

STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

22/0002/LRB

**REFUSAL OF PLANNING PERMISSION 21/02149/PP FOR THE RETROSPECTIVE
ERECTION OF AGRICULTURAL BUILDING**

THE CAMP, CROSSAPOL, ISLE OF TIREE

26/04/22

STATEMENT OF CASE

The Planning Authority is Argyll and Bute Council ('the Council'). The appellant is Mr Iain Brown ("the appellant").

Planning permission 21/02149/PP for the retrospective erection of an agricultural building on an area of land at The Camp, Crossapol, Isle of Tiree ("the appeal site") was refused by the Planning Service under delegated powers on 13/01/22.

The planning application has been appealed and is subject of referral to a Local Review Body.

DESCRIPTION OF SITE

The site is located adjacent to the U029 public road and directly opposite a residential dwellinghouse known as 'Viewfield' and 'Viewfield Annex'. The site is commercial in nature and previously contained an old shed which has since been demolished with the building subject of the current review having been constructed on its footprint.

It is considered that the siting of the agricultural building, directly adjacent to the public road and opposite a residential dwellinghouse, has resulted in the introduction of an incongruous structure into the site. It is considered that the siting of the agricultural building has an adverse impact on the site and its setting within the wider landscape and, due to the proximity to the neighbouring residential dwellinghouse, will have a detrimental impact on the established amenity levels currently afforded to the neighbouring dwellinghouse and accordingly planning permission was refused.

STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED

Section 25 of the Town and Country Planning (Scotland) Act 1997 provides that where, in making any determination under the Planning Act, regard is to be had to the development plan, and all other material planning considerations and the determination shall be made in accordance with the plan unless material considerations indicate otherwise. This is the test for this application.

STATEMENT OF CASE

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

- *Whether the siting of the agricultural building has an adverse impact on the site, its setting within the wider landscape and a detrimental impact on the established amenity levels afforded to the neighbouring dwellinghouse.*

The Report of Handling (Appendix 1) sets out the Council's full assessment of the application in terms of Development Plan policy and other material considerations.

REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING

It is not considered that any additional information is required in light of the appellant's submission. The issues raised were assessed in the Report of Handling which is contained in Appendix 1. As such it is considered that Members have all the information they need to

determine the case. Given the above and that the proposal is small-scale, has no complex or challenging issues, and has not been the subject of any significant public representation, it is not considered that a Hearing is required.

COMMENT ON APPELLANT'S SUBMISSION

- The appellant contends that the proposal represents a replacement agricultural building which he had been advised did not require the benefit of planning permission and therefore he proceeded to erect the building on site.

Planning Authority Comment: *This comment is noted by the Planning Authority, however, when the development was brought to the attention of the Planning Authority the appellant was contacted by the Planning Authority who raised concerns regarding the size and scale of the agricultural building and afforded the appellant the opportunity to either remove the agricultural building or consider reducing its size and scale and set it back from the public road.*

However, the application subject of the current review was submitted to the Planning Authority with no changes having been made to the size, scale or siting of the agricultural building.

The appellant's submission provides a photograph of the building which previously occupied the site which is significantly smaller than the structure which has been constructed on site. A copy of the photograph submitted by the appellant together with an image from Google Maps are provided below.



