

Reference Number: 05/00058/OUT
Applicants Name: E.A.G. Turner
Application Type: Outline Planning Permission
Application Description: Site for the erection of three single storey dwellinghouses
Location: Land at Upper Killeyan, The Oa, Port Ellen, Isle of Islay

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission:

- Site for the erection of 3no. single storey dwellinghouses (details in respect of siting, design and finishes reserved);
- Installation of private foul drainage system(s) (details reserved);

(ii) Other Specified Operations:

- Formation of accesses onto an existing privately maintained public right of way;
 - Connection to a new private water supply
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(B) RECOMMENDATION

It is recommended that:

- 1) Planning permission be granted subject to the standard outline planning conditions and reasons and the conditions and reasons attached, subject to the prior receipt of confirmation from SEPA of their satisfaction that the applicant has successfully demonstrated that ground conditions are suitable for the foul drainage system for the development to be served by means of a total soakaway, or such other arrangement as may be acceptable to SEPA;
 - 2) In the event that the application proves acceptable to SEPA in its current form, the Head of Planning be authorised to issue the decision notice;
 - 3) In any other circumstance, the application be remitted to Committee for further consideration.
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(C) DETERMINING ISSUES AND MATERIAL CONSIDERATIONS

This is an outline application for three dwellings adjacent to a small group of buildings at Upper Killeyan, which are situated towards the western side of The Oa on the approach to the American Monument. Whilst the surrounding area has very limited capacity for development, there is a node of development at Upper Killeyan set within a hollow in the landscape, which provides some opportunity for small scale development, the potential of which is recognised by the designation of a localised 'Rural Opportunity Area' in the emergent local plan.

The surrounding area is frequented by visitors to the nearby RSPB Reserve and the American Monument. It is therefore important that the character of the area is maintained and that any development which is permitted is small in scale and vernacular in design. With the imposition of appropriate conditions to ensure this, it is considered that a small scale cluster of development close to existing buildings would be consistent with both adopted and emergent local plan policy. The application site is on the approach to the existing buildings where it does not share the shortcomings

of land beyond those buildings where important coastal views are opened up to visitors to the area. The presence of additional buildings in the location proposed at Upper Killeyan would therefore only have localised effects over short distances, and would not impinge on the wider area or the nearby designated Oa Regional Scenic Coast.

There are no objections to the proposal from consultees, although SEPA have expressed their wish for the practicality of the foul drainage system to be served by a total soakaway to be demonstrated to their satisfaction by the applicant in advance of planning permission being granted. Two letters of representation have been received, along with a 47 signature petition which appears to have been signed by visitors to the Nature Reserve.



Angus J Gilmour
Head of Planning
18.04.05

Author: Peter Bain – 01546 604082
Contact officer: Richard Kerr – 01546 604080

CONDITIONS AND REASONS RELATIVE TO APPLICATION 05/00058/OUT

4. No development shall be commenced until intervisible passing places a minimum of 160 metres apart have be provided along the existing vehicular access between the application site and the limit of the public road, in accordance with a scheme to be submitted to and approved by the Council as Planning Authority in consultation with the Council's Area Roads Manager.

Reason: In the interests of road safety.

5. Any details pursuant to Condition 1(a) above shall show a dwelling(s) of local traditional design and finish and shall incorporate the following elements:-

- i. The dwellings shall be single storey in height;
- ii. The window openings shall have a strong vertical emphasis;
- iii. The walls shall be finished in a white wet dash render / smooth coursed cement render / natural stone;
- iv. The roof shall be symmetrically pitched to at least 37 degrees and be finished in natural slate or a good quality substitute slate;
- v. The building shall be of a general rectangular shape and gable ended with a maximum footprint, to the external walls, of 100m².
- vi. The buildings shall address the access through the site;
- vii. Any porches (which are encouraged in the design) shall have traditional "peaked" roofs;
- viii. Details of the proposed finished floor level of the dwellings shall be provided relative to an identifiable fixed datum located outwith the application site.

Reason: In the interests of visual amenity, to reflect/retain the vernacular building traditions of the area and the existing settlement pattern.

