

**STATEMENT OF CASE**

**FOR**

**ARGYLL AND BUTE COUNCIL  
LOCAL REVIEW BODY**

**20/0010/LRB**

**REVIEW AGAINST REFUSAL OF  
PLANNING PERMISSION IN PRINCIPLE**

**REF: 19/02157/PPP**

**LAND AT THE HUF HAUS, BALMORY ROAD  
ASCOG, ISLE OF BUTE**

**24/06/2020**

## **STATEMENT OF CASE**

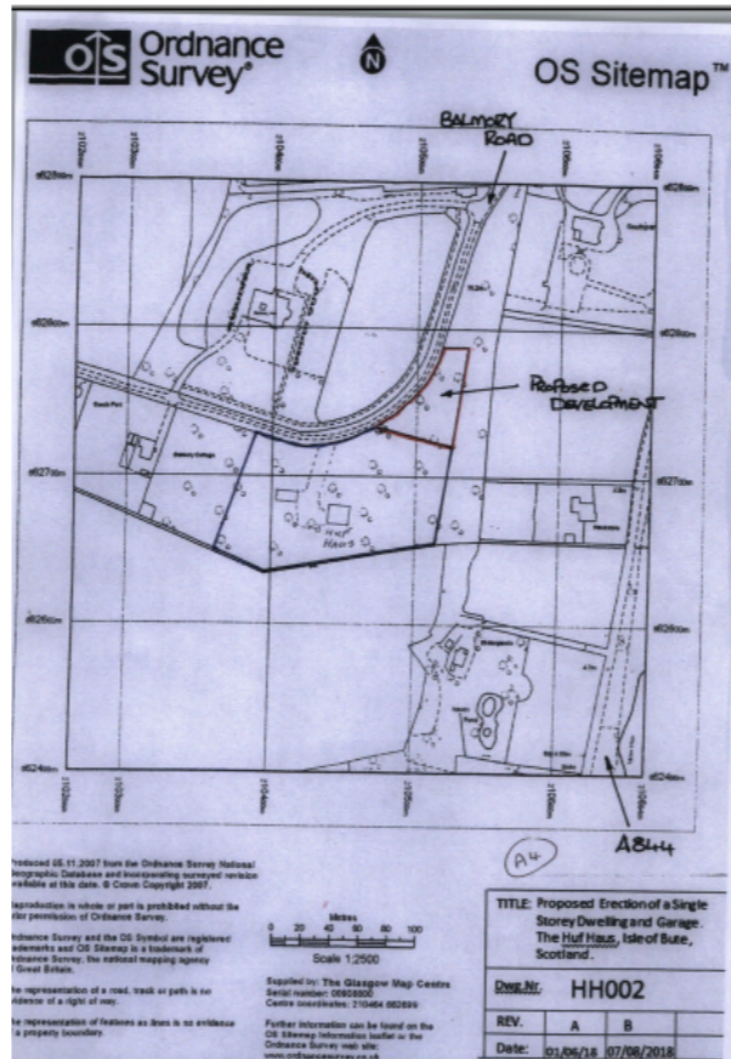
The Planning Authority is Argyll and Bute Council (“the Council”). The applicants for the Review are Tony and Beryl Harrison, The Huf Haus, Balmory Road, Ascog, Isle of Bute PA20 9LL (“the Applicants”). The applicants did not appoint an agent.

An application for Planning Permission in Principle (ref: 19/02157/PPP), which proposed the erection of a dwellinghouse on land to the north east of The Huf Haus, Balmory Road, Ascog, Isle of Bute PA20 9LL (“the Review site”), was refused on 17<sup>th</sup> April 2020.

The planning decision has been challenged on the basis of the comments of the applicants 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) 2015, the Review site is on land designated as 'Countryside' in the Ascog area on the Isle of Bute. The site is generally garden ground associated with the Huf Haus dwellinghouse and it contains a mix of trees that contribute to an attractive natural appearance located to the north east of the main building.



*[Production No. 1 – Location Plan Identifying Review Site]*

## Site and Surroundings

Ascog is located approximately 2 kilometres to the south east of Rothesay and represents the southern extremity of the extensive built development that begins in Port Bannatyne to the north and then through Ardbeg, Rothesay, Craigmore and Montford. The southern end of Ascog is characterised by a series of large houses that are mostly well hidden behind substantial stone boundary walls that dominate the landward side of the coast road. These buildings include Ascog Mansion; Ascog Hall (with its Victorian Fernery and Gardens); Southpark; and Hawkstone Lodge.

Balmory Hall is a Category 'A' Listed Building and is located in substantial grounds behind the linear strip of coastal development. It is accessed via Balmory Road, which is an unclassified

but publicly adopted road and a curved private drive leads up to the main building. After Balmory Road terminates at the driveway for Balmory Hall, a private road continues in a south-westerly direction. This private road also features a relatively pronounced curve and it serves the Huf Haus, Balmory Cottage, Stable Cottage and Balmory Stables.

The Review site (outlined in red in Production No. 2 below) is the north-eastern part of the curtilage of the Huf Haus, as identified in the original Outline Planning Permission (ref: 07/02143/OUT) granted in April 2008 and the subsequent Approval of Matters Specified in Condition (ref: 10/00161/AMSC) approved in April 2010.



*[Production No. 2 – Aerial View of Review Site]*

The applicants advise that, prior to 1988, the site was a field and that it was subsequently planted with cherry, birch, oak and beech. The applicants also mention that, during the succeeding 20 years, a number of trees were lost but, since their construction and occupation of the Huf Haus, they have planted oak, lime, birch, rowan, hazel and spruce, along with many shrubs within the area surrounding the plot.





*[Production No. 3 - photograph taken 7<sup>th</sup> November 2019. This view is looking in a south-westerly direction and shows the private road on the right hand side of the image. The car is parked in the access that serves the Huf Haus. The southern part of the Review site is located behind the hedgerow in the left hand side of the image]*



*[Production No. 4 - photograph taken 7<sup>th</sup> November 2019. This view is looking in a north-easterly direction and shows the private road in the middle of the image with the Review site located beyond the hedgerow in a northerly direction from the wooden pole]*

