

Reference Number: 04/01386/OUT
Applicants Name: Mr. & Mrs. Joachim Brolly
Application Type: Outline
Application Description: Residential development
Location: Land at Torran Farm (north of the farm bungalow),
Torran, Ford

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission:

- 1.3 ha of land to be developed for residential purposes, with all matters of detail reserved for subsequent approval;
- Private sewage treatment plant and full soakaway 225m to the south-east of the area to be developed and drainage connection between the two.

(ii) Other Aspects of the Development:

- Connection to the public water main;
 - Demolition of farm buildings;
 - Submission of illustrative layout indicating 8 dwellings (not for approval at outline stage).
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(B) RECOMMENDATION

It is recommended that Members resolve to be minded to grant planning permission as a 'minor departure' to adopted Development Plan policy, subject to:

- 1) the standard outline conditions and reasons;
 - 2) the conditions and reasons set out in this report;
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(C) DETERMINING ISSUES AND MATERIAL CONSIDERATIONS

This is an outline application for residential development, with all matters of detail reserved for subsequent approval, in respect of 1.2 hectares of land in the vicinity of the farmstead at Torran Farm. To enable the development to proceed the farmstead would require to be relocated to an alternative site, which would be the subject of a separate application. Members will recall that there has been a recent history of consents for individual dwellings at Torran and on the farmland to the north, and will also be mindful that three dwellings were recently refused planning permission on the grounds that the sites were inappropriately located, and that more suitable sites in line with emergent local plan policy could be found at Torran itself. There is therefore benefit in favourable consideration being given to co-ordinated development related to other buildings, with ready road access and communal servicing, in favour of isolated sites elsewhere on the farm which do not share these advantages.

The development of the land in question would amount to a 'departure' to adopted local plan policy, which could currently only sustain small scale development at Torran. The development potential of Torran, has however, been recognised in the 'Argyll and Bute Local Plan' (Consultation Draft 2003) which has accorded Torran 'settlement' status, with a settlement boundary well beyond the confines

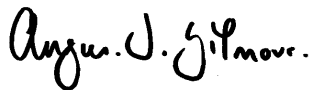
of the existing group of buildings, and with the inclusion of a Potential Development Area designation.

The forthcoming plan addresses the release of additional housing land to serve the future needs of Torran and Ford, but the plan will take some time to reach adoption. Demand can therefore only be met in the interim by small scale development consistent with Policy HO 13 of the Mid Argyll Local Plan; or, as in this case, by consideration being given as to whether it is appropriate to approve development which is larger than 'small scale', by the approval of 'a departure' to existing planning policy.

In this case there is justification for giving favourable consideration to this proposal, which seeks to address the shortfall in supply during this interim period whilst the new local plan proceeds towards adoption. This is on the understanding firstly, that the adopted plan is becoming significantly outdated, secondly, that the relevant aspects of the Draft Plan against which the proposal has been assessed have not been opposed by the public; thirdly, that the provisions of the forthcoming plan are unlikely to be prejudiced; fourthly, that the development does not give rise to unacceptable environmental impact or is subject to infrastructure constraints; and finally, that the planning application has not attracted objection from third parties.

Although approval of the application would constitute a 'departure' from the approved development plan, a PAN 41 hearing would not be required in the absence of third party objections.

There have been no objections from consultees. Historic Scotland and WOSAS have been involved in the safeguarding of the setting of a scheduled standing stone within the site, and are agreed that this can be protected by means of a designated exclusion area to be kept clear of all development, the extent of which can be prescribed by condition.



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CONDITIONS AND REASONS RELATIVE TO APPLICATION: 04/01386/OUT

4. This consent does not confer any approval for the numbers, locations, or layout of dwellings or plots indicated on the approved plans, which have been submitted for illustrative purposes in order to inform the establishment of an exclusion area around the Torran incised-stone scheduled ancient monument.

Reason: For the avoidance of doubt.

5. Pursuant to Condition 1(a), any application for approval of reserved matters shall have regard to the exclusion area around the Torran incised-stone scheduled ancient monument, delineated by means of the blue line on drawing No. 912/6. No dwelling, nor any curtilage of a dwelling, shall be permitted within this area, which shall remain free of all development associated with this consent.

Reason: In order to safeguard the setting of the scheduled ancient monument.