6. Any details pursuant to condition 1 above shall include details of a scheme of boundary treatment, surface treatment and landscaping works which include for:

- Location and design, including materials, of any walls fences and gates;
- Surface treatment of means of access and hardstanding areas.

None of the dwellinghouses shall be occupied until the approved boundary and surface treatment works have been undertaken in accordance with the approval details.

Reason: To ensure the implementation of a satisfactory scheme of boundary and surface treatment required in order to integrate the proposals with its surroundings.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order(s) 1992, (or any Order revoking and re- enacting that Order(s) with or without modifications), nothing in Article 3 of or Schedule 1 to that Order, shall operate so as to permit, within the area subject of this permission, any development referred to in Parts 1 and Classes 1, 2, 3 and 4, and in Part 2 and Classes 7 and 9 of the of the aforementioned Schedule 1, as summarised below:

PART 1: DEVELOPMENT WITHIN THE CURTILAGE OF A DWELLINGHOUSE

Class 1: The enlargement, improvement or other alteration of a dwellinghouse.

Class 2: Any alteration including enlargement to the roof of a dwellinghouse.

Class 3: The provision of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse or the maintenance, improvement or other alteration of such a building or enclosure.

Class 4: The provision of a hard surface.

PART 2: MINOR OPERATIONS

Class 7: Gates, fences, walls and other means of enclosures.

Class 9: Stone cleaning and exterior painting of any building work.

No such development shall be carried out at any time within these Parts and Classes without the express grant of planning permission, or written approval being given pursuant to the requirements of condition 6 above, as appropriate.

Reason: To protect the area and the setting of the proposed dwellinghouses, in the interest of visual amenity, from unsympathetic siting and design of developments normally carried out without planning permission; these normally being permitted under Article 3 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992.

8. Any details pursuant to condition 1 above shall include a full appraisal to the satisfaction of the Council as Planning Authority of the quantity, quality and adequacy of the private water supply to serve the development, and the means to do it shall be carried out by a qualified hydrologist in consultation with the Council's Head of Public Protection and the proposed works in relation to water provision shall first be agreed in writing by the Council as Planning Authority. Furthermore the development itself shall not be occupied until the required works have been provided to the satisfaction of the Planning Authority.

Reason: In the interests of public health and in order to ensure that an adequate private water supply in terms of both quality and quantity can be provided to meet the requirements of the proposed development.

Notes to applicant

- 1 Public rights of way, SA112 and SA110, pass through the development site. The developer should take steps to ensure that these remain unobstructed throughout the development period.
- 2 Contact should be made with the Council's Public Protection Officers on 01546 604780 in respect of the requirements of condition 8.
- 3 Contact should be made with the Council's Roads Engineers on 01496 810203 in respect of the requirements of condition 4.
- 4 Regard should be had to the comments contained in the attached copy letter from SEPA dated 15.4.05.

APPENDIX RELATIVE TO APPLICATION 05/00058/OUT

A. POLICY OVERVIEW

Argyll and Bute Structure Plan 2002

STRAT DC 4 – DEVELOPMENT IN RURAL OPPORTUNITY AREAS

- A) Within Rural Opportunity Areas, encouragement shall be given to small scale developments* on suitable sites which, in terms of siting and design, will visually integrate with the landscape and settlement pattern; this may include small scale development in the open countryside as well as small scale infill, rounding-off, redevelopment and change of use building development.
- B) On individual crofts ...
- C) In special cases a medium or large scale development may be supported ...
- D) Developments which do not accord with this policy are those outwith categories A), B) and C) above and those with incongruous and unacceptable siting and design characteristics, including development resulting in undesirable forms of ribbon development or settlement coalescence.
- E) Developments are also subject to consistency with other policies of the Structure Plan and in the Local Plan.