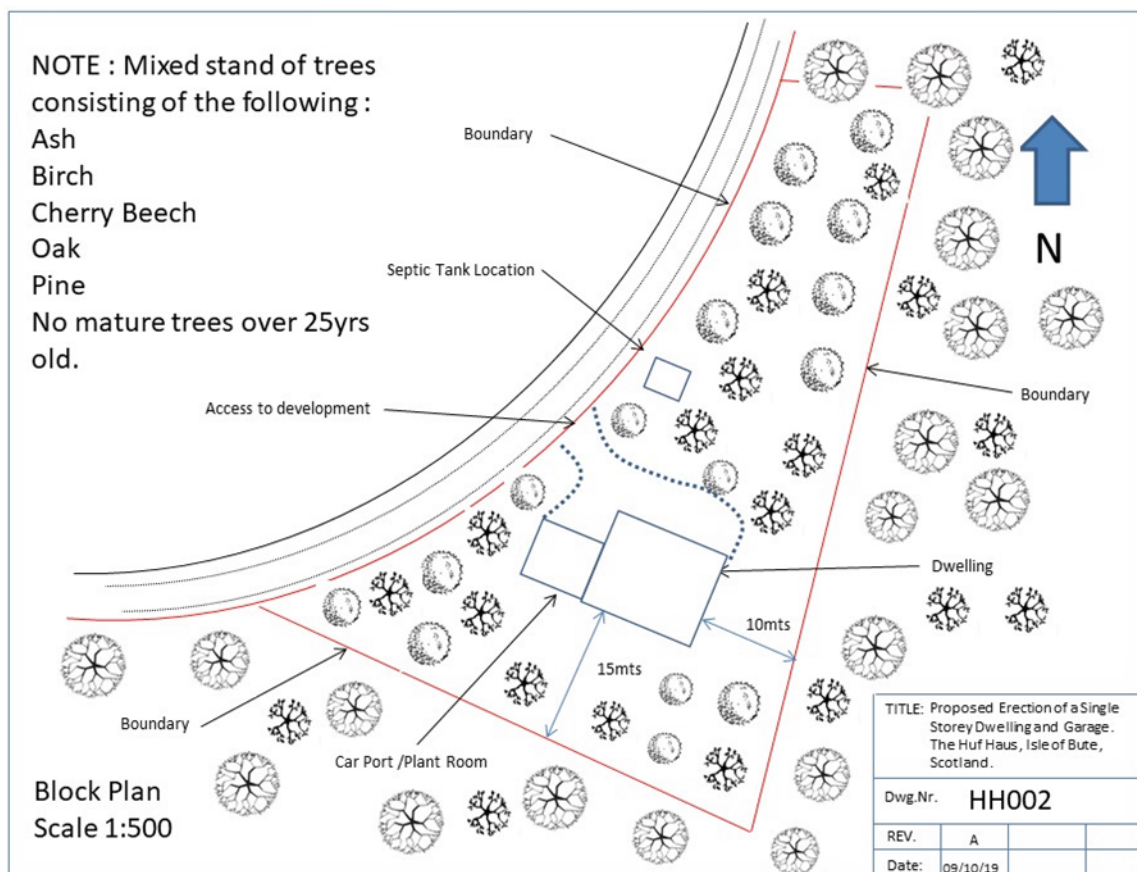


## The Proposal

The application sought Planning Permission in Principle with the consequence that the full details of the proposed dwellinghouse were not the subject of full consideration. Notwithstanding this, the applicants submitted a Block Plan (see Production No. 5 below) that showed an indicative layout and point of access.

In a separate Supporting Statement, the applicants commented as follows:

*“The proposal is to build a single-storey property in a location on the plot which is screened visibly using a design of a flat or low angle sedum/grass covered roof to minimise any visual intrusion. All major glazed areas will face south east, south or south west. The approximate size would be 120 square metres along with an adjoining garage/store of approximately 30 square metres. The dwelling would incorporate state of the art energy use and saving technology.”*



*[Production No. 5 –Block Plan Identifying Review Site]*

The driveway to serve the proposed dwellinghouse was to be taken from the existing private road. It was proposed to connect to the public water supply whilst a new private foul drainage system was to be installed.



*[Production No. 6 – photograph taken 7<sup>th</sup> November 2019. This view is looking in a south-easterly direction into the Review site from the private road and shows the indicative position of the access point between the two trees in the right hand side of the image. The indicative position of the dwellinghouse itself would be in the middle of the image]*

## **SITE HISTORY**

The history of applications for Planning Permission in relation to the Huf Haus and the Review site is detailed in the Report of Handling in Appendix A.

## **STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED**

Section 25 of the Town & Country Planning (Scotland) Act 1997 (as amended) 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.

## **DETERMINING ISSUES**

Argyll and Bute Council considers the determining issues in relation to the case are as follows:

- Whether the siting of the proposed dwellinghouse would accord with the Settlement Strategy as set out in the Argyll and Bute Local Development Plan (LDP) 2015?
- Whether the proposed dwellinghouse would represent an acceptable infill, rounding-off or redevelopment within the 'Countryside' zone?

- Whether there is a proven exceptional case associated with the proposal?
- Whether the proposed development would adversely affect the character and appearance of the Isle of Bute Area of Panoramic Quality (APQ)?

The Report of Handling dated 17<sup>th</sup> April 2020 (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 Statement of Case to illustrate the nature of the site and its surroundings and to assist in explaining the issues referred to in the text below.



## COMMENTS ON SUBMISSION OF APPLICANTS

The grounds for review raised in the statement of the applicants, and the Department's comments thereon, are as follows:

### **Ground No. 1**

*The Reason for Refusal states that the application site is located within a notable area of woodland and that the erection of a dwelling on the site would represent an unacceptable degree of intrusion resulting in an undermining of the structure and character of the landscape.*

*Whilst there is a strip of mature woodland adjoining the eastern boundary, it is important to point out that, prior to 1988, the site was a field and whilst planted then predominantly with cherry, birch, oak and beech, it was never managed and consequently many of these were lost to wind, deer and rabbit damage. So much so, that there are large areas free of significant trees. The proposed site is one of these areas.*

*Furthermore, many of the cherry trees are diseased and cankered, having reached the end of their expected 25 to 30-year life, and are being removed as necessary. Overall, it is estimated that approximately 20 of these trees would need to be removed in total. The pictures in the applicant's review document show a typical selection of these, the majority of which are cherry. Over the past ten years, the applicants have planted oak, lime, birch, rowan, hazel and spruce, along with many shrubs within the area surrounding the plot.*

### **Planning Department Response:**

Notwithstanding that the woodland within which the Review site is located has been largely created over the last 30 years, it does blend in successfully with the more established wooded areas that existed immediately to the north and east.

The Report of Handling in Appendix A below mentions that the reputable firm of landscape architects, Gillespies, undertook a study of the area around Ascog in 2009/2010 as part of a wider review of 'Rural Opportunity Areas' that had been identified on Bute at that time. Using established methodology, Gillespies described the particular characteristics of the area that is located to the south of Rothesay and bisected by the Loch Ascog Reservoir. More specifically, the eastern side of the area is bisected by a minor road and comprises sloping farmland which rises to 100m Above Ordnance Datum at the Hill of Ascog.

