

**LOCAL REVIEW BODY REFERENCE 18/0011/LRB**

**PLANNING APPLICATION 17/03118/PP**

**ERECTION OF A BOATHOUSE**

**LAND AT PORT A'GHUAIL, EAST OF WEST BARFAD, TARBERT**

**COMMENTS ON BEHALF OF THE LOCAL PLANNING AUTHORITY**

## **BACKGROUND**

This proposal relates to a 900 m<sup>2</sup> area of land above the rocky natural foreshore within a stretch of undeveloped coast in excess of 3 km in length between the key settlement and harbour at Tarbert and a small cluster of development around Barmore Island to the north.

The site lies within the Countryside Development Management Zone identified within the Argyll and Bute Local Development Plan – 2015 (LDP) wherein policy DM 1 (E) gives encouragement in principle to sustainable forms of small-scale development on appropriate infill, rounding-off, redevelopment and change of use of existing building. The proposed development does not constitute infill, rounding-off, redevelopment or change of use of existing buildings.

In exceptional circumstances it is possible to justify development under Policy LDP DM1 and SG LDP CST 1 where a locational/operational need has been advanced which is sufficient to warrant an exception being made to the LDP Settlement and Spatial Strategy, provided that it accords with the outcome of an Area Capacity Assessment (ACE). However, the conclusion in this case was that the appellant's aspirations for a private facility specifically to serve the leisure/recreational needs of a single householder did not demonstrate a significant justification to support an exception to the LDP Spatial and Settlement Strategy.

Supplementary Guidance SG LDP CST 1 establishes the preferred location for developments requiring a coastal location as the Developed Coast, which consists of coastal areas within the Settlement Development Management Zone, excluding the Natural Foreshore.

Given the ready and convenient access to existing facilities at Tarbert Harbour, a locational need for new development for boat storage and launching facilities on the undeveloped coast within the LDP Countryside Development Management Zone cannot be demonstrated. The existing facilities within a preferred area of developed coast are very conveniently located some 1.7km by road from the dwellinghouse concerned. This is a significant factor in whether a locational operational need for new development can be demonstrated.

If the applicant had no other means to store a boat and access the sea within a reasonable distance then an exception to local planning policy may have been justified. Planning permission has been approved for boat houses elsewhere in the wider area in such circumstances including sites at Castleton (by Lochgilphead) and Rosehill (West Kintyre.). In such cases development was supported as an exception strictly on the basis that they were located remotely from existing facilities.

During the assessment period for the application under Review, further information was submitted which sought to demonstrate a locational/operational need on the basis that the proposed development offered an alternative sustainable means of transport to and from the yacht belonging to the occupants of the dwellinghouse at plot 3 (which will be moored in Tarbert Harbour) to private motor vehicle journeys from the dwellinghouse to the harbour by road. The distance of the journey by road is approximately 1.7km taking some three minutes to complete. The relative impracticalities and inconvenience of transporting people and equipment to a yacht in the harbour from the proposed boathouse in an unpowered small craft, particularly in unfavourable wind conditions, strongly indicates that any environmental benefit in terms of reduction in use of fossil fuels is likely to be negligible, and certainly not so significant in sustainability terms as to justify an exception to Local Development Plan Policy.

However, it is noted that this sustainable transport argument does not form part of the Appeal and as such no further comment will be made in this respect.

The proposed development is for private recreational use in connection with a new dwellinghouse very recently constructed on plot 3, one of a consolidated group 5 no. dwellinghouses approved by virtue of planning permission reference 11/01887/PP on a site towards the top of the wooded gully inland from the coastal application site. The application site for the 5 no. dwellinghouses referred to above lies within an area zoned as 'Countryside' around the northern edge of the settlement of Tarbert, where Policy DM1 (E) operates a presumption against development which seeks to extend an existing settlement into the Countryside Zone. However, in this specific location an additional designation of a 'Potential Development Area' (PDA 13/3) recognised that a development of 5 eco dwelling-houses could potentially be accommodated without damage to the overall natural scenic qualities of this location or to the setting of Tarbert subject to appropriate siting and a high standard of eco-design.