** to be defined in the Local Plan and in the case of housing, corresponding to developments not exceeding 5 dwelling units.*

STRAT DC 7 – NATURE CONSERVATION AND DEVELOPMENT CONTROL

- A) Development likely to have a significant effect upon a Natura site ...
- B) On sites of national importance, SSSIs and NNRs, ...
- C) Development which impacts upon Local Wildlife Sites or other nature conservation interests, including sites, habitats or species at risk as identified in the Local Biodiversity Action Plan, shall be assessed carefully to determine its acceptability balanced along with national – or local – social or economic considerations.
- D) Enhancement to nature conservation interests will also be encouraged in association with development and land use proposals.

STRAT DC 8 – LANDSCAPE AND DEVELOPMENT CONTROL

- A) Development which, by reason of location, siting, scale, form, design or cumulative impact, damages or undermines the key environmental features of a visually contained or wider landscape or coastscape shall be treated as 'non-sustainable' and is contrary to this policy. Outwith the National Park particularly important and vulnerable landscapes in Argyll Bute are those associated with:
 - 1. National Scenic Areas
 - 2. Heritage landscapes and their settings with close links to archaeology and built heritage and/or historic gardens and designed landscapes
 - 3. Landward and coastal areas with semi-wilderness or isolated or panoramic quality.
- B) Protection, conservation and enhancement to landscape will also be encouraged in association with development and land use proposals.

Islay, Jura and Colonsay Local Plan (1st Review and Alteration) 1988

Settlement Strategy STRAT 4

A presumption in favour of single or small scale residential development in the countryside except:

- (i) in locations identified as important for nature, heritage or archaeological conservation;
- (ii) in areas of better quality or “in-bye” agricultural land;
- (iii) in the Bowmore, Bruichladdich, Port Charlotte and Portnahaven/Port Wemyss settlement areas.

Settlement Strategy STRAT 4A

All proposals for single or small scale residential development in the Islands countryside will be examined in terms of infrastructure and servicing implications and in scenic areas and coasts careful consideration will be given to the design, setting and scale of development. In addition in the areas covered by STRAT 4(i) – (iii) proposals will require to be justified against the following criteria: (i) locational/operational need; (ii) economic benefit; (iii) sterilisation of natural resources; (iv) environmental impact; (v) effect on conservation of natural and heritage resources; and (vi) alternative policies and proposals in the local plan.

POL RUR 1

The Council will seek to maintain and, where possible enhance the landscape quality of National and Regional Scenic Areas and Coasts and areas of local landscape significance, and within these areas will resist prominent or sporadic development which would have an adverse environmental impact: (c) Regional Scenic Coasts – (i) The Oa Coast.

POL RUR 2

Proposals for development in or affecting National Scenic Areas, Regional Scenic Areas and Coasts or areas of local landscape significance will require to be justified against the following criteria: (a) environmental impact; (b) locational/operational need; (c) economic benefit; (d) infrastructure and servicing implications.

POL RUR 10

The Council will continue to seek the advice of Scottish Natural Heritage on proposals likely to affect sites of wildlife or scientific interest. While having regard to the special requirements of other land users and to the interests of the community as a whole, the Council will maintain a presumption against those developments and land use changes which would erode or have an adverse effect on resources of wildlife or scientific value, in particular: (a) designated National Nature Reserves and Sites of Special Scientific Interest; (b) undesignated sites of ecological importance identified by Scottish Natural Heritage;

POL HO 7

Where there are existing clusters of development outwith the settlements defined in POL HO 5, the Council will encourage further housing (including infill, “rounding-off” and redevelopment relating to existing development, provided that there are no servicing or infrastructure constraints.

B. OTHER MATERIAL CONSIDERATIONS

(i) Site History

There is no relevant planning history in respect of the site.