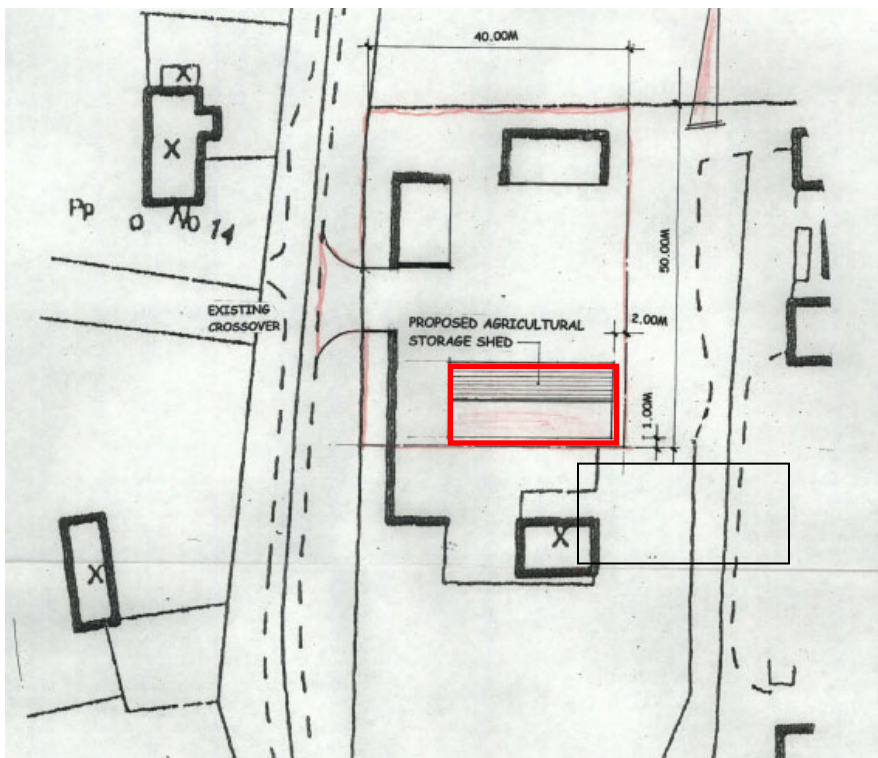
Image submitted by Appellant as part of request for review.



Image taken from Google Maps showing the previous building on site in 2009 in relation to the public road and neighbouring residential property.

- The appellant advises his willingness to revoke his existing planning permission 20/00273/PP should the appeal to the LRB be successful, but contradicts this statement by advising that two sheds are actually required on site.

Planning Authority Comment: *Planning permission 20/00273/PP relates to an agricultural building within the applicant's land holding which remains live and capable of implementation on site. Whilst this previous permission proposed a building of a similar scale and size, it was sited along the southern boundary of the applicant's land holding away from the neighbouring residential dwellinghouse, set back from the public road and with its relatively narrow gable elevation facing the public road. (See approved site plan below). During the processing of the application subject of the current review, the appellant did not give any persuasive argument as to why the building subject of the current review could not be constructed on the site subject of the extant planning permission.*



Site plan showing position of agricultural building approved under 20/00273/PP

For Members benefit the following images were taken by the Planning Authority during a site visit in August 2021 which show the agricultural building subject of the review in relation to the public road and the neighbouring dwellinghouse opposite.







Members should also note, that should they be minded to grant permission for the development, there are unresolved Environmental Health issues. During the processing of the application the Council's Environmental Health Service (EHS) objected to the application due to the lack of information on the intended use of the building and the potential impact it could have on the amenity of neighbouring residential properties. The EHS advised that, in order to provide comments, they would require the submission of a Supporting/Written Statement confirming the exact use of the agricultural shed. However, as the Planning Authority was not supporting the principle of the building on the site, such information was not sought from the appellant.

CONCLUSION

Section 25 of the Town and Country Planning Act 1997 requires that all decisions be made in accordance with the development plan unless material considerations indicate otherwise.

Taking all of the above into consideration, as set out above, it remains the view of the Planning Service, as set out in the Report of Handling appended to this statement, that the proposal has resulted in the introduction of an incongruous structure into the site resulting in an adverse impact on the site and its setting within the wider landscape and, due to the proximity to the neighbouring residential dwellinghouse, will have a detrimental impact on the established amenity levels currently afforded to the dwellinghouse.

Taking account of the above, it is respectfully requested that the application for review be dismissed.

