

STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

19/0004/LRB

**REFUSAL OF PLANNING PERMISSION IN
PRINCIPLE FOR SITE FOR THE ERECTION
OF A DWELLINGHOUSE**

**GARDEN GROUND OF 'WITCHWOOD',
CORRAN ESPLANADE, OBAN**

14/08/19

STATEMENT OF CASE

The Planning Authority is Argyll and Bute Council ('the Council'). The appellant is Mr Gilbert Mackechnie ('the appellant').

Planning permission in principle 18/02652/PPP for a site for the erection of a dwellinghouse within the garden ground of 'Witchwood', Corran Esplanade, Oban ('the appeal site') was refused by the Planning Service under delegated powers on 04/07/19.

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

DESCRIPTION OF SITE

The site is situated adjacent to an area of established woodland of Dunollie Estate known locally as 'The Witches' which is a valued area of outdoor amenity space within the main town centre of Oban and which is now within the care of The Woodland Trust. The site is accessed via a shared access track which runs along the rear of the Corran Esplanade providing vehicular access to a number of properties before it becomes a pedestrian only track leading to Dunollie House.

The site is situated adjacent to two detached dwellinghouses, 'Beechwood' which is within the defined settlement of Oban and 'Witchwood' which is within the Countryside Zone (CZ) as defined in the adopted 'Argyll and Bute Local Development Plan' (LDP) 2015. The site contains a number of mature trees along its boundary with the shared access track which are likely to be lost as a result of development of the site with a dwellinghouse.

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 Act, regard is to be had to the development plan, and all other material planning considerations and 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 the proposed site complies with the policies and guidance set out in the LDP.*

The Report of Handling (Appendix 1) sets out the Council's full 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 CZ designation has been inaccurately assigned without due regard to the existing built environment, the natural and physical environment and without any recognition of the contours and gradients of the adjoining environs.

Comment: It remains the view of the Planning Service, for the reasons set out in the Report of Handling appended to this submission, that the proposed site does not represent an appropriate opportunity for infill, rounding-off, redevelopment or change of use of building development within the CZ as required by LDP policy and there has been no claim of an 'exceptional case' for the development based upon any locational or operational site requirement. It is considered that development of the site with a dwellinghouse would represent an inappropriate form of development within the CZ designation resulting in an unacceptable environmental impact introducing a form of inappropriate development into the CZ which would be detrimental to the character and appearance of the wider landscape contrary to the policy and guidance set out in the LDP.

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 above, it remains the view of the Planning Service, as set out in the Report of Handling appended to this statement, that the proposed site does not represent an appropriate opportunity for development with a dwellinghouse and would result in an unacceptable environmental impact by virtue of introducing a form of inappropriate development into the CZ detrimental to the character and appearance of the wider landscape.

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

Reference No: 18/02652/PPP

Planning Hierarchy: Local Development

Applicant: Mr Gilbert MacKechnie

Proposal: Site for Erection of Dwellinghouse

Site Address: Garden Ground of Witchwood, Corran Esplanade, Oban

DECISION ROUTE

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

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Site for erection of dwellinghouse
- Formation of vehicular access

(ii) Other specified operations

- Connection to public water network
 - Connection to public drainage system
-

(B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission in principle be **REFUSED** for the reasons appended to this report.

(C) HISTORY:

No history relevant to this particular site and no pre-application advice has been sought.

(D) CONSULTATIONS:

Area Roads Authority

Report dated 16/05/19 advising no objection subject to conditions regarding construction of access to shared use track and provision of an appropriate parking and turning area within the site.

Scottish Water

Letter dated 21/12/18 advising no objection to the proposed development but providing advisory comments regarding connection to their infrastructure.

Scottish Natural Heritage

E-mail dated 21/12/18 advising that the proposal does not meet their criteria for consultation.

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>.

(E) PUBLICITY:

The proposal has been advertised in terms of Regulation 20 procedures and Neighbour Notification procedures, overall closing date 31/01/19.

(F) REPRESENTATIONS:

No representations have been received regarding the proposed development.