(ii) Consultations

- Highlands & Islands Airports Ltd. (received 11.02.05) – No objections.
- ScotWays (14.02.05) – No objections, however it is noted that the National Catalogue of Rights of Way shows two rights of way, SA112 and SA110 passing through the development site which should be protected in the course of development.
- Area Roads Manager (16.02.05) – No objections subject to conditions requiring the formation of intervisible passing places at a maximum distance of 160 metres apart between the development and the start of the public road. *It should be noted that the land required for the provision of additional passing places is outwith the application site but within the ownership of the applicant.*
- West of Scotland Archaeology Service (17.02.05) – No objections.
- Scottish Natural Heritage (03.03.05) – No objections, it is noted that there are natural heritage interests of some importance in the location, which could be affected by the development, however this proposal is not considered to be threatening to those interests. It is further noted that the Argyll and Firth of Clyde Landscape Character Assessment (1996) has defined this area as Moorland Plateau, where the land is valued for its remote and natural qualities. It is noted that the application site is within the locality of a farmstead and lies within a hollow of improved agricultural ground. It is advised that the scale and siting of the houses should be in keeping with the existing traditional pattern of development in the area and the design appropriate to the location.
- RSPB Scotland (14.03.05) – No objections. It is noted that the land in question has been managed since 1999 as part of an RSPB nature reserve for the benefit of choughs and is used by them for feeding at various times of the year. The Oa is an Important Bird Area (IBA) and also meets the criteria required for Special Protection Area (SPA) designation for choughs. Choughs are a schedule 1 species receiving protection under the wildlife and Countryside Act (1981) and are also listed on Annex 1 of the EC Birds Directive. In addition, they are one of the species listed in the Argyll and Bute Local Biodiversity Action Plan. However, the RSPB does not feel that the loss of this particular area under the proposed housing development would have a significant adverse impact on the local chough population.
- Head of Public Protection (18.4.05) – No objection in principle, subject to foul drainage arrangements being clarified at reserved matters stage and subject to a condition regarding the proposed private water supply.
- SEPA (15.4.05) – do not object to the proposal in principle, but wish that the suitability of the site to be served by a total soakaway system be investigated in advance of planning permission being granted. If such an arrangement is impractical due to ground conditions then their position is reserved in respect of any prospective discharge to controlled waters and SEPA would require to be consulted further.

(iii) **Publicity**

The proposal has been advertised under the provisions of Article 9 of the Town and Country Planning (General Development Procedure)(Scotland) Order 1992 for the purposes of neighbour notification (expiry 24th February 2005). Written representation has been received from two parties, Ian & Jean Mitchell, Upper Killeyan Farm, The Oa, Isle of Islay (received 24.01.05, 01.03.05, 17.03.05 and 29.03.05); and Maggie M. Pollard O.B.E, Emerivale Cottage, Port Ellen, Isle of Islay. The various points of representation are summarised below.

It is also noted that a 47 signature petition making representation to the proposed development under the heading “We are here today for the wildlife and spectacular scenery at Upper Killeyan. Please don’t spoil this wonderful place by allowing the proposed development”, has been submitted to the Planning Department, (received 29.03.05).

- The application site is located in the middle of a nature reserve. Upper Killeyan is farmed and managed by the RSPB to protect and nurture wildlife. The erection of three dwellings at this location would have an adverse effect upon nature conservation interests.

Comments: The site is an undesignated nature reserve that is managed by the RSPB Scotland. It is noted that neither the RSPB Scotland or SNH have raised objection to the proposal and have confirmed that the development is unlikely to have a significant adverse effect upon nature conservation interests.

- The proposed development straddles the track from the Reserve car park to Upper Killeyan Farmhouse; the track itself forms part of a circular walk to/from the American Monument to the Mull of Oa. The walk is one of Islay's most heavily promoted tourist attractions and draws a significant amount of visitors year round. The development of this particular site would give the appearance that the existing walk passes through private garden ground which is likely to discourage the use of the walk by visitors to the area who are unfamiliar with the route.

Comments: It is noted that the application site straddles an existing public right of way; ScotWays have not raised any objections to the proposal provided that the developer protects and preserves these existing public rights of way.

- The development shall introduce an intrusive, suburban form of development, "neat, two parking space, suburban bungalows" which shall appear incongruous within the essentially rural character of the existing landscape setting.

Comments: The current proposal is an application for outline planning permission and the details shown on the submitted drawings in respect of site layout are indicative only. It is the consideration of the Planning Department that development at this location would require to be of a layout, design and finish which complements the rural setting of the surrounding landscape and reflects the settlement pattern of the area; and planning conditions are recommended accordingly.

- The proposed development shall have an adverse environmental impact in respect of key views of the wider landscape from Upper Killeyan.