Whilst the Study emphasised that the larger area is generally an open landscape comprising rolling pastureland, it specifically highlighted as notable the areas of woodland that extend in a linear fashion to the north and south of Mid Ascog and the Review site is located within one of these wooded areas. Production No. 7 below identifies the Review site outlined in red whilst the notable areas of woodland are outlined in white.



*[Production No. 7 – location of the Review Site (outlined in red) within the notable areas of woodland (outlined in white) to the north and south of Mid Ascog]*

The Study identified only limited scope for further development within the larger area and detailed those key environmental features that it was desirable to protect. One of its conclusions was that development should not take place within the areas of woodland that it had highlighted. It concluded that, if development was to be allowed in these areas, it would have a detrimental effect upon the existing structure and character of the landscape.

In terms of the current proposal, it is considered that the potential loss of trees and other vegetation cover and their replacement with a dwellinghouse, access, hardstanding, fences and other associated suburban development would be visually intrusive, visually discordant and would not maintain or enhance the character of the area.

## **Ground No. 2**

*The Reason for Refusal also states that only applications for infill, redevelopment and rounding off will be supported. The track the proposed dwelling will use is also the main access to Balmory Road for three other properties. The position of the proposed dwelling is such that the applicants believe it should be treated as either 'infill' or 'rounding off'.*

### **Planning Department Response:**

The basis for examining this issue is the 'Glossary' in the LDP Written Statement, which contains definitions of these terms.

Firstly, '*infill development*' is defined as:

*"new development positioned largely between other substantial buildings and this new development being of a scale subordinate to the combined scale of the buildings adjacent to the development site."*

One of the main prerequisites for a plot to be considered suitable for infill development is that it should be "*positioned largely between other substantial buildings*". Indeed, situations can occur in small clusters of buildings outwith settlements where there are gaps in an otherwise continuous frontage (normally a road frontage).

In the case under review, however, the site is located in a north-easterly direction from the Huf Haus and there is no building on the other side of the proposed plot. On this basis, it is not considered that the site falls within the definition of "*infill*".

'*Rounding off*' development is defined as:

*"new development positioned largely between substantial building(s) on one side and a substantial ground or natural feature on the other side and arranged such that the local pattern of development terminates at this point."*

In the type of small clusters of buildings outwith settlements where '*rounding off*' development might be appropriate, the dwellinghouses tend to have a perceptible relationship with one another and share a well-defined, cohesive character.

In this particular case, the existing properties are relatively dispersed and the curvature of the private road together with the abundance of woodland means that there are no obvious spaces between buildings and substantial ground or natural features. On this basis, it is not considered that the site falls within the definition of "*rounding off*".



### **Ground No. 3**

*The applicants also believe that the application should be considered as an exceptional case. Living in their present sizeable home for 10 years has been wonderful but now, as they approach their 80's, they need to consider more manageable options for their future.*

*Depopulation of Bute is a major concern and with over 90% of the island owned by Mount Stuart, suitable plots for those wishing to invest and build a house of this quality are not available. Unlike in Skye and Harris, for example, where quality sites are readily available and have attracted considerable investment in the building of innovative dwellings out with towns and villages. In several ways, this has been of benefit to the economy in general and provides significant additional income to the Local Authority.*

#### **Planning Department Response:**

In order for a development to qualify as an “*exceptional case*”, the following principles can reasonably be applied:

- Exceptional cases should be fairly rare occurrences and should not become a matter of routine
- Exceptional cases should be supported with a business development plan/reasoned statement of justification
- Specific locational requirement - i.e. the proposed development has a clearly demonstrable need to be located upon a specific site or within a specific area rather than elsewhere and within a more appropriate development management zone
- Exceptional cases could directly support an existing business whose continued operation would be jeopardised without the proposed development

In this instance, the principal justifications from the applicants are that they wish to downsize and that there are no suitable sites elsewhere on Bute. In terms of the former, the issue of downsizing is a regular occurrence for people with houses that they consider to be too large to upkeep and it is not for the Planning Authority to approve new dwellinghouses each time such a situation arises.

As regards the second issue, it is respectfully suggested that there is sufficient housing stock and potential plots across the island that could fulfil the aspirations of the applicants.

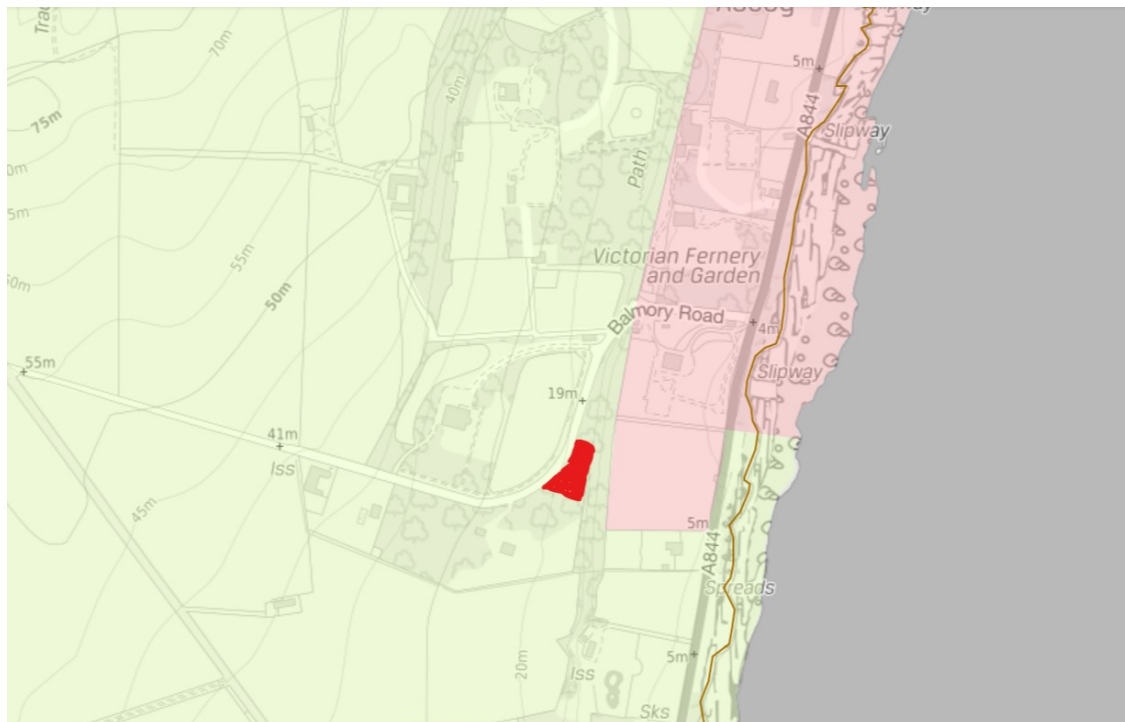
#### **Ground No. 4**

*Prior to the 2009 Development Plan, this site was a Rural Opportunity Area and would more than likely have been approved for a dwelling. Subsequent Development Plans have changed this to a 'Countryside' Zone with greater restrictions. The applicants believe the construction of an appropriate dwelling would not detract from the landscape value or have an adverse effect on the Isle of Bute Area of Panoramic Quality.*

#### **Planning Department Response:**

This matter is examined in significant detail in the Report of Handling contained in Appendix A below. To summarise, the Review site was within a 'Rural Opportunity Area' (ROA) in a draft incarnation of the Argyll and Bute Development Plan in the latter half of the 2000s. However, a detailed review of those ROAs within landscape designations (such as Areas of Panoramic Quality and National Scenic Areas) was undertaken by the reputable landscape architects Gillespies in 2009 in order to determine which of those had the capacity to absorb further development.