(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:
Yes | |

A Design Statement has been submitted in support of the application which states that the Countryside Zone designation has been inaccurately assigned without due regard for the existing built environment, the natural and physical environment and without any recognition of the contours and gradients of the adjoining environs. The Design Statement concludes that the granting of planning permission for Witchwood, which has been built, sets a precedent that opens the site to a third and final development opportunity which would satisfy 'infill and rounding off' as set out in policy.

- | | | |
|------|--|-----------|
| (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, 2015

LDP STRAT 1 – Sustainable Development
LDP DM 1 – Development within the Development Management Zones
(*Countryside Zone*)
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

Supplementary Guidance

SG 2 – Sustainable Siting and Design Principles
SG LDP ENV 6 – Development Impact on Trees/Woodland
SG LDP ENV 13 – Development Impact on Areas of Panoramic Quality (APQs)
(*North West Argyll (Coast) APQ*)
SG LDP ENV 14 – Landscape
SG LDP HOU 1 – General Housing Development including Affordable Housing
SG LDP SERV 2 – Incorporation of Natural Features/Sustainable Drainage
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

(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

Planning permission in principle is sought for the erection of a dwellinghouse within the Garden Ground of Witchwood, Corran Esplanade, Oban.

In terms of the current adopted 'Argyll and Bute Local Development Plan' (LDP) 2015 the application site is situated within the Countryside Zone (CZ) where Policy LDP DM 1 of the LDP is very restrictive only giving support to small scale development on an appropriate infill, rounding off, redevelopment or change of use of building development, subject to compliance with other relevant policies and supplementary guidance (SG).

Policy LDP 8 supports new sustainable development proposals that seek to strengthen communities where they comply with other relevant policies with SG LDP HOU 1 limiting support to new housing within the CZ to an infill, rounding off and redevelopment basis.

The application site is also situated within the North West Argyll (Coast) Area of Panoramic Quality (APQ) where consideration has to be given to Policy LDP DM 3 and SG LDP ENV 13 which seek to resist development in, or adjacent to, an APQ where its scale, location or design will have a significant adverse impact on the character of the landscape.

Policy LDP 9 and SG 2 seek developers to site and position development so as to pay regard to the context within which it is located taking into account the location or sensitivity of the area with developments of poor quality or inappropriate layouts being resisted.

The application is seeking planning permission in principle (PPP) with no layout, design or infrastructure details having been submitted. The purpose of this application is to establish the principle of development, with the intention that if permission in principle were to be granted, matters of layout and design should be addressed by way of future application(s) for approval of matters specified in conditions.

The site is situated adjacent to an area of established woodland of Dunollie Estate known locally as 'The Witches' which is a valued area of outdoor amenity space within the main town centre of Oban and which is now within the care of The Woodland Trust. The site is accessed via a shared access track which runs along the rear of the Corran Esplanade providing vehicular access to a number of properties before it becomes a pedestrian only track leading to Dunollie House.

The site is situated adjacent to two detached dwellinghouses, 'Beechwood' which is within the defined settlement of Oban and 'Witchwood' which is within the CZ. The site contains a number of mature trees along its boundary with the shared access track which are likely to be lost as a result of development of the site with a dwellinghouse.

The site does not represent an appropriate opportunity for infill, rounding-off, redevelopment or change of use of building development within the CZ as required by Policy DM 1 above and there has been no claim of any 'exceptional case' for the development based upon any locational or operational site requirement. Furthermore, development of the site with a dwellinghouse would result in the loss of a valuable area of green space which contributes to the amenity of the wider landscape.

The Design Statement submitted in support of the application states that the CZ designation has been inaccurately assigned without due regard for the existing built environment, the natural and physical environment and without any recognition of the contours and gradients of the adjoining environs. The Design Statement concludes that the granting of planning permission for Witchwood, which has been built, sets a precedent that opens the site to a third and final development opportunity which would satisfy 'infill and rounding off' as set out in policy. The Planning Authority has considered the applicant's submitted Design Statement but do not agree with its findings. It is considered that development of the site with a dwellinghouse would represent an inappropriate form of development within the CZ designation resulting in an unacceptable environmental impact introducing a form of inappropriate development in to the CZ and wider APQ which would be detrimental to the character and appearance of the wider landscape contrary to the policy and guidance set out above.