6. Pursuant to Condition 1(a) any application for approval of reserved matters shall have regard to the provisions of a 'Design Code' which shall be submitted to and approved by the Council as Planning Authority in advance of the approval of any such reserved matter application. This shall provide for an informal, loosely clustered pattern of dwellings generally consistent in density and form with the established development pattern in Torran, which shall maintain clear views of the scheduled Torran incised-standing stone and which shall not interrupt distant views of Loch Awe from positions on the knoll forming the westernmost part of the exclusion area, the levels of which shall remain undisturbed. It shall also specify minimum plot sizes, minimum distances to be maintained between buildings, design principles applicable to the dwellings, external materials to be used, window styles, boundary treatments, and shall have regard to the requirements of condition 7 below.

Reason: To ensure that the development has a character which complements the existing building pattern and the overall landscape characteristics of this area of scenic importance, and to safeguard the setting of the scheduled ancient monument.

7. Any details pursuant to Condition 1(a) above shall include dwellinghouses:

- i) finished in wet dash render or natural stone or a mixture of both;
- ii) with a roof covering of natural slate or good quality slate substitute;
- iii) of no greater than one and a half storeys in height;
- iv) incorporating windows with a strong vertical timber emphasis;
- v) a roof pitch of not less than 37° and not greater than 42°;
- vi) incorporating smooth cement window and/or door bands;
- vii) which are predominantly rectangular shaped with traditional gable ends;
- viii) with finished floor levels specified relative to an off-site datum.

Reason: In the interest of visual amenity and in order to integrate the proposed dwellinghouses with their surroundings.

8. Pursuant to Condition 1(a) above no development (neither engineering works nor building works) shall take place within the application site until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Planning Authority.

Reason: To ensure that any inappropriate ground works are avoided and appropriate steps are taken to carry out archaeological recording in advance of the development.

9. Pursuant to Condition 1(b) above the required landscaping details shall include a scheme of hard and soft landscaping works, specifying:

- i) existing and finished ground levels in relation to an identified fixed datum;
- ii) existing landscaping features and vegetation to be retained;
- iii) location and design, including materials, of walls, fences and gates;
- iv) soft and hard landscaping works, including the location, type and size of each individual tree and/or shrub;
- v)

- vi) a programme for completion and subsequent on-going maintenance.

All the hard and soft landscaping works shall be carried out in accordance with the scheme approved in writing by the Planning Authority. All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting and seeding seasons following the commencement of the development unless otherwise agreed in writing with the Planning Authority.

Any trees or plants which within a period of ten years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species, unless otherwise agreed in writing with the Planning Authority.

Reason: To ensure the implementation of a satisfactory scheme of landscaping

10. Pursuant to Condition 1(c) the access serving this site shall be a Road over which the public has a right of access in terms of the Roads (Scotland) Act 1984, and shall be constructed in consultation with the Council's Area Roads Manager to the satisfaction of the Council as Planning Authority. The access shall involve a junction to the classified road which shall be laid out and constructed in accordance with the Council's drawing TM205.

Reason: In order to ensure that provision is made for a service "road" commensurate with the scale of the overall development and having regard to the status of the proposed access as a residential service road.

11. Pursuant to Condition 1(d) above any application for approval of reserved matters shall include full details of:
- a. the waste water treatment facility including the dimensions and location of the soakaway system; and
 - b. a surface water drainage system which shall be by means of a separate system treated in accordance with the principles of the 'Sustainable Urban Drainage System Design Manual for Scotland and Northern Ireland' published by CIRIA in March 2000.

Reason: in the interest of public health and amenity.

12. No development shall be commenced until a factoring agreement which provides for the long-term maintenance of the communal sewage treatment works has been devised and submitted for the prior written approval of the Council as Planning Authority. Subsequently, no dwelling shall be occupied until such time as the intended occupier(s) and any successive occupier (s) have /has become a legally binding party to such an agreement.

Reason: In order to provide for the long-term maintenance of the private communal sewage system in the interests of pollution control.

Advice Notes:

1. Attention is drawn to the attached copy letter from Scottish Water dated 10.11.04.
2. In the event that public mains water connections cannot be obtained, and it is necessary to source a private supply from outside of the application boundaries, then it may be necessary to obtain a separate planning permission and advice should be sought from the Planning Authority in this eventuality.
3. Attention is drawn to the two attached copy letters from the Scottish Environment Protection Agency dated 19.08.04 and the 12.01.05.

APPENDIX RELATIVE TO APPLICATION: 04/01386/OUT

A. POLICY OVERVIEW

Mid Argyll Local Plan 1985 (1st Alt. 1989 and 2nd Alt. 1993)

Policy RUR 1: The Council will seek to maintain and where possible to enhance the landscape quality of ...the Loch Awe area of local landscape importance ... and within this area will resist prominent or sporadic development which would have an adverse environmental impact.

