

STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

**REFUSAL OF PLANNING PERMISSION IN
PRINCIPLE FOR ERECTION OF
DWELLINGHOUSE AT LAND NORTH OF
SWALLOWTALE, ACHNAGOUL, INVERARAY**

**PLANNING PERMISSION IN PRINCIPLE
APPLICATION REFERENCE NUMBER
20/01901/PPP**

6th APRIL 2023

STATEMENT OF CASE

The planning authority is Argyll and Bute Council ('the Council'). The appellants are Mr and Mrs MacArthur ('the appellants').

The planning permission in principle application, reference number 20/01901/PPP, for the erection of a dwellinghouse at Land North of Swallowtale, Achnagoul, Inveraray ("the appeal site") was refused under delegated powers on the 17th February 2023. The planning application has been appealed and is subject of referral to a Local Review Body.

DESCRIPTION OF SITE

The application site is located to the north of a small settlement of 5 dwellinghouses in a rural setting to the north of the A83 Trunk Road at Achnagoul, Inveraray. Access to the site is via a private access from the A83 Trunk Road.

SITE HISTORY

The planning history of the site and locality is detailed in Section D of the Report of Handling. It is noted that planning permission has previously been refused for a dwellinghouse on this location.

STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED

Section 25 of the Town & Country Planning (Scotland) Act 1997 provides that where, in making any determination under the planning Acts, regard is to be had to the development plan, 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 proposed location, siting, design and finishes of the proposed development have sufficient regard to the context of their setting.**
- **Whether the existing access arrangements serving the proposed development are suitable to accommodate the intensification in its use which would occur as a result of the development.**

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

REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING

It is considered that no new information has been raised in the appellants' submission. The issues raised were covered in the Report of Handling which is contained in Appendix 1, including a summary of the representations submitted from one household at Achnagoul. 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 significant body of conflicting representation, then it is considered that a Hearing is not required.

COMMENT ON APPELLANTS' SUBMISSION

Having regard to the detailed reasