
Update on Recent Planning Appeal Decisions

Reference: PPA-130-2079 – Land East of Tigh Na Mara, Arinagour, Isle of Coll, Argyll and Bute

1. INTRODUCTION

This report provides an update on the recent decision by the Planning and Environmental Appeals Division in relation to Planning Appeal Reference PPA-130-2079, whereby the appeal was allowed and the decision to refuse planning permission from the PPSL was overturned. There is a right of appeal to the Court of Session only in regard to a point of law and an appeal must be made within six weeks from the date of the appeal decision.

2. RECOMMENDATION

Members are asked to note the content of this report.

3. DETAILS OF APPEAL DECISION

Decision by: Mr Chris Norman, a Reporter appointed by the Scottish Ministers;
Planning Appeal Ref.: PPA-130-2079;
Site Address: Land East of Tigh Na Mara, Arinagour, Isle of Coll;
Appeal by: Mr Colin Kennedy against the decision by Argyll and Bute Council;
Application for Planning Permission Ref.: 20/01688/PP dated 2nd October 2020 and refused by notice dated 17th December 2020;
The Development Proposed: Erection of dwellinghouse and formation of vehicular access;
Date of Site Visit by Reporter: 5th May 2021;
Date of Appeal Decision: 3rd June 2021.

The appeal was upheld and the decision to refuse planning permission by PPSL was overturned and planning permission granted subject to conditions on appeal; a copy of the appeal decision is appended at Appendix 1 hereof.

The Reporter took a contrary view to PPSL on the perceived impact of the proposed development upon landscape character and reached the view that the appeal proposal would “round-off and consolidate the built southern boundary of Arinagour” noting that “it would neither have a significant adverse impact on the landscape or seascape of this part of Coll nor harm the southern approach to the village or its built environment.” The Reporter concluded that the proposed development accords overall with the relevant provisions of the development plan and that there were no material considerations that would justify refusing to grant planning permission.

There is a right of appeal to the Court of Session only in regard to a point of law and an appeal must be made within six weeks of the date of the appeal decision.

4. IMPLICATIONS

- 4.1 Policy – None – the Reporter concluded that the appeal proposal was consistent with the relevant provisions of the development plan.
- 4.2 Financial – None
- 4.3 Legal – None
- 4.4 HR – None
- 4.5 Fairer Scotland Duty:
 - 4.5.1 Equalities – protected characteristics – None
 - 4.5.2 Socio-economic duty – None
 - 4.5.3 Islands - None
- 4.6 Risk – None
- 4.7 Customer Service – None

Reference: PPA-130-2077 – Land South East of Elderslie, Oban, PA34 4SA, Argyll and Bute

1. INTRODUCTION

This report provides an update on the recent decision by the Planning and Environmental Appeals Division in relation to Planning Appeal Reference PPA-130-2077, whereby the appeal was allowed and the decision to refuse planning permission from the PPSL was overturned. There is a right of appeal to the Court of Session only in regard to a point of law and an appeal must be made within six weeks from the date of the appeal decision.

2. RECOMMENDATION

Members are asked to note the content of this report.

3. DETAILS OF APPEAL DECISION

Decision by: Mr Gordon Reid, a Reporter appointed by the Scottish Ministers;
Planning Appeal Ref.: PPA-130-2077;
Site Address: Land South East of Elderslie, Oban, PA34 4SA;
Appeal by: Mr Graham MacEachern against the decision by Argyll and Bute Council;
Application for Planning Permission Ref.: 19/02562/PPP dated 9th December 2019 and refused by notice dated 24th August 2020;
The Development Proposed: Site for erection of two dwellinghouses;
Date of Site Visit by Reporter: 7th May 2021;
Date of Appeal Decision: 5th August 2021.

The appeal was upheld and the decision to refuse planning permission by PPSL was overturned and planning permission granted subject to conditions on appeal; a copy of the appeal decision is appended at Appendix 1 hereof.

Whilst the Reporter was in agreement with the Council's requirement that the existing private access should be brought up to adoption standard and the requirement for a structural survey of an existing bridge on this route he also considered that as the appellant had included the land necessary for road improvements within the application site boundary and had ownership of other land necessary for delivery of

road improvements that it would in this instance be appropriate to utilise a suspensive planning condition to secure such matters. The Reporter concluded that the proposed development accords overall with the relevant provisions of the development plan and that there were no material considerations that would justify refusing to grant planning permission.

The appeal was accompanied by a claim for expenses on the grounds that the Council had acted unreasonably by:

- Failing to provide complete, precise, accurate and relevant reasons for refusal;
- Reaching their decision, without reasonable grounds for doing so;
- Refusing the application when an earlier appeal was dismissed, and it is clear from the decision on the appeal that no objection would be seen to the revised planning application; and,
- Refusing an application because of local opposition, where that opposition is not founded upon valid planning reasons.

The Reporter declined to make any award of costs and concluded that he did not consider that the Council had acted in an unreasonable manner in refusing planning permission or that any unnecessary costs were incurred by the appellant. The decision in respect of this matter is attached as Appendix 2.

There is a right of appeal to the Court of Session only in regard to a point of law and an appeal must be made within six weeks of the date of the appeal decision.

4. IMPLICATIONS

- 4.1 Policy – None – the Reporter concluded that the appeal proposal was consistent with the relevant provisions of the development plan.
- 4.2 Financial – None – the Reporter declined to award cost against the Council.
- 4.3 Legal – None
- 4.4 HR – None
- 4.5 Fairer Scotland Duty:
 - 4.5.1 Equalities – protected characteristics – None
 - 4.5.2 Socio-economic duty – None
 - 4.5.3 Islands - None
- 4.6 Risk – None
- 4.7 Customer Service – None

Kirsty Flanagan – Executive Director with Responsibility for Development and Economic Growth

Councillor David Kinniburgh – Policy Lead for Planning and Regulatory Services

Fergus Murray – Head of Development and Economic Growth

For Further Information Contact: Peter Bain – Development Manager – 01546 604204

Appendices: Isle of Coll Appeal Decision, Elderslie Appeal Decision and Expenses Decision