Policy RUR 2: Proposals for development in or affecting the Loch Awe area of local landscape significance will require to be justified against the following criteria :

- (a) environmental impact;
- (b) locational / operational need;
- (c) economic benefit; and
- (d) infrastructure and servicing implications.

Policy HO 12: This policy specifies housing allocations for private residential development (*necessary for any development that is not 'small scale' and not otherwise achievable under the other policies of the plan.*) This site is not included within the site specific list accompanying this policy.

Policy HO 13: In countryside (*outwith the inset maps and therefore including this site*) the Council is in favour of single or small scale residential development, providing there are no infrastructure, servicing or environmental constraints. Particular attention will be paid to infill, rounding off and redevelopment opportunities related to existing development and land forms.

Regard will be had to the principles set out in the Government's Planning Advice Note 36 (*since replaced by PAN 72*) and proposals which promote undesirable ribbon development, are out of scale or cumulatively affect the character of an area detrimentally are likely to be resisted.

'Argyll and Bute Local Plan' (Consultation Draft 2003)

Policy STRAT DC 1: Development within the Settlements

Encouragement shall be given, subject to capacity assessments, to development in the settlements as follows:

- A) *Irrelevant to this case*
- B) *Irrelevant to this case*
- C) Within the Minor Settlements (*including Torran*) to small scale development which is compatible with an essentially rural settlement location on appropriate infill, rounding-off, and redevelopment sites; in exceptional cases medium or large scale development may be supported.
- D) Developments which do not accord with this policy are those outwith A), B) and C) above and urban bad neighbour developments which are essentially incompatible with the close configuration of land uses found in settlements eg....developments which result in excessively high development densities, settlement cramming or inappropriate rounding-off on the edge of settlements.
- E) Developments in settlements are also subject to consistency with the other policies of this Structure Plan and in the Local Plan.

Policy PDA 1: (relating to PDA12/73): Development in Potential Development Areas

- A) Development of any part of a potential development area shall demonstrate that it is consistent with and will not prejudice a comprehensive development approach for the whole of the potential development area. This shall take into account: the intentions of the settlement plan covering the area; the effective phasing of development; and the need to make appropriate area wide provision for servicing, access, layout and design.
- B) n/a.

Polcy E 5: Development Impact on Scheduled Ancient Monuments

Protection, conservation, enhancement and positive management of the historic environment is promoted. Development which adversely affects or undermines the historic architectural or cultural qualities of the historic environment will be resisted. This applies specifically to development affecting a scheduled ancient monument or its setting. Development and associated land use outwith the 'scheduled areas' shall preserve and not knowingly damage or undermine the key features of scheduled ancient monuments.

B. OTHER MATERIAL CONSIDERATIONS

(i) Site History

None relevant.

(ii) Consultations

- Area Roads Manager (report dated 05.08.04, and second report dated 31.01.05, following submission of revised indicative plot and road layout) - There is 160m visibility presently available in both directions and no objections are raised subject to conditions which ensure that the principal access to the public road is at 90 degrees to the public road (*as it is at present*), any additional access is 25m from the primary access, and that the construction details of the roads, footpaths and street lighting shall be to the Council's adoptable standards, incorporating traffic calming.
- Development Plans Unit (report dated 07.10.04 and 02.02.05):
 - Development, of the size proposed, when considered against the policies of the Mid Argyll Local Plan would represent a departure from policy, but it is recognised that Policy HO 13 of the adopted plan would support smaller scale development or redevelopment proposals at this location.
 - In the context of the emergent Draft Argyll & Bute Local Plan the site lies within a Potential Development Area (PDA). A development brief for each PDA is to be prepared in due course.
 - Whilst objections were initially received to the Consultative Draft Local Plan overall proposals for Torran, these have since been withdrawn, subject to retaining in a protected open space in front of Torran. This area would not be affected by the current proposals. Accordingly the application can now be determined without it being prejudicial to the local plan process.
- Environmental Health Officer (report dated 02.08.04): no objections.
- Historic Scotland (Ancient Monuments Section) (letters dated 12.08.04 and 03.03.05): Consideration has been given to the setting of the Torran cross-incised stone, which is situated within the application site, and which is a scheduled monument. Whilst no objections have been raised to the principle of development, assurance is sought that the monument will be preserved within an open setting, with landscape and design issues to be addressed at reserved matters stage. (The applicant has met with representatives from Historic Scotland who have prescribed a zone beyond the scheduled area which should be maintained free of built development. This has been addressed in a recommended condition).
- West of Scotland Archaeology Service (letters dated 09.09.04 and 14.02.05): Whilst initial objections were raised to this development because of its proximity to the scheduled stone, the application has subsequently been discussed on site with WOSAS who have agreed with Historic Scotland a designated zone around the "stone" where development would be excluded. They now have no objection to the proposal subject to an appropriate condition to safeguard this area..
- Scottish Environment Protection Agency (SEPA) (letter dated 19.08.04 concerning surface water drainage and a further letter dated 12.01.05 concerning foul drainage) :
 - surface water from the site to be treated in accordance with the principles of the Sustainable Urban Drainage Systems.