APPENDIX 1

Report of Handling Relative to 21/02149/PP

Argyll and Bute Council
Development and Economic Growth

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

Reference No: 21/02149/PP

Planning Hierarchy: Local Development

Applicant: Mr Iain Brown

Proposal: Erection of Agricultural Shed (Retrospective)

Site Address: The Camp, Crossapol, Isle of Tiree

DECISION ROUTE

Section 43 (A) of the Town and Country Planning (Scotland) Act 1997 (as amended)

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of agricultural shed (retrospective)
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(B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission is **REFUSED** for the reasons appended to this report.

(C) HISTORY:

20/00273/PP

Erection of agricultural building – Granted: 23/04/20

(D) CONSULTATIONS:

Roads Authority

No response at time of report and no request for an extension of time.

Environmental Health Service (EHS)

Memo dated 07/12/21 objecting to the application due to lack of information on its intended use and the potential impact on the amenity of neighbouring residential properties. In order to provide comments the EHS require the submission of a Supporting/Written Statement confirmation the exact use of the agricultural shed.

JBA Consulting Ltd (JBA)

Report dated 29/11/21 advising no objection to the proposed development.

Highlands and Islands Airport

E-mail dated 15/11/21 advising that, given the position and height of the building, it will not infringe the safeguarding space for Tiree Airport and accordingly they confirm no objection to the proposed development.

The above represents a summary of the issues raised. Full details of the consultation responses are available on the Council's Public Access System by clicking on the following link <http://www.argyll-bute.gov.uk/content/planning/publicaccess>.

(E) PUBLICITY:

The proposal has been advertised in terms of Regulation 20 and Neighbour Notification procedures, overall closing date 09/12/21.

(F) REPRESENTATIONS:

Two representations have been received regarding the proposed development.

Mr Stephen Busbridge, Viewfield & Viewfield Annex, Crossapol, Isle of Tiree, PA77 6UP (27/11/21)

Mrs Natalka Busbridge, Viewfield & Viewfield Annex, Crossapol, Isle of Tiree, PA77 6UP (27/11/21)

Summary of issues raised

- Whilst only the steel framework of the building has been constructed, we are alarmed at the size of the building, particularly the height, which means that it overshadows and dwarfs nearly all nearby buildings, including 'Viewfield' and 'Viewfield Annex' directly opposite and this will become more obvious once the external cladding is applied. If planning permission is granted, the reduction in light to 'Viewfield' and 'Viewfield Annex' could be considerable.

Planning Authority Comment: *This comment is noted and is fully addressed in the assessment of the application at Section P below.*

- Questions over whether the building will be used for agricultural purposes due to it being constructed on commercial and not agricultural land.

Planning Authority Comment: *Through the granting of the previous planning permission for an agricultural building to the south (for which this application seeks to replace), the Planning Authority has accepted that the building was required in order to store agricultural machinery which was predominately already stored on the land. The building will serve an established croft which is located a short distance to the*

south-west of the site. Any permission granted would have a suitably worded planning condition applied in order to regulate the use of the shed so that it is used only for agricultural purposes.

- A steel framed building clad with metal profiled sheeting could possibly act as an echo chamber depending on how it is to be used. Any vehicles being started up inside or any repairs to vehicles/machinery to be carried out inside the building would echo and reverberate around. Accordingly are the materials proposed suitable for the purpose of the building and, if permission is granted, would the site/building be subject to restrictions on usage? There are concerns regarding noise and lights at antisocial hours and therefore would restrictions be applied as to the times that the building can be used/operated.

Planning Authority Comment: As detailed above, any permission granted would have a suitably worded planning condition applied in order to regulate the use of the shed so that it is used only for agricultural purposes. Conditions to control hours of operation and external lighting could also be considered by the Planning Authority should permission be granted.

- There has been no provision for surface water run-off and as the site is on higher land than neighbouring properties and therefore in heavy rain would run onto the road and neighbouring properties.