The findings of Gillespies were subsequently utilised to inform the designation of the Development Management Zones in the present LDP adopted in 2016. Production No. 8 below identifies the Review site in red with the 'Settlement' zone of Ascog coloured pink. The light green colour is zoned as 'Countryside'.



*[Production No. 8 – location of the Review Site (coloured red) in relation to the 'Settlement' of Ascog (coloured pink) as identified in the Argyll and Bute Local Development Plan 2015]*

As can be seen, the change in the designation of the land that included the Review site from 'Rural Opportunity Area' to 'Countryside' was part of a careful assessment of landscape capacity using well-established methodologies. The proposed dwellinghouse would be located within one of those key environmental features that the study by Gillespies identified as being desirable to protect.

## 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. The site is located within 'Countryside' as designated in the Argyll and Bute Local Development Plan (LDP) 2015, which places greater restrictions on this area for development recognising the landscape value and its contribution to the Isle of Bute Area of Panoramic Quality (APQ).

The proposal cannot be supported under the terms of Policy LDP DM 1 as, firstly, it fails to meet the criteria for support in terms of redevelopment or change of use and the applicant's contention that the site constitutes 'infill' or 'rounding off' is not considered justifiable.

The proposed exceptional case does not meet the criteria contained in Policy LDP DM 1 in that such cases should be relatively rare occurrences and should demonstrate that a proposed property genuinely requires being on a specific site (for example on crofts and agricultural units).

The principal justification from the applicants is that they wish to downsize but this is a regular occurrence for people with houses that they consider to be too large to upkeep and it is not for the Planning Authority to approve new dwellinghouses each time such a situation arises. It is respectfully suggested that there is sufficient housing stock and potential plots across the island that could fulfil the applicant's aspirations.

From a landscape perspective, the principal character of the area to the east of the Loch Ascog Reservoir is as an open landscape comprising rolling pastureland; however, there are notable areas of woodland that extend in a linear fashion to the north and south of Mid Ascog and the Review site is located within one of these wooded areas. These wooded areas are a key environmental feature that it is desirable to protect.

The potential loss of trees and other vegetation cover and their replacement with a dwellinghouse, access, hardstanding, fences and other associated suburban development will be visually intrusive, visually discordant and will not maintain or enhance the character of the area. The erection of a dwellinghouse on the subject site would therefore represent an unacceptable degree of intrusion resulting in an undermining of the structure and character of the landscape to the south of Ascog.

Given the above, it is considered that the proposal would be contrary to Policies LDP DM 1, LDP 3 and LDP 9 and Supplementary Guidance policies SG LDP ENV 6, SG LDP ENV 13, SG LDP HOU 1 and SG LDP Sustainable Siting and Design Principles of the Argyll and Bute Local Development Plan 2015.



## 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

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**Reference No:** 19/02157/PPP

**Planning Hierarchy:** Local Development

**Applicant:** Mr Tony Harrison

**Proposal:** Erection of Dwellinghouse

**Site Address:** Land at the HufHaus, Balmory Road, Ascog, Isle of Bute

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#### DECISION ROUTE

(i) **Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997 (as amended)**

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#### (A) THE APPLICATION

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

- Planning permission in principle for the erection of dwellinghouse (approx. 120m<sup>2</sup>) and associated plant room / car port (approx. 30m<sup>2</sup>)
- Formation of new access onto existing private road
- Installation of private waste water treatment system

##### (ii) **Other specified operations**

- Connection to public water supply network
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#### (B) **RECOMMENDATION:**

It is recommended that the application is refused for the reasons appended below.

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#### (C) **HISTORY:**

Outline Planning Permission (ref: 07/02143/OUT) granted on 7<sup>th</sup> April 2008 for the erection of a dwellinghouse on land to the south and south west of the subject site.

An application for Approval of Reserved Matters (ref: 08/02133/REM) pertaining to Outline Permission 07/02143/OUT refused on 25<sup>th</sup> June 2009.

An application (ref: 09/00483/VARCON) for the deletion of Condition 4 of Outline Permission 07/02143/OUT approved on appeal to the Scottish Government on 25<sup>th</sup> November 2010.

Approval of Matters Subject to Condition (ref: 10/00161/AMSC) pertaining to Outline Permission 07/02143/OUT approved on 14<sup>th</sup> April 2010.

A Non Material Amendment (ref: 10/00800/NMA) relative to permission 10/00161/AMSC incorporating a change in the position of the dwellinghouse and garage/car port approved on 20<sup>th</sup> May 2010.

Planning Permission in Principle (ref: 18/01668/PPP) refused on 23<sup>rd</sup> October 2018 for the erection of a dwellinghouse at the subject site.

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**(D) CONSULTATIONS:**

**Area Roads Manager** (report dated 10<sup>th</sup> December 2019)

No objection subject to conditions regarding access standard; visibility splays; and parking levels.

**Scottish Water**

No comments received.

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**(E) PUBLICITY:**

The proposal has been the subject of Neighbour Notification (closing date: 29<sup>th</sup> November 2019) and advertised in terms of Regulation 20 (closing date: 6<sup>th</sup> December 2019).

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**(F) REPRESENTATIONS:**

Ronnie Falconer, Hawkstone Lodge, Ascog, Isle of Bute (e-mail dated 18th November 2019)

This comment neither objects nor supports the proposal but Mr Falconer wishes it to be noted that the outline proposals for the development have been discussed with the applicant and he has confirmed that the existing trees which would prevent overlooking of Hawkstone Lodge from the proposed development would be retained.

**Comment:** The above representation is noted.

Objections received from:

Mr John Thomas, Balmory Hall, Ascog, Isle of Bute (e-mail dated 30<sup>th</sup> November 2019)  
Mrs Yvonne Thomas, Balmory Hall, Ascog, Isle of Bute (e-mail dated 30<sup>th</sup> November 2019)

The points raised can be summarised as follows:

- i. Mr and Mrs Thomas moved into Balmory Hall (a Category A Listed Building) in March 2010. Mrs Thomas has mentioned that the current application has put her and her husband into a very difficult position because, over the last 9 years, they

have become friendly with the applicants Tony and Beryl Harrison and they do not wish to upset them.