- foul drainage: no objections to the proposed waste water treatment facility following on from a report submitted by consultants appointed by the applicant. SEPA state the population equivalent served by the proposed soakaway system would be up to 85 persons and the potential risk to groundwater is deemed to be negligible at this location if the system is well designed and maintained to safeguard the controlled waters (*Loch Awe*). An appropriate condition is recommended.
- Scottish Water (letter dated 10.11.04) : no objections.
- Dunadd Community Council (letter dated 11.08.04) state that the proposal has been discussed with the local Community Councillor who advises that no objections have been received by him. The community feel that if the proposal is to provide affordable housing, as suggested by the applicant, then it is much needed in the area; but they insist on the proviso that the development is in keeping with the house type and topography of the area.

(iii) Publicity

Advertised in terms of Article 9 (Vacant Land). The period for representation expired on 06.08.04

Advertised as a Departure to the Mid Argyll Local Plan Policies RUR 1 & RUR 2, and Policy HO 12. Advertised as a Potential Departure to the Draft Argyll & Bute Local Plan policy PDA 12/73 (*in so far that the proposal does not seek the development of the entire PDA area*) and Policy E5. The period for representation expired on the 03.09.04.

An initial objection from D.C. Morses of Torran Cottage has been withdrawn in writing. No other representations have been received.

C. ASSESSMENT

Torran is a very loosely knit group of properties to the north of Ford, given status in the Draft Argyll & Bute Local Plan as a 'minor settlement'. Apart from the eight properties in the significant building known as 'Torran Mhor', the rest comprise detached single and one and a half storey detached dwellings, well spaced between one another on the northern side of the Dalavich road, overlooking Loch Awe.

The proposal seeks outline consent for the development housing on 1.3 of land principally to the north of the existing Torran Farm bungalow. Whilst not formally part of the application, an indicative drawing indicates that the site could potentially accommodate up to 8 small dwellings in a clustered arrangement around the scheduled Torran standing stone. Access is also presently indicatively shown by an extension of the road serving the agricultural buildings at Torran Farm, which meets the classified road on the bend just in front of the bungalow of Torran Farm itself. (The applicant's intention is to remove the farmstead from its current location adjacent to other dwellings, and to relocate it elsewhere in order to make available development land at Torran. A separate planning application would be required for this). The same plan also indicatively shows the road extending through and beyond the site, in order to access the remainder of the Potential Development Area as identified in the Draft Local Plan.

Because of the size of the site, and the fact that the adopted local plan does not at present accord Torran 'settlement' status, this proposal would represent a significant growth of the loosely knit group of buildings at Torran, which could not be considered consistent with the policies of the Mid Argyll Local Plan. This most relevant policy in Plan for assessment purposes is Policy HO 13, but this can only support small scale development (whereas the application area and indicative number of dwellings cannot be construed as 'small scale'). The proposal needs to be justified under policies RUR 1 and RUR 2 of the same Plan, given the location of the site within the Loch Awe area of local landscape importance.

Policy RUR 2 requires that the application be considered against the following criteria:

Environmental impact – Given the extent of the site in the context of the existing group of buildings at Torran and their landscape setting, it has to be recognised that the proposal would change the scale of this cluster of development fundamentally. Whilst the prospect of this is acknowledged by the proposed designation of Torran as a ‘settlement’ in the emergent local plan, development of this scale can only be permitted within the framework of the adopted plan if land is specifically allocated for housing purposes, which in this case it is not. Accordingly, the proposal is not consistent with the provisions of the Mid Argyll Local Plan.