Comments: It is the consideration of the Planning Department that the proposed development is to be located adjacent to an existing cluster of development and within a relatively self-contained hollow which would minimise the impact of the development upon the wider landscape setting. This issue is addressed in (iv) Assessment below.

- The access road to the site is unsuitable to accommodate further development.

Comments: The Area Roads Manager has not raised any objections to the proposal subject to the imposition of a planning condition that requires the existing access road to be upgraded through the provision of intervisible passing places on land in the applicant's control.

- There is an existing septic tank, which serves the RSPB 'cottage', and overhead power lines located within the application site.

Comments: These could be avoided or relocated as appropriate once the location of buildings became known in the submission of reserved matters applications.

- The current proposal does not provide details as to the provision of a private water supply to serve the proposed development.

Comments: The private water supply arrangements are subject to a recommended condition.

- RSPB Scotland have a conflict of interests in respect of the current application due to the fact that the Reserve is leased by them from the applicant and therefore their

comments in respect of the current application (received 14.03.05) are likely to be influenced by a requirement to maintain a “reasonable working relationship” with the applicant with the expectation that “too vigorous opposition to his plans might jeopardise their whole operation”.

Comments: The response from the RSPB is a matter of record. The extent to which this may have been influenced by their relationship with the applicant is unknown.

- Ms Pollard lists a number of questions which are stated to be rhetorical and to which she does not require a response. She concludes by stating that the Oa is a valuable resource in its wild and natural state which should not be sacrificed for short-term gain. She considers that affordable housing for local people is best addressed by development in settlements and that development ‘here and there’ should be resisted.

(iv) Assessment

The proposal is an application for outline planning permission for a site for the erection of 3 dwellinghouses in countryside adjoining an existing group of buildings at Upper Killeyan. Local Plan Settlement Strategy STRAT 4 sets out a presumption in favour of single or small scale residential development in the countryside.

It is also noted that in the emerging Argyll and Bute Local Plan, it is proposed that this location be included within a larger ‘Rural Opportunity Area’ within which STRAT DC 4 of the Structure Plan would also encourage small scale developments on suitable sites.

The development proposal is located in proximity to The Oa Regional Scenic Coast and within an undesignated nature conservation site managed by RSPB Scotland. Under the provisions of Local Plan policy POL RUR 2 and Settlement Strategy STRAT 4A the proposal is required to be assessed against the criteria set out below.

Environmental Impact:

The application site is located in the south western corner of the Oa in a locality where existing built development is notably sparse and is generally limited to existing farm clusters and the occasional, isolated cottage; in this respect it is noted that the overall capacity of the wider landscape to accommodate new development which is consistent with the existing settlement pattern is extremely limited.

The limited capacity for further development in the wider landscape is recognised in the emerging Argyll and Bute Local Plan which proposes to identify the majority of the countryside in the vicinity of the application site as either ‘Sensitive’ or ‘Very Sensitive’ countryside within which there would be an initial presumption against further development. In respect of identifying areas within the wider landscape that are likely to have some capacity for further development, the emerging Local Plan proposes to identify less sensitive locations in the immediate vicinity of existing development clusters as ‘Rural Opportunity Areas’ within which a presumption in favour of small scale development would apply.

The application site is located immediately adjacent to an existing cluster of development at Upper Killeyan Farm that consists of a 1½ storey dwellinghouse, assorted farm buildings and farmyard and, a red brick ‘cottage’ building. This existing cluster of development is set within a hollow in the landscape that is largely hidden from view within the wider landscape setting by higher land to the north, east and south west. Beyond the existing cluster of development at Upper Killeyan, the landscape opens up towards the coast and provides panoramic views of the coastscape within the Oa Regional Scenic Coast.