**Comment:** This point is noted but it does not have a material bearing upon the planning aspects of the case.

- ii. They consider the Category A listing to be vital in preserving unique buildings and environments and they are very aware of the requirement to preserve, enhance and protect the hall, gate lodge, gardens, gate piers, boundary walls and, most importantly, it's unique unspoilt placement in the adjoining landscape. Concern is expressed that the proposed new dwelling would be directly in front of Balmory Hall and, as such, would have a significant adverse impact on the historic environment by damaging the amenity and setting of the property.

**Comment:** As the application is for Planning Permission in Principle and there are no finalised plans relating to the siting and design of the dwellinghouse, a detailed assessment of the potential impact upon the setting of Balmory Hall cannot be fully explored.

- iii. Concern is expressed that this is not an appropriate site on which to build a new dwelling as it is not designated building land. It is pointed out that there is a designated building plot for sale just a few yards away down the hill from this proposal and out of view of Balmory Hall which would be more suitable.

**Comment:** This issue is addressed in the Assessment section below.

- iv. It is considered that the phrase '*low visual impact*' that is used by the applicant is an erroneous and meaningless phrase as it fails to address the impact on Balmory Hall and relates to an application where there is no definitive visual proposal, just three random suggestions that are impossible to quantify.

**Comment:** As the application is for Planning Permission in Principle and there are no finalised plans relating to the siting and design of the dwellinghouse, a detailed assessment of visual impact cannot be fully explored.

- v. Concern is expressed that the proposal would represent overdevelopment in this quiet lane and adjacent land which, before the HufHaus was built, belonged to Balmory Hall. It would change the nature of the environment giving it the feel of a mini housing estate and would bring more traffic to the unmade lane; more noise of family life; and more light pollution in this very quiet, dark natural environment.

**Comment:** The assessment in Section (P) below examines the relationship of the application site with its surroundings.

- vi. Concern is expressed that the approval of this current application would increase the risk of another property being built on the remainder of the land.

**Comment:** Any potential approval of Planning Permission in Principle for a dwellinghouse on the application site would require being underpinned by a strong and demonstrable exceptional case to avoid an undesirable precedent being set. The exceptional case linked to the current proposal is assessed in Section (P) below.



- vii. It is considered that the '*rounding off*' argument put forward by the applicant would seem to propose the final phase of a partially completed settlement, which this clearly isn't. At present, there are four properties on the unmade section of the road, three of which have been here for nearly 160 years and one for nine years.

**Comment:** The issue of '*rounding off*' is assessed in Section (P) below.

- viii. The '*rounding off*' argument and the statement that the proposal would '*complement the other three properties*' fails to mention the rather significant huge house and gardens that constitute Balmory Hall, which dominates the whole lane.

**Comment:** The issue of '*rounding off*' is assessed in Section (P) below

- ix. In their sale of Balmory Hall to Mr and Mrs Thomas 10 years ago, Mr and Mrs Harrison withheld 4 acres and built the HufHaus. Mr and Mrs Thomas contend that they were told the new building would be tucked away in a corner out of view. However, they point out that it is very visible from Balmory Hall which resulted in them planting hundreds of evergreen trees and bushes to screen the HufHaus and its extended curtilage, including a garage and workshop. They are of the opinion that this screening does not remove the light from the property that now emanates from that side of the garden or the noises that come with family life.

**Comment:** The issue of the potential impact of the existing HufHaus on the privacy and amenity of Balmory Hall does not have a material bearing upon the planning aspects of the current application.

- x. Concern is expressed that the applicant's phrase '*in keeping with and of the quality and innovative design which adds value to Ascog and Bute in general*' is a completely subjective statement in that the proposition is purely opinion. Mr Thomas is of the opinion that the HufHaus is a totally unsympathetic building with regard to the original three other Victorian properties in the lane and only gained Planning Permission on appeal. He contends that, as this part of Ascog is dominated by Category A and B listed buildings from the Victorian era, the proposal would not be '*in keeping*' at all.

**Comment:** As the application is for Planning Permission in Principle and there are no finalised plans relating to the siting and design of the dwellinghouse, a detailed assessment of the aesthetics of a dwellinghouse on the site and its relationship with existing buildings cannot be fully explored.

- xi. The applicant has referred to the '*Local Plan*' and its '*influence on how this application is viewed*'. Concern is expressed that these phrases are confusing in that the new plan has not been finalised so it is queried as to how it could possibly inform any ultimate planning decision on the present application.

**Comment:** The public consultation period on the Argyll and Bute Local Development Plan 2 (LDP 2) ended on 24<sup>th</sup> January 2020 and, whilst this document could be regarded as a material consideration given that it represents the settled view of the Council, it is considered that it may only be afforded limited weighting at this time given that any policy or allocation subject to objection during the consultation process might be removed or amended by the Reporter as they see fit.

Furthermore, LDP2 designates the application site as ‘*countryside*’ so the current situation does not relate to a proposal that is consistent with the adopted LDP but is fundamentally at odds with the published intentions of proposed LDP2.

Support received from

Philip Kirkham, Crofton Cottage, Ascog, Isle of Bute (letter dated 6<sup>th</sup> January 2020)  
Anne Kirkham, Crofton Cottage, Ascog, Isle of Bute (letter dated 6<sup>th</sup> January 2020)

The points raised can be summarised as follows:

- a) The proposal is considered to be far better than the block of three flats that have been approved in the field below the application site.
- b) Whilst it is good to see many of the old, well-maintained houses on the Isle of Bute, it is also very good to see modern dwellings that are much more environmentally friendly with up-to-date insulation and low energy needs. However much effort is expended, it is not possible to make old properties as efficient as new builds.
- c) It is contended that Bute requires considerably more better-quality housing to suit the needs of professional people who wish to live on the island and who can work more from home due to the excellent broadband facilities.

**Comment:** These points in support of the application are noted.

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## **(G) SUPPORTING INFORMATION**

**Has the application been the subject of:**

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

The applicant has provided information in support of the proposal (October 2019 and January 2020), a summary of which is as follows:

The proposal is for Planning Permission in Principle for the erection of a dwellinghouse on land which is currently part of the HufHaus garden. The total area of ground in which the proposed dwelling would be erected is approximately 2400 square metres.

The single-storey property would be located in a position on the plot that would be screened visually using a design of a flat or low angle sedum/grass covered

roof. All major glazed areas would face south east, south or south west. The approximate size would be 120 square metres along with an adjoining garage/store of approximately 30 square metres. The dwelling would incorporate state of the art energy use and saving technology.

