryside Zone. The landscape quality of the area is neither maintained nor enhanced and a new dwelling at this site would fail to reflect the coastal development of this area which are key features of the landscape that provide visual relief and a significant contribution to the landscape. The western slopes above Bullwood do not have the capacity to assimilate new individual isolated dwellinghouses that are separated or divorced from the existing coastal corridor having regard to the established settlement pattern.

By virtue of its divorced location and undue prominence within this sensitive and fragile woodland, development of the site for a dwellinghouse would be clearly visible from the A815 and the site cannot be developed without establishing an adverse environmental impact to the detriment of the rural landscape. The proposal will represent an intrusive structure within the surrounding rural landscape contrary to the provisions of policies LDP 10 and SG LDP ENV14 of the Argyll and Bute Local Development Plan.

3. The proposal by virtue of the necessity to fell a large number of trees within this woodland is contrary to the provisions of policies LDP 3 and SG LDP ENV6 of the Argyll and Bute Local Development Plan which states that the Council will resist development likely to have an adverse impact on trees by ensuring through the development management process that adequate provision is made for the preservation of and where appropriate the planting of new woodland/trees, including compensatory planting and management agreements.
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(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: 17th August 2018

Reviewing Officer: *David Love*

Date: 24th August 2018

Angus Gilmour

Head of Planning & Regulatory Services

REASON FOR REFUSAL RELATIVE TO APPLICATION REFERENCE 18/01267/PPP

1. In the absence of any sound locational need for a dwelling, development of this hillside on the western periphery of Bullwood is unrelated and uncoordinated with the existing settlement pattern of the area contrary to the provisions of policies LDP STRAT1, LDP DM1, LDP8, LDP9 and SG LDP HOU2 of the Argyll and Bute Local Development Plan in that the Countryside Zone in which the application site is located, does not have the general capacity to successfully absorb any scale of new housing development located away from existing buildings. The proposed development does not represent infill, rounding-off, or redevelopment and there is no specific locational need for a dwellinghouse in this location.
2. The proposed development would result in an adverse environmental impact having regard to the divorced, exposed, elevated and unduly prominent location within this sensitive and fragile woodland within the Countryside Zone. The landscape quality of the area is neither maintained nor enhanced and a new dwelling at this site would fail to reflect the coastal development of this area which are key features of the landscape that provide visual relief and a significant contribution to the landscape. The western slopes above Bullwood do not have the capacity to assimilate new individual isolated dwellinghouses that are separated or divorced from the existing coastal corridor having regard to the established settlement pattern.

By virtue of its divorced location and undue prominence within this sensitive and fragile woodland, development of the site for a dwellinghouse would be clearly visible from the A815 and the site cannot be developed without establishing an adverse environmental impact to the detriment of the rural landscape. The proposal will represent an intrusive structure within the surrounding rural landscape contrary to the provisions of policies LDP 10 and SG LDP ENV14 of the Argyll and Bute Local Development Plan.

3. The proposal by virtue of the necessity to fell a large number of trees within this woodland is contrary to the provisions of policies LDP 3 and SG LDP ENV6 of the Argyll and Bute Local Development Plan which states that the Council will resist development likely to have an adverse impact on trees by ensuring through the development management process that adequate provision is made for the preservation of and where appropriate the planting of new woodland/trees, including compensatory planting and management agreements.

APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application 18/01267/PPP

(A) Submitted Drawings

For the purpose of clarity it is advised that this decision notice relates to the following refused drawings:

1415-01-02 Rev B 1:2500 Location Plan;

1415-01-04 Rev A 1:500 Block Plan;

1415-01-05 Rev A 1:500 Proposed Site Plan.

(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.