Planning Authority Comment: Should planning permission be granted, a condition would be imposed to address surface water run-off from the agricultural building.

- It is noted that the application states parking for two vehicles, however there is already in excess of two vehicles parked on the property not including the heavy plant and machinery, does this mean two further vehicles would be permitted.

Planning Authority Comment: The Planning Authority cannot prevent vehicles being parked on someone's land unless they become an amenity issue. The application form merely asks for an indication of any intended parking to be provided as part of a development site.

- We are pleased that the original building on the site was demolished due to its poor condition and would have no concerns with a new building of a similar size and construction being built in its place, the new building is not on the original footprint and appears to extend right up to the roadside/site boundary and very close to the public road.

Planning Authority Comment: These comments are noted. The siting and design of the agricultural building is addressed in the assessment at Section P below.

The above represents a summary of the issues raised. Full details of the letters of representation are available on the Council's Public Access System by clicking on the following link <http://www.argyll-bute.gov.uk/content/planning/publicaccess>.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) Environmental Statement: No

- | | | |
|-------|--|-----------|
| (ii) | An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: | No |
| (iii) | A design or design/access statement: | No |
| (iv) | A report on the impact of the proposed development e.g. retail impact, transport impact, noise impact, flood risk, drainage impact etc: | No |
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(H) PLANNING OBLIGATIONS

- | | | |
|-----|---|-----------|
| (i) | Is a Section 75 obligation required: | No |
|-----|---|-----------|
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- | | | |
|-----|---|-----------|
| (I) | 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, 2015

LDP STRAT 1 – Sustainable Development
 LDP DM 1 – Development within the Development Management Zones (*Key Rural Settlement of Crossapol*)
 LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment
 LDP 9 – Development Setting, Layout and Design
 LDP 10 – Maximising our Resources and Reducing our Consumption
 LDP 11 – Improving our Connectivity and Infrastructure

Supplementary Guidance

SG 2 – Sustainable Siting and Design Principles
 SG LDP BAD 1 – Bad Neighbour Development
 SG LDP ENV 14 – Landscape
 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
 SG LDP TRAN 7 – Airport Safeguarding

Local Plan Schedules

Area for Action 7/2 – Crossapol/Airport Business and Industry – redevelopment for residential, business, commercial and environmental enhancement.

- (i) **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.**

Argyll and Bute Sustainable Design Guidance, 2006
 Scottish Planning Policy (SPP), 2014
 Consultation Responses
 Third Party Representations
 Argyll and Bute proposed Local Development Plan 2 (November 2019)

The unchallenged policies and proposals within pLDP2 may be afforded significant material weighting in the determination of planning applications at this time as the settled and unopposed view of the Council. Elements of the pLDP2 which have been identified as being subject to unresolved objections still require to be subject of Examination by a Scottish Government appointed Reporter and cannot be afforded significant material weighting at this time.

The provisions of pLDP2 that may be afforded significant weighting in the determination of this application are listed below:

- Policy 14 – Bad Neighbour Development
- Policy 35 – Design of New and Existing, Public Roads and Private Access Regimes
- Policy 37 – Development Utilising an Existing Private Access or Existing Private Road
- Policy 43 – Safeguarding of Aerodromes

(K)	Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:	No
(L)	Has the application been the subject of statutory pre-application consultation (PAC):	No
(M)	Has a sustainability check list been submitted:	No
(N)	Does the Council have an interest in the site:	No
(O)	Requirement for a hearing:	No
(P)	Assessment and summary of determining issues and material considerations	

Retrospective planning permission is sought for the erection of an agricultural building at The Camp, Crossapol, Isle of Tiree.

In terms of the adopted 'Argyll and Bute Local Development Plan', 2015, the application site is located within the Key Rural Settlement Zone of Crossapol which is subject to the effect of Policy LDP DM 1 which establishes a general presumption in favour of developments, up to medium scale, within settlements, provided it is of a scale and form compatible with the surrounding area and does not result in inappropriate densities, the loss of valuable open areas and is acceptable in terms of

siting and compatibility with the established settlement pattern subject to compliance other relevant policies and supplementary guidance (SG).