It is relevant to note that the eastern and north-eastern boundaries of the PDA designation were carefully drawn to specifically exclude the undeveloped coast and to retain a wooded hillside coastal zone within the Countryside Development Management Zone, in order to protect the nearby undeveloped coastal zone from inappropriate development associated with the PDA.

Additionally, it's relevant to note that the approved layout was for a distinct and contained grouping of dwellinghouses in order to minimise visual impact within the wider landscape.

Subsequent to the approval of planning permission for 5 eco dwellinghouses, an application for planning permission, reference 14/02444/PP, was submitted for the erection of 5 no. boathouses on a site which corresponds to the application site currently under review. The only difference in the site boundary relative to the earlier application site is that it omitted a strip of land previously shown to provide a vehicular access track which crossed the burn to the north of the site in order to connect with an existing but overgrown track on that side of the burn. The earlier application also showed the construction of a masonry slipway to launch and over the rocky foreshore (omitted in the application under review). The 570m<sup>2</sup> of associated land to be covered by Kedel re-cycled plastic ground re-inforced grid with grass infill remains the same as previously proposed. The scale, siting, site coverage (footprint), form and external material finishes of the proposed boathouse is identical to the westernmost of the 5no. row of boat houses originally proposed.

The original application for 5 no. boat houses was withdrawn by applicant on 24<sup>th</sup> February 2016 following advice that the Local Planning Authority would not support the application. The determination of this application, now under review, is therefore wholly consistent with advice previously given by the Local Planning Authority.

Given this clear aspiration for a total of 5 no. boathouses with access and a slipway, the Local Planning Authority has in refusing the application, given material consideration to the possible demand for additional development which might arise from the granting of planning permission for this development, and the prospect of impacts arising from cumulative development and intensification of activity within an area of presently undeveloped coast between Tarbert and Barmore Island.

Without demonstration of an exceptional case to the satisfaction of the Local Planning Authority in terms of either locational/operational need tied to the location or overriding economic or community benefit, the proposed development within undeveloped countryside zone runs contrary to the fundamental spatial strategy established by the adopted Local Development Plan 2015.

Additionally, it was considered that the acceptance of an aspiration for storage of private recreational equipment required by a household, on land separate from the residential curtilage of that house as an exceptional case would introduce a very dangerous precedent for further incremental development to the detriment of the character and built-development pattern of the wider area, particularly areas of vulnerable undeveloped coast.

Given the specific qualities of the site it was considered that the intervention of even a comparatively modest, but nonetheless substantial building would significantly alter the character and appearance of the area to the detriment of this vulnerable landscape. Additionally, the clear aspiration for further development of this area to provide up to 5 no. identical boathouses demonstrates the very real potential for cumulative development and it is considered that this localised landscape does not have capacity to accommodate this cumulative level of development without significant detriment to visual amenity and landscape character.

The planning application was consequently refused under delegated powers by notice dated 30<sup>th</sup> August 2018.

## **COMMENTS ON THE APPELLANTS GROUNDS OF APPEAL**

An appeal has been lodged against the refusal of planning permission for the proposed development with the request that it be approved.

### Local Development Plan - Settlement and Spatial Strategy

The appeal is founded largely on the application of local planning policy, specifically LDP DM 1 (E) which the appellant understands to be the key policy consideration. The appellant accepts that the development does not fall into any of the specific categories of development for which encouragement is given i.e infill, rounding off, redevelopment or change of use of existing buildings.

The Local Planning Authority accepts this interpretation of policy as accurate and balanced and does not dispute this position.

Instead, the appellant relies solely on the provision within LDP DM 1 that:-

*“In exceptional cases development in the open countryside may be supported if this accords with an ACE.”*

LDP Supplementary Guidance sets out the ‘exceptional case’ required to justify carrying out of an ACE as: -

*“the demonstration of a locational and/or operational need tied to a precise location.... or; demonstration of an overriding economic or community benefit which outweighs other policies of the Local Development Plan....”*

The fundamental issue disputed therefore can be stated as being the specific case for a locational and/or operational need tied to this location to justify a policy exception to the Settlement and Spatial Strategy of the LDP.