The wider landscape at this location has been categorised as Moorland Plateau in the Argyll and Firth of Clyde Landscape Character Assessment (1996), where land is valued for its remote and natural qualities. It is however noted that the current application site is located within the locality of an existing farm cluster, and is not upon the open moorland plateau, as it lies within a hollow of improved agricultural ground at a lower level than that of the existing farm cluster. Consequently the impact of a single storey development would be limited to the immediate vicinity of the existing buildings at Upper Killeyan and would not have an adverse

impact upon the wider Oa Regional Scenic Coast. It is the consideration of the Planning Department that the development of this particular site, in a sympathetic manner, could be viewed as a rounding-off of the existing built form in a manner which is consistent with the existing settlement pattern of the area, and which would not have an adverse environmental impact on the wider landscape setting.

It is however noted that the application site forms a 'gateway' to a scenic, circular walk around the Reserve and to the American Monument. In this respect it is noted that the layout and design of any development at this location should not reduce the attraction of this important right of way for visitors. To this end it will be important that the development design and layout is rural in nature and appears subsidiary to that of the existing farm cluster and that conditions are imposed to secure this.

Locational/Operational Need:

The applicant has not made any claim of locational or operational need in respect of the current application.

Economic Benefit:

None other than that associated with construction.

Infrastructure and Servicing Implications:

Access to the site shall be via an existing private way that presently serves Upper Killeyan Farm and the Reserve, and is also part of a public right of way that extends beyond the application site to a circular walk within the Reserve and up to the American Monument. The Area Roads Manager has not raised any objection to the proposed development on road safety grounds subject to the provision of additional passing places between the application site and the end of the public road.

Water is to be by connection to a new private water supply, the details of which shall be subject to approval by condition.

Foul drainage is to be to a new private system (details reserved). SEPA have indicated their acceptance of the development being served by a septic tank or tanks on the assumption that the sub-soil on the site is adequate to enable the development to be served by a total soakaway. However, SEPA have asked that the applicant should demonstrate that this is the case prior to planning permission being granted. If this does not prove practicable and discharge to controlled waters is proposed then SEPA reserve their position until proposed drainage arrangements are known in detail.

Effect on Conservation of Natural and Heritage Resources:

The application site is located within an undesignated nature conservation site that is managed by the RSPB Scotland. Scottish Natural Heritage has provided the following assessment in respect of the likely impact of the proposal upon the nature conservation interests present:

Chough – Area is in use by chough. However, the area of land is comparatively small and other areas of suitable land are present in the vicinity. Electricity cables are also present in the area. No significant effect. Potential disturbance of surrounding area also of no significance.

Hen Harrier – The surrounding area is used extensively by hen harrier. Disturbance at the site already relatively high as the proposed site is within short distance from farm stabling and related activities. Large amounts of suitable habitat surround site. No significant effect.

Greenland geese (both species) – area is known as a roosting and feeding area for geese. However, the main feeding site is far enough away not to cause significant disturbance. Proposed site also surrounded by large areas of suitable habitat. No significant effect.

Corncrake – habitat inappropriate for species, no significant effect. Habitat suitable in the vicinity but no corncrake has been located there in recent years.

Marsh fritillary butterfly – habitat in appropriate for species, no significant effect.

Annex I Habitat – Potential site improved grassland/stubble. No significant effect.

European Species – Otters use the nearby coast extensively and the small streams running inland. Otter holts are located on the coast.

Area also used by Peregrine Falcons, Merlin and Barn Owls, however the area of proposed development is surrounded by large expanses of suitable habitat.

Sterilisation of Natural Resources:

The proposal shall not sterilise any known natural resource.

Alternative Policies and Proposals in the Local Plan:

There are no relevant alternative policies or proposals in the Local Plan in respect of the current proposal.

C. CONSIDERATION OF THE NEED FOR AN INFORMAL HEARING

The application has been the subject of two representations by local residents along with a petition signed by visitors to the nature reserve. Of those signing the petition, six are islanders with the remaining 41 being visitors from elsewhere, who would be unlikely to attend a hearing if one were to be held. Given that the Committee meeting is to be held on Islay there would be an opportunity for a site familiarisation to be held in advance of the consideration of this application, which would enable an assessment to be made at first hand as to the likely impact of the development of this land upon the nature reserve and its attractiveness to visitors. Subject to such a site familiarisation being carried out it is not considered that an informal hearing would be essential in this case.