In addition, the site is located within Area for Action (AFA 7/2) which seeks to resolve options for development/redevelopment and environmental enhancements in this visually prominent area at the entrance to the airport.

Policy LDP 3 assesses applications for their impact on the natural, human and built environment. The site is not subject of any nature or landscape designations that require further consideration under the terms of this policy.

Policy LDP 9 and SG 2 seek developers to produce and execute a high standard of appropriate design and ensure that development is sited and positioned so as to pay regard to the context within which it is located, seeking development layouts to be compatible with, and consolidate the existing settlement and take into account the relationship with neighbouring properties to ensure no adverse privacy or amenity issues arise.

Policy LDP 11 supports all development proposals that seek to maintain and improve internal and external connectivity by ensuring that suitable infrastructure is delivered to serve new developments. SG LDP TRAN 4 and SG LDP TRAN 6 of the LDP and Policies 35 and 37 of pLDP2 expand on this policy seeking to ensure developments are served by a safe means of vehicular access and have an appropriate parking provision within the site.

The site is located adjacent to the U029 public road and directly opposite a residential dwellinghouse known as 'Viewfield' and 'Viewfield Annex'. The site is commercial in nature and previously contained an old shed which has since been demolished with the building subject of the current application being constructed on its footprint.

The building comprises a shallow pitched roof metal structure measuring approximately 280 square metres in size with an overall height of approximately 7.5 metres in height. As detailed above this application is retrospective with the frame of the building having been constructed on site.

A previous planning permission was granted for an agricultural building within the applicant's land holding under planning permission 20/00273/PP which remains live and capable of implementation on site. Whilst this previous permission proposed a building of a similar scale and size, it was sited along the southern boundary of the applicant's land holding away from the neighbouring residential dwellinghouse, set back from the public road and with its relatively narrow gable elevation facing the public road.

The current proposal has the agricultural building sited adjacent to and parallel to the public road, directly opposite the residential dwellinghouse 'Viewfield' and 'Viewfield Annex' on the opposite side of the public road.

It is considered that the siting of the agricultural building, directly adjacent to the public road and opposite a residential dwellinghouse, has resulted in the introduction of an incongruous structure into the site. It is considered that the siting of the agricultural building has an adverse impact on the site and its setting within the wider landscape and, due to the proximity to the neighbouring residential dwellinghouse, will have a detrimental impact on the established amenity levels currently afforded to the dwellinghouse including the potential loss of daylight.

In this instance, whilst the site where the agricultural building has been constructed is located within an area generally deemed acceptable to accommodate appropriate scales and forms of development, and has historically accommodated a smaller structure, it is not considered that the siting of a building of this large scale and in this orientation so close to the public road and directly opposite a residential dwellinghouse is an appropriate form of development.

The applicant was contacted by the Planning Authority and given the opportunity to either remove the agricultural building or consider reducing its size and scale and setting it back from the public road.

During the processing of the application the applicant submitted comments in support of the planning application which are summarised as follows. Full details of the comments made by the applicant are available to view on the Council's Public Access System by clicking on the following link <http://www.argyll-bute.gov.uk/content/planning/publicaccess>.