It is noted that the proposed build is situated in the “*Countryside*” zone of the current Argyll and Bute Local Development Plan 2015 and also note the criteria for what is/is not acceptable. Having reviewed all the information available, it is contended that the proposal should be granted for the following reasons:

- The proposed position, with access onto the existing track, complements the other three properties accessing the track (The HufHaus, Balmory Cottage and Beech Cottage) and as such should be considered as “*rounding-off*”. It would be the last property before a substantial area of ground and natural woodland indicates where the four dwelling development accessing the track terminates
- The proposed dwelling is not immediately adjacent to any settlement boundaries defined in the Local Development Plan
- The site presents adequate scope to achieve a development with low visual impact
- Bute has been the applicant’s home now for 20 years and as he and his wife are now in their late seventies, it is their wish to invest in and build a more appropriately sized dwelling which is in keeping with and of the quality and innovative design which adds value to Ascog and Bute in general
- It is appreciated that applications can only be determined as per the policies of the currently-adopted Local Development Plan 2015 but would point out that nothing has changed since the 2009 Local Plan, when the proposed site would have been in the ‘*Rural Opportunity Area*’ where it was considered that there was capacity for residential development. Hopefully, the new Local Plan will facilitate a more favourable view and allow Planning Permission in Principle

Following neighbour notification and the advertisement processes, the applicant has submitted an additional statement, in particular to address the comments made by Mr and Mrs Thomas, as follows:

- In 1999, when the applicant and his wife purchased Balmory Hall, it was at the point of becoming completely derelict. Fifty years of being used by an institution, and in particular 12 years unoccupied and not maintained, had taken its toll. Dry rot was extensive and threatened significant areas of unique cornice, floors, ceilings and walls. Furthermore, the necessary institutional additions of external fire escapes and internal divisions were in no way complimentary to the beauty and splendour of this magnificent building. The gate house was dominated by a late 1960 extension and dry rot threatened the roof. The grounds were overgrown and many of the original features, paths, fences and external boundary wall were either completely lost, or in need of extensive repair.

- During their time at Balmory Hall, the applicant and his wife painstakingly restored this unique estate to its former splendour and saved it from complete dereliction. The huge personal and financial commitment that they invested in Balmory Hall prevents them taking any action that would detract from its position as one of the island's much loved properties.
- When built in the 1860's (some 10 years after the Window Tax was repealed), the design and construction was very different from the nearby listed Ascog House which dates from 1678. The opportunity for innovative design, large windows and new materials facilitated the creation of a house which was appropriate for the time. Likewise, the building of an iconic HufHaus, some 170 years later, reflected the availability of modern materials, building techniques and the need to conserve energy. As another example, the question is raised whether the ultra-modern Scottish Parliament building would ever have been built if planning officers were only concerned with approving a design which complimented nearby buildings.
- The position of the proposed single-story dwelling has been carefully thought through so as not to impinge on views from the listed building. It would be completely hidden by evergreen shrubs and trees, all of which are within the Balmory Hall policies. Also, the contour at this point is in excess of 40 feet below that of Balmory Hall. It is stated that Mr Thomas did not accept the offer of seeing for himself the proposed location.
- When built in 2010, the HufHaus represented a significant investment in the housing stock of Ascog, and Bute in general. Unlike other nearby owners of substantial property who sold and left the island, the applicant and his wife chose to make Bute their long-term home and reinvested in the island. Depopulation of Bute is a major concern and with over 90% of the island owned by Mount Stuart, suitable plots for those wishing to invest and build a house of this quality are not available. Unlike Skye and Harris, for example, quality sites are readily available and have attracted huge investment in the building of innovative dwellings outwith towns and villages. In several ways, this has been of great benefit to the economy.
- The importance of the Argyll and Bute Local Development Plan (LDP 2015 soon to be LDP2) is fully recognised and that the technical interpretation means that the proposal does not conform. Living in their present sizeable home for 10 years has been wonderful but now, as they approach their 80's, the applicant and his wife need to consider more manageable options for their future.
- Considering the shortage of suitable sites and, with it, the lack of opportunity to invest in building high value property, it is urged that the proposal is positively determined.

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**(H) PLANNING OBLIGATIONS**

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

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**(l) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: No**

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**(J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application**

**(i) List of all Development Plan Policy considerations taken into account in assessment of the application.**

Argyll and Bute Local Development Plan (March 2015)

LDP STRAT 1 – Sustainable Development  
LDP DM 1 – Development within the Development Management Zones  
LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment  
LDP 9 – Development Setting, Layout and Design  
LDP 11 – Improving our Connectivity and Infrastructure

Argyll and Bute LDP – Supplementary Guidance

SG LDP ENV 1 - Development Impact on Habitats, Species and our Biodiversity (i.e. biological diversity)  
SG LDP ENV 6 - Development Impact on Trees / Woodland  
SG LDP ENV 13 - Development Impact on Areas of Panoramic Quality (APQs)  
SG LDP ENV 16A - Development Impact on Listed Buildings  
SG LDP HOU 1 - General Housing Development Including Affordable Housing Provision  
SG LDP Sustainable Siting and Design Principles  
SG LDP CC 1 - Climate Change and Sustainable Development  
SG LDP SERV 1 - Private Sewage Treatment Plants and Wastewater (i.e. drainage) Systems  
SG LDP SERV 2 - Incorporation of Natural Features/Sustainable Drainage Systems (SuDS)  
SG LDP TRAN 4 - New And Existing, Public Roads And Private Access Regimes  
SG LDP TRAN 6 - Vehicle Parking Provision

**(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 3/2013.**

Scottish Planning Policy (2014)  
Planning History  
Argyll and Bute Local Development Plan 2 (November 2019)

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

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

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



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

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(O) Requirement for a hearing: No

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

The proposal is for the erection of a single dwelling house on land to the north east of the HufHaus, Ascog. The site is generally garden ground associated with main building but with a mix of trees that contribute to an attractive natural appearance. A private road leading from Balmory Road curves down along the northern boundary from the north-east to the south-west. To the north is the category 'A' listed Balmory Hall. The site is raised above the coastline with views out over the River Clyde.

**Settlement Strategy**

The site is located in open countryside away from existing buildings and is in a corner of the existing garden ground of the dwelling known as the HufHaus. The Argyll and Bute Local Development Plan (LDP) 2015 designates the site as '*countryside*' with Policy LDP DM 1 only providing support for proposals that are considered infill, redevelopment, rounding off or change of use of existing buildings.

In this particular instance, it is considered that the site does not meet any of the aforementioned criteria as it is in open countryside and detached from any recognised building group. The wider development pattern is dispersed and characterised by large single dwellings at irregular intervals.