The area to be developed currently forms the farmstead which is operated from the adjacent Torran Bungalow. It is contained between buildings fronting the public road and rising hill land to the rear. The farm buildings and associated working areas are not well related in respect of the adjacent residential properties, and there would be benefit in relocating the farmstead to an alternative site on the holding, as suggested by the applicant, in order to reduce conflict between agricultural activities and neighbouring occupiers. If developed for housing, the land would relate well to the existing buildings, and would be contained by these buildings and the surrounding landfarm so as to not be prominent from the public road, nor significant in terms of its impact on the Loch Awe Area of Local Landscape Significance. The site contains a scheduled standing stone, the setting of which it would be important to safeguard from inappropriate encroachment by development. Historic Scotland and WOSAS have accepted that its setting is currently devalued in view of its farmyard location, and that sympathetic development maintaining appropriate spacing could improve this situation. The clustered form of development proposed would produce co-ordinated development well related to other buildings, with ready road access and communal servicing. Development of this nature would also reduce the demand for isolated sites in inappropriate hillside locations which have led to refusals of planning permission elsewhere on Torran Farm in the recent past.

Locational operational need – None advanced in support of this proposal.

Economic benefit – None other than that associated with construction.

Infrastructure and servicing implications – The site can be accessed directly from the public road. In view of the likely number of properties to be developed, access within the site would be expected to be to adoption standard. The Area Roads manager does not object to the proposal. Water supply would be from the public main whilst foul drainage would be by way of a private packaged treatment plant the location of which has already been agreed in principle by SEPA..

The proposal is consistent with the policies and proposals of the 'Argyll and Bute Local Plan' (Consultation Draft 2003). This shows a proposed settlement boundary significantly larger than the existing loose cluster of buildings at Torran, and in addition, to the north and east of the farm bungalow and to north-west of Torran Mhor it defines a Potential Development Area (PDA). Given that this development could be laid out in such a way, by way of a reserved matters application, that it would not preclude the possibility of the rest of the PDA being developed in a co-ordinated manner at some future time, it would be possible to approve this development subject to conditions and approval of a future layout which would have regard to the development potential of the remainder of the PDA.

Accordingly, given that there have not been any objections to the development of this land in the context of the current local plan process, or objections raised to this planning application, it would be open to Members to consider approval of the application at this stage, having regard to emergent policy, the lack of objections, and the age of the current local plan. As such an approval would not be prejudicial to forthcoming plan, I am recommending that the application should indeed be considered favourably as a ‘departure’ to the adopted local plan.

Assessment of the application has merited careful consideration of its implications for the scheduled stone within the site. Whilst the application is in outline, and has only been accompanied by an illustrative layout, Historic Scotland, the West of Scotland Archaeology Service have been anxious to define an exclusion zone beyond the scheduled area, within which development would be precluded in order to safeguard the setting of the scheduled stone.

Following a meeting on site with the respective parties, such an area has been agreed and delineated on the submitted plans, and this can be safeguarded by condition. This exclusion zone allows an area around the stone to be free from development or garden use, enabling the

setting of the stone, including the presence of a small knoll to the west of the stone, to be preserved. To assist in maintaining this setting, Historic Scotland have noted that it is necessary to be able to view the stone from this knoll, with the Loch Awe being visible as a backcloth from this same vantage point. The parties are agreed that with appropriate siting of each dwelling beyond the exclusion zone, this requirement can be achieved in the consideration of any layout pursuant to the approval of reserved matters.

D. REASONED DEPARTURE FROM THE PROVISIONS OF THE APPROVED DEVELOPMENT PLAN

The proposal relates to the development of land which is subject to Policies HO 13 and RUR 1 & RUR 2 of the adopted Local Plan, which seek to limit development in this locality to small scale which does not give rise to adverse environmental impact. The development site by virtue of its size and the likely number of dwellings which it could accommodate, cannot be considered consistent with these policies.

The proposal does accord with the provisions of the draft Argyll and Bute Local Plan (being entirely contained within a proposed new settlement boundary), which has been the subject of initial public consultation, and which has not given rise to objections from the public. In view of the age of the adopted plan, the relevance of emergent policy and the lack of adverse representation to either that policy, or to the application in question, there is justification for considering this proposal favourably in advance of the adoption of the draft local plan.

The continued provision of a supply of housing sites in appropriate locations, in circumstances where adopted local plan allocations under policy HO 12 are becoming exhausted and where further land has yet to be released by the forthcoming 'Argyll and Bute Local Plan', conforms to the advice offered by the government in SPP 3 and PAN 38 in relation to the need for an maintain an ongoing 5 year housing land supply throughout the Council area.

E. CONSIDERATION OF THE NEED FOR A PAN 41 HEARING

In cases where 'departures' are being contemplated to an adopted plan it is necessary to consider whether it is appropriate to hold a PAN 41 Hearing prior to an application being considered favourably. Given that no adverse representations have been made to either this application, or the relevant proposals in the Draft 'Argyll & Bute Local Plan', a PAN 41 Hearing is not necessary in this case.