- The applicant states that the proposed building in terms of its location, size, scale, massing and design does not adversely impact in any detrimental way on the immediate or wider landscape and, when viewed from all approaches, is considered to be consistent with the surrounding buildings in Crossapol including Tiree Airport and Tiree Auction Mart. The applicant states that the proposal is consistent and compatible with the established uses for land and the development pattern of land and buildings in both Crossapol and the wider Island.
- The applicant advises that the siting of the building is to assist with health and safety and the manoeuvring of large vehicles/trailer. The building is sited over 5 metres from the edge of the public road and does not adversely impact on access, visibility splays, sightline arrangements, traffic movements nor does it have any adverse road safety implications.
- The applicant advises that the building is situated a sufficient distance from the nearest residential properties (approximately 30 metres) which are bounded by a wall, hedges, small trees and shrubs which already result in a reduction in sunlight during particular times of the day. On this basis the applicant contends that the proposal will not result in the loss of daylighting or privacy and amenity currently afforded to the properties.
- The applicant advises that a number of planning precedents have been established on the island for the erection of agricultural sheds sited a similar distance from neighbouring properties but no details have been provided.
- The proposed building will improve the visual amenity of the site at The Camp which is currently not visually attractive and will greatly assist with the sustainability of the applicant's croft with crofting being a key economic and land management activity which is core to Tiree's socio-economic well-being and stability.

No changes have been made to the size, scale or siting of the agricultural building as a result of the concerns expressed by the Planning Authority to the applicant prior to the submission of the application and, whilst the submission from the applicant is noted, it is not considered that it outweighs the landscape and amenity concerns that

the development raises. Furthermore the applicant has not given any persuasive argument as to why this building cannot be constructed on the site previously granted planning permission.

Fundamentally this is a very large building sited almost directly adjacent to the public road and directly opposite residential properties raising landscape and amenity concerns.

During the processing of the application the Council's EHS objected to the application due to the lack of information on the intended use of the building and the potential impact it could have on the amenity of neighbouring residential properties. The EHS advised that, in order to provide comments, they would require the submission of a Supporting/Written Statement confirmation the exact use of the agricultural shed. However, in this instance, as the Planning Authority is not supporting the principle of the building on this site, such information has not been requested.

Taking all of the above into consideration it is recommended that planning permission is refused for the reasons appended to this report.

(Q) Is the proposal consistent with the Development Plan:
Yes

(R) Reasons why planning permission should be refused

See reasons for refusal below.

(S) Reasoned justification for a departure to the provisions of the Development Plan
N/A

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

Author of Report: Fiona Scott **Date:** 14/12/21

Reviewing Officer: Tim Williams **Date:** 13/01/22

Fergus Murray
Head of Development and Economic Growth

REASONS FOR REFUSAL RELATIVE TO APPLICATION REFERENCE 21/02149/PP

1. In terms of the adopted 'Argyll and Bute Local Development Plan', 2015, the application site is located within the Key Rural Settlement Zone of Crossapol which is subject to the effect of Policy LDP DM 1 which establishes a general presumption in favour of developments, up to medium scale, within settlements, provided it is of a scale and form compatible with the surrounding area and does not result in inappropriate densities or the loss of valuable open areas, and is acceptable in terms of siting and compatibility with the established settlement pattern.

In this instance, whilst the site where the agricultural building has been constructed is located within an area generally deemed acceptable to accommodate appropriate scales and forms of development, and has historically accommodated a smaller structure, it is not considered that the siting of the agricultural building so close to the public road and directly opposite a residential dwellinghouse is an appropriate form of development.

It is considered that the siting of the agricultural building, directly adjacent to the public road and opposite a residential dwellinghouse, has resulted in the introduction of an incongruous structure into the site. It is considered that the siting of the agricultural building has an adverse impact on the site and its setting within the wider landscape and, due to the proximity to the neighbouring residential dwellinghouse, will have a detrimental impact on the established amenity levels currently afforded to the dwellinghouse.

The proposal is therefore considered to be contrary to the provisions of Policies LDP STRAT 1, LDP DM 1, LDP 8, LDP 9 and Supplementary Guidance SG 2 and SG LDP ENV 14 of the adopted 'Argyll and Bute Local Development Plan' 2015.

APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **21/02149/PP**

- (A) Has the application required an obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended).

No

- (B) 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

- (C) Is the proposal consistent with the Development Plan:

No

- (D) Reason for Refusal of Planning Permission

See reasons for refusal above.