In the absence of support for the proposal in terms of settlement pattern and its relationship with existing buildings, the application would require being underpinned by an exceptional case and conformance with an Area Capacity Evaluation to be viewed positively.

**Exceptional Case**

As at the time of the previous application in 2018, the applicant has emphasised that the existing HufHaus is too large for them and that they wish to downsize. However, it is not for the Planning Authority to address this problem and it is considered that there is sufficient housing stock and potential plots on the island that might meet their needs. On this basis, it is considered that there is no exceptional reason in policy terms that this application should be granted.

**Development Plan Designation and Landscape Impact**

In 2007, the site for the HufHaus was supported on the basis of the site being within a Rural Opportunity Area (ROA) in the draft Local Plan 2009. One of the applicant's supporting arguments is that the current application should be supported because nothing has changed '*on the ground*' since the approval of the HufHaus and he does not agree with this different policy stance.

Although physically things may not have changed '*on the ground*', the Local Development Plan policy for the site has altered. The previous draft Local Plan of 2009 originally designated this area as Rural Opportunity Area (ROA) but, as part of the

Scottish Government review of the Local Plan 2009 and prior to full adoption, the Council was challenged to review those ROAs within landscape designations (such as Areas of Panoramic Quality and National Scenic Areas) and determine which of those had the capacity to absorb further development. As part of this process, the Council employed the reputable landscape architects Gillespies to carry out this review.

In relation to the wider landscape surrounding the application site, the Gillespies Study referred to the area that is located to the south of Rothesay and bisected by the Loch Ascog Reservoir. More specifically, the eastern side of the area is bisected by a minor road and comprises sloping farmland which rises to 100m Above Ordnance Datum at the Hill of Ascog. Whilst the Study emphasised that the larger area is generally an open landscape comprising rolling pastureland, it specifically highlighted as notable the areas of woodland that extend in a linear fashion to the north and south of Mid Ascog and the application site is located within one of these wooded areas.

The Study identified only limited scope for further development within the larger area and detailed those key environmental features that it was desirable to protect. One of its conclusions was that development should not take place within the areas of woodland that it had highlighted. If development was to be allowed in these areas, it would have a detrimental effect upon the existing structure and character of the landscape.

The existing adopted LDP took the decision to re-designate those ROAs that Gillespies had identified as having no further capacity to absorb new development in the open landscape as '*countryside*' meaning that only those proposals for infill, redevelopment, rounding off and change of use would be supported. As mentioned previously in this report, the proposal currently under consideration does not meet any of these criteria. Therefore, it has been quite some considerable time (i.e. pre-2009) since development of the subject plot might have been viewed positively.

## **Conclusion**

In drawing all of the above together, the proposal cannot be supported under the terms of Policy LDP DM 1. It does not meet the criteria for support in terms of infill, redevelopment or change of use and the applicant's contention that the site constitutes '*rounding off*' is not considered justifiable.

The proposed exceptional case does not meet the LDP's criteria in that such cases should be relatively rare occurrences and should demonstrate that a proposed property genuinely requires being on a specific site (for example on crofts and agricultural units). In this instance, the principal justification from the applicant is that he and his wife wish to downsize; however, this is a regular occurrence for people with houses that they consider to be too large to upkeep and it is not for the Planning Authority to approve new dwellinghouses each time such a situation arises. It is respectfully suggested that there is sufficient housing stock and potential plots across the island that could fulfil the applicant's aspirations.

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

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**(R) Reasons why planning permission or a Planning Permission in Principle should be refused**

The site lies within the '*countryside*' zone of the Argyll and Bute Local Development Plan 2015 within which Policy LDP DM 1 only supports applications for infill, redevelopment,

rounding off and change of use of existing buildings. An application that fails to meet these criteria will be refused unless it can demonstrate an exceptional case and then progress to a successful landscape assessment known as an Area Capacity Evaluation (ACE).

In this instance, the site lies within the garden woodland of the HufHaus, which is a modern attractive property that was approved in 2007 when the site lay within a Rural Opportunity Area (ROA). Subsequent Development Plans in 2009 and 2015 have placed greater restrictions on this area for development recognising the landscape value and its contribution to the Isle of Bute Area of Panoramic Quality (APQ).

The wider landscape surrounding the application site is located to the south of Rothesay and bisected by the Loch Ascog Reservoir. More specifically, the eastern side of the area is bisected by a minor road and comprises sloping farmland which rises to 100m Above Ordnance Datum at the Hill of Ascog. The principal character of the larger area is as an open landscape comprising rolling pastureland; however, there are notable areas of woodland that extend in a linear fashion to the north and south of Mid Ascog and the application site is located within one of these wooded areas.

These wooded areas are a key environmental feature that it is desirable to protect and the erection of a dwellinghouse on the subject site would represent an unacceptable degree of intrusion resulting in an undermining of the structure and character of the landscape to the south of Ascog.

On the basis of the foregoing, the application fails the first part of the policy test which is to meet one of the criteria detailed in the opening paragraph above.

In seeking to demonstrate an acceptable exceptional case, the applicant has stated that the current house is too large for them and that he and his wife wish to downsize. He contends that a house in the grounds of the HufHaus would allow them to remain in the area.

This is not considered an exceptional case as there are appropriate sites within the settlement zones and Rural Opportunity Areas across the island that are suitable for development and would allow the applicant to remain in the area. With this in mind, the applicant has failed to demonstrate an exceptional case to warrant the support of Policy LDP DM 1 and, as a consequence, there is no need for the Planning Authority to carry out an Area Capacity Evaluation.

Considering the above, the proposal does not meet the necessary criteria to be supported through Policy LDP DM 1. Furthermore, failure to demonstrate an exceptional case means that an ACE does not require being carried out.

On the basis that the erection of a dwellinghouse on the subject site would represent an unacceptable degree of intrusion resulting in an undermining of the structure and character of the landscape to the south of Ascog, the proposal would also be contrary to Policies LDP 3 and LDP 9 and Supplementary Guidance policies SG LDP ENV 6, SG LDP ENV 13, SG LDP HOU 1 and SG LDP Sustainable Siting and Design Principles of the Argyll and Bute Local Development Plan 2015.

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

N/A

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

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**Author of Report: Steven Gove**

**Date: 16<sup>th</sup> March 2020**

**Reviewing Officer: Howard Young**

**Date: 17<sup>th</sup> April 2020**

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

## **GROUNDNS FOR REFUSAL RELATIVE TO APPLICATION REFERENCE 19/02157/PPP**

The site is located within the garden woodland of the HufHaus, which is a modern property that was approved in 2007 when the site lay within a Rural Opportunity Area (ROA). Subsequent Development Plans in 2009 and 2015 have placed greater restrictions on this area for development recognising the landscape value and its contribution to the Isle of Bute Area of Panoramic Quality (APQ). The site now lies within the 'countryside' zone of the Argyll and Bute Local Development Plan 2015 within which Policy LDP DM 1 only supports applications for infill, redevelopment, rounding off and change of use of existing buildings. An application that fails to meet these criteria will be refused unless it can demonstrate an exceptional case and then progress to a successful landscape assessment known as an Area Capacity Evaluation (ACE).