The locational need for the proposed development is put forward in the appellant’s statement as being required solely to serve the private recreational needs of a household occupying a recently constructed dwellinghouse within the locality, specifically that; -

*“The appellant’s wife and family enjoy water-related recreational activities and that the boat shed would allow for the storage of a small RIB to be used for rescue purposes if required”, and*

*“The shed is to store a small boat and other boating-related recreational equipment – lifejackets, wet suits, fishing rods and so forth.”*

With respect, a proposal for development in open countryside generated by lifestyle aspirations of a private household does not demonstrate locational need tied to this particular location.

Ready access to existing facilities at Tarbert harbour and numerous local opportunities to access the sea has to be a significant factor as to whether there is a demonstrable locational need in this case. The decision by the Local Planning Authority to refuse the application does not in any way prejudice access to the sea for the stated waterborne recreational activities enjoyed by the appellant’s family. Indeed there are plentiful launching points for canoes and a small RIB within the vicinity and very good marina facilities within 1.7 kilometres.

There is no clear locational need for fishing rods, life jackets, wet suits and other recreational equipment (or even a small boat) to be stored adjacent to the sea as clearly demonstrated by the many other residents within the wider area who share these popular recreational activities.

The appellant states that the location needs to be accessible from the house. As previously stated, there are existing facilities and ready points of access to the water accessible from the house on plot 3 and as such there is no demonstrable need for new development to justify an exception to planning policy.

As such, a locational need for new development in the open countryside has not been demonstrated in any way which could reasonably support an exception to fundamental spatial strategy of the LDP.

The appellant refers in detail to consideration of an appeal against a decision of Argyll and Bute Council to refuse an application for planning permission for a beach hut at Balevullin Beach on the Isle of Tiree.

The Reporter appointed by the Scottish Ministers to determine the above appeal identified as a main issue the extent to which the proposal was an ‘exceptional case’ with regard to policy LDP DM 1.

Each case must be determined on its individual merits, including the ready availability of existing facilities and access to the water. The proposal at Tiree is significantly different from the Review proposal in that it is for a public sporting facility with operational business requirements as well as additional beach safety/surveillance issues as opposed to development to satisfy the recreational aspirations of a single household living within the locality. As such, the Reporter’s assessment with regard to exceptional locational need for the sea-surfing business at a beach in Tiree cannot be afforded significant weight as a material consideration as part of this Review.

The appellant states that LDP DM 1 paragraph (F) supports small scale development related to outdoor sport and recreation within Very Sensitive Countryside and advances the view that this same support should be read into proposals for small scale sport and recreation development in the less sensitive Countryside. Paragraph F in the context of policy DM 1 refers to a hierarchical approach to Development Management zones successively more sensitive to development. As such it is appropriate that paragraph F seeks to specify appropriate development types which may be supported. The Local Planning Authority

accepts that notwithstanding lack of specific reference to “sport and recreation” in paragraph (E), this type of development may also be supported within the Countryside zone where an exceptional case is demonstrated and subject to an ACE. On this basis there is no anomaly in policy DM1 as a whole. This interpretation is consistent with The Reporters consideration of this issue in respect of the Tiree Surf Shack Appeal. Notwithstanding the introduction of an argument of internal anomaly within Policy DM 1 is noted that the appellant recognises that an exceptional case must still be demonstrated, and as such it does not advance consideration of the pertinent issues.

#### Area Capacity Evaluation

The appellant places significance on the fact that no formal ACE has been prepared by the local Planning Authority.

Policy LDP DM 1 clearly establishes two sequential tests. The first of these is whether the development benefits from a justifiable locational need, and then only if it can be supported as an exceptional case is there a policy requirement for an Area Capacity Evaluation.

Since, in the considered view of the Local Planning Authority, the proposal failed to demonstrate a locational/operational need tied to its location, there was no requirement for a formal ACE.

Notwithstanding the above, the impact of the proposed development has been very carefully assessed. It is acknowledged that the building falls within the definition of “small scale” development for the purposes of interpreting policy LDP DM 1, however “scale” of built development is relative, and has to be individually assessed on a case by case basis. In this instance, it is considered that the erection of a new building with a footprint of 40m<sup>2</sup> and maximum height of 4.5 will have a level of visual intrusion greater than its comparatively modest scale by virtue of its proposed location within an isolated and undeveloped coastal location, and therefore considerably more vulnerable to development than other locations. Albeit that the building will be largely screened in views from the loch by a rock outcrop, it will be visible within localised views on land, particularly given the proposed removal of existing natural vegetation. The Local Planning Authority remain of the view that this area of undeveloped coastal land is particularly sensitive to, and vulnerable to change by built development and associated intensification of activity.

