

**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:** 19/01854/PP  
**Planning Hierarchy:** Local  
**Applicant:** Mr and Mrs C and J Easthaugh  
**Proposal:** Change of use of vacant land to form residential garden ground (retrospective)  
**Site Address:** Cairnview, Baluachrach, Tarbert

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## **SUPPLEMENTARY REPORT NO. 1**

### **1.0 INTRODUCTION**

Since the publication of the officer's report of handling several late representations have been received from Mr Arthur McFarlane and Ms Rose Rivendale. Both parties have previously commented on the application and these submissions raise few material issues not already considered in the report of handling.

Regardless of this submission the officer recommendation has not altered from that detailed in the original report.

### **2.0 SUMMARY OF POINTS RAISED**

The main points raised by the most recent contributors can be summarised as follows:

- The pedestrian gates through the ground in question are used by the third party today and therefore it cannot be argued that the path goes through domestic curtilage. Equally, the importance of the route means it should not deviate from that indicated in historic maps.

*Comment: The gates in the applicant's fence line relate to a private agreement with Lynn Clark to permit an agricultural form of access through the garden ground into the land to the rear to allow it to be maintained. It is not a pedestrian access route but a private right of access.*

*The route should be treated as any other right of way and planning officers take advice from the Access Manager in this regard who has confirmed that it is natural that such routes alter over time due to changes in ground conditions etc.*

- Officers are too ready to express sympathy with the applicants. Regardless, a RoW has been blocked.

*Comment: This is noted.*

- Concern has been raised over access to the public file.

*Comment: This issue was raised on the 18<sup>th</sup> October by Ms Rivendale who had previously been able to access the public file. The case officer has checked the performance of the public access system and can find no faults when accessing the information. Regardless, members of the public have had a considerable time to raise their comments regarding the application.*

- A number of comments have been made regarding a civil matter and the Lands Tribunal court case of August 2013 involving several parties not including the applicant.

*Comment: This is not material to the determination of this planning application.*

- Objectors have provided the council with over 20 names regarding evidence of users of the right of way.

*Comment: Officers have accurately reported third party representations. This comment relates to a separate investigation under the Land Reform (Scotland) Act.*

- The applicant has built the shed and fence on land not owned by them.

*Comment: This is noted.*

- The shed and fence should be removed.

*Comment: This is noted and will be dealt with separately as appropriate.*

Note: Full details of these expressions of support can be viewed on the Council's website: [www.argyll-bute.gov.uk](http://www.argyll-bute.gov.uk)

### **3.0 RECOMMENDATION**

The points made have been raised by other supporters and do not alter the recommendation contained in the main Report of Handling dated 30<sup>th</sup> September 2021; namely, that the application be **refused**.

**Author of Report: David Love**

**Date: 19<sup>th</sup> October 2021**

**Reviewing Officer: Sandra Davies**

**Date: 19<sup>th</sup> October 2021**

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