With regard to infrastructure to serve the proposed development, the application proposes to utilise the existing shared access track spurring from the unclassified Corran Brae Road. In their response the Roads Authority advised that the existing access is adequate and raised no objection subject to conditions regarding the formation of the access into the site and provision of an appropriate parking and turning area within the site. Connection to the public water and drainage systems are proposed to which Scottish Water raised no objection but provided advisory comments regarding connection to their infrastructure. Whilst, with appropriate safeguarding conditions, this aspect of the proposal could be considered consistent with Policy LDP 11 and SG LDP TRAN 4 and SG LDP TRAN 6 which seek to ensure developments are served by suitable water supply and drainage arrangements and have a safe means of vehicular access and appropriate parking provision within the site, this is not relevant as the principle of development on the site is not considered consistent with policy as detailed above.

Taking all of the above into consideration, it is considered that the development of the site with a dwellinghouse would result in an unacceptable landscape impact contrary to the provisions of Policies LDP STRAT 1, LDP DM 1, LDP 3, LDP 8, LDP 9 and Supplementary Guidance SG 2, SG LDP ENV 6, SG LDP ENV 13, SG LDP ENV 14 and SG LDP HOU 1 of the adopted 'Argyll and Bute Local Development Plan' 2015 and it is recommended that the application be refused for the reasons appended to this report.

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

No

(R) Reasons why planning permission should be refused

See reasons for refusal below.

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

N/A

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

Author of Report: Fiona Scott Date: 25/06/19

Reviewing Officer: Tim Williams Date: 01/07/19

**Fergus Murray
Head of Development and Economic Growth**

REASONS FOR REFUSAL RELATIVE TO APPLICATION REFERENCE 18/02652/PPP

1. The site the subject of this application lies within an area designated as 'Countryside Zone' within the adopted 'Argyll and Bute Local Development Plan' 2015 and is situated adjacent to an area of established woodland of Dunollie Estate known locally as 'The Witches' which is a valued area of outdoor amenity space within the main town centre of Oban.

The site does not represent an appropriate opportunity for infill, rounding-off, redevelopment or change of use of building development within the Countryside Zone as required by Policy LDP DM 1 of the adopted 'Argyll and Bute Local Development Plan' 2015 and there has been no claim of any 'exceptional case' for the development based upon any locational or operational site requirement.

The application site is also situated within the North West Argyll (Coast) Area of Panoramic Quality (APQ) where consideration has to be given to Policy LDP DM 3 and SG LDP ENV 13 of the adopted Local Development Plan, which seek to resist development in, or adjacent to, an APQ where its scale, location or design will have a significant adverse impact on the character of the landscape.

It is considered that the proposed development would introduce an inappropriate and additional built development into an area of sensitive landscape quality, recognised by its inclusion within a wider Area of Panoramic Landscape Quality (APQ), and will have an unacceptable and materially harmful impact upon the character and quality of the APQ and the wider landscape, contrary to the established settlement pattern.

Furthermore the proposed development would result in the loss of a number of mature specimen trees to the detriment of the amenity value of the site and its setting within the wider landscape contrary to the provisions of SG LDP ENV 6 which seeks to resist development which would have an adverse impact on trees.

The proposal is therefore considered to be contrary to the provisions of Policies STRAT 1, LDP DM 1, LDP 3, LDP 8, LDP 9 and Supplementary Guidance SG 2, , SG LDP ENV 6, SG LDP ENV 13, SG LDP ENV 14 and SG LDP HOU 1 of the adopted 'Argyll and Bute Local Development Plan' 2015.

APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **18/02652/PPP**

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

No

- (B) Has the application been the subject of any “non-material” amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing.

No

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

See reasons for refusal above.