The wider landscape surrounding the application site is located to the south of Rothesay and bisected by the Loch Ascog Reservoir. More specifically, the eastern side of the area is bisected by a minor road and comprises sloping farmland which rises to 100m Above Ordnance Datum at the Hill of Ascog. The principal character of the larger area is as an open landscape comprising rolling pastureland; however, there are notable areas of woodland that extend in a linear fashion to the north and south of Mid Ascog and the application site is located within one of these wooded areas. These wooded areas are a key environmental feature that it is desirable to protect. The potential loss of trees and other vegetation cover and their replacement with a dwellinghouse, access, hardstanding, fences and other associated suburban development will be visually intrusive, visually discordant and will not maintain or enhance the character of the area. The erection of a dwellinghouse on the subject site would therefore represent an unacceptable degree of intrusion resulting in an undermining of the structure and character of the landscape to the south of Ascog. On the basis of the foregoing, the application fails the first part of the policy test which is to meet one of the criteria detailed in Policy LDP DM 1.

In seeking to demonstrate an acceptable exceptional case, the applicant has stated that the current house is too large for them and that they wish to downsize. It is contended that a house in the grounds of the HufHaus would allow them to remain in the area. This is not considered an exceptional case as there are appropriate sites within the settlement zones and Rural Opportunity Areas across the island that are suitable for development and would allow the applicant to remain in the area. With this in mind, the applicant has failed to demonstrate an exceptional case to warrant the support of Policy LDP DM 1 and, as a consequence, there is no need for the Planning Authority to carry out an Area Capacity Evaluation. Considering the above, the proposal does not meet the necessary criteria to be supported through Policy LDP DM 1.

On the basis the erection of a dwellinghouse on the subject site would represent an unacceptable degree of intrusion resulting in an undermining of the structure and character of the landscape to the south of Ascog. As such, in addition to Policy LDP DM 1, the proposal would also be contrary to Policies LDP 3 and LDP 9 and Supplementary Guidance policies SG LDP ENV 6, SG LDP ENV 13, SG LDP HOU 1 and SG LDP Sustainable Siting and Design Principles of the Argyll and Bute Local Development Plan 2015.



## APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **19/02157/PPP**

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

**No**

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

The site lies within the ‘*countryside*’ zone of the Argyll and Bute Local Development Plan 2015 within which Policy LDP DM 1 only supports applications for infill, redevelopment, rounding off and change of use of existing buildings. An application that fails to meet these criteria will be refused unless it can demonstrate an exceptional case and then progress to a successful landscape assessment known as an Area Capacity Evaluation (ACE).

In this instance, the site lies within the garden woodland of the HufHaus, which is a modern attractive property that was approved in 2007 when the site lay within a Rural Opportunity Area (ROA). Subsequent Development Plans in 2009 and 2015 have placed greater restrictions on this area for development recognising the landscape value and its contribution to the Isle of Bute Area of Panoramic Quality (APQ).

The wider landscape surrounding the application site is located to the south of Rothesay and bisected by the Loch Ascog Reservoir. More specifically, the eastern side of the area is bisected by a minor road and comprises sloping farmland which rises to 100m Above Ordnance Datum at the Hill of Ascog. The principal character of the larger area is as an open landscape comprising rolling pastureland; however, there are notable areas of woodland that extend in a linear fashion to the north and south of Mid Ascog and the application site is located within one of these wooded areas.

These wooded areas are a key environmental feature that it is desirable to protect and the erection of a dwellinghouse on the subject site would represent an unacceptable degree of intrusion resulting in an undermining of the structure and character of the landscape to the south of Ascog.

On the basis of the foregoing, the application fails the first part of the policy test which is to meet one of the criteria detailed in the opening paragraph above.

In seeking to demonstrate an acceptable exceptional case, the applicant has stated that the current house is too large for them and that he and his wife wish to downsize. He contends that a house in the grounds of the HufHaus would allow them to remain in the area.

This is not considered an exceptional case as there are appropriate sites within the settlement zones and Rural Opportunity Areas across the island that are suitable for development and would allow the applicant to remain in the area. With this in mind, the applicant has failed to demonstrate an exceptional case to warrant the support of Policy LDP DM 1 and, as a consequence, there is no need for the Planning Authority to carry out an Area Capacity Evaluation.

Considering the above, the proposal does not meet the necessary criteria to be supported through Policy LDP DM 1. Furthermore, failure to demonstrate an exceptional case means that an ACE does not require being carried out.

On the basis that the erection of a dwellinghouse on the subject site would represent an unacceptable degree of intrusion resulting in an undermining of the structure and character of the landscape to the south of Ascog, the proposal would also be contrary to Policies LDP 3 and LDP 9 and Supplementary Guidance policies SG LDP ENV 6, SG LDP ENV 13, SG LDP HOU 1 and SG LDP Sustainable Siting and Design Principles of the Argyll and Bute Local Development Plan 2015.

- (C)** For the purpose of clarity, it is advised that this decision notice relates to the details specified on the application form dated 11<sup>th</sup> October 2019 and the refused drawing reference numbers: HH002 Rev. B – Location Plan and HH002 Rev. A – Block Plan.

## LIST OF PRODUCTIONS

- |                         |   |
|-------------------------|---|
| <b>Production No. 1</b> | Location Plan Identifying Review Site   |
| <b>Production No. 2</b> | Aerial View of Review Site  |
| <b>Production No. 3</b> | Photograph taken 7th November 2019 and looking in a south-westerly direction. It shows the private road; the access that serves the Huf Haus; and the southern part of the Review site          |
| <b>Production No. 4</b> | Photograph taken 7th November 2019 and looking in a north-easterly direction. It shows the private road and the Review site located behind the hedgerow to the north of the wooden pole         |
| <b>Production No. 5</b> | Block Plan Identifying Review Site  |
| <b>Production No. 6</b> | Photograph taken 7th November 2019 and looking in a south-easterly direction into the Review site from the private road. It shows the indicative position of the access point and dwellinghouse |
| <b>Production No. 7</b> | Location of the Review Site within the notable areas of woodland to the north and south of Mid Ascog  |
| <b>Production No. 8</b> | Location of the Review Site in relation to the ' <i>Settlement</i> ' of Ascog as identified in the Argyll and Bute Local Development Plan 2015  |