The character of the site and its setting, typical of much of the undeveloped coast is formed by un-managed woodland with understorey vegetation and undulating hummocks with rock outcrops. The clearance of an area of 900m<sup>2</sup> of this natural vegetation, and the preparation of some 550m<sup>2</sup> land (equivalent to the area of two tennis courts) to provide a uniformly level and open, operational yard area with grass seeded plastic grid surface would result in an artificial, functional intervention which will have a significantly detrimental impact on the existing natural, wooded character of the site. It is noted that the appellant is prepared to forego the creation of the recycled plastic reinforced grid area if the Review is upheld, and the Local Planning Authority recommends that the Review Panel give serious consideration to restricting this element of the proposed development if minded to approve the proposed boathouse.

Whilst the application was considered on its own individual merits, it was relevant for the Local Planning Authority to have careful regard to relevant planning history on this site. Specifically, this comprised a previous application for planning permission for this boathouse plus the phased erection of a further 4 no. identical boathouses adjacent, in association with each of the 5 no. houses erected within the PDA to the west. This previous application also included the extension of an existing vehicular track from the other side of the burn north of the site and construction of a masonry slipway. Although, these latter elements have been omitted from

the application presently under review, it is relevant in that it demonstrates a very tangible aspiration for a scale of development and activity in excess of what is being suggested in relation to this case. It is submitted that this individual boathouse (and surfaced apron area), if approved contrary to fundamental policy in the absence of a demonstrated exceptional case, will be the 'thin end of the wedge', and will undoubtedly open the door for further pressure for development including further boathouses, slipways and access which may then prove difficult to resist.

In these circumstances, where the longer term aspirations for further intensification of development is evident from previous applications, it is relevant to take into account the visual and environmental impacts of cumulative development up to at least a five-fold scale and other associated ancillary development including a slipway.

## **CONCLUSION**

The Planning Authority's position is that a locational/operational need tied to this specific location has not been established to any degree which would support approval as an exception the Spatial Strategy of the adopted Local Development Plan established by policies LDP STRAT 1 and LDP DM 1. The appellant's case relies on no more than a household occupying a house near to the coast requiring storage facilities for a small boat and various water-based recreational equipment. If this was to be accepted as a genuine locational/operational need then it would establish an extremely dangerous precedent for similar incremental private recreational coast development in association with nearby dwellinghouses.

Given the relatively isolated, intimate and undeveloped character of this locality, notwithstanding the comparatively small scale of the building, built-intervention and a resultant intensification of activity will be out of keeping with and detrimental to the special qualities of this landscape contrary to policies LDP 3 and SG LDP 14 of the Local Development Plan 2015.

Norman Shewan

Planning Officer

6<sup>th</sup> December 2018

## **SUGGESTED CONDITIONS IN THE EVENT OF THE APPEAL BEING ALLOWED**

1. The development shall be implemented in accordance with the details specified on the application form dated 1<sup>st</sup> December 2017 and the approved drawings numbered

1 to 5 and stamped approved by Argyll and Bute Council unless the prior written approval of the planning authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.

2. The land and building to which this permission relates shall only be used for the storage of boats and general water-based recreation craft and associated equipment ancillary to the occupation of the associated dwellinghouse at Plot 3, West Barfad as indicated on the application submission and shall not be used independently thereof and for no other use or separate from the occupation of the dwellinghouse.

Reason: To enable the Planning Authority to control any subsequent change of use which might otherwise benefit from deemed permission in order to protect the amenity of the locale.

3. Notwithstanding the provisions of Condition 1, the proposed creation of an open apron area formed by the laying of a recycled plastic ground re-enforcement grid with grass infill shall be expressly omitted from this planning permission.

Reason: In the interests of protecting the informally natural and intimate character of this area of coast and its setting within the wider landscape consistent with Local Development Plan policy.

4. No boats, equipment, containers, caravans or trailers shall be stored within the planning unit on land outside of the building.

Reason: In order to protect the visual amenity of the locality and to protect the qualities of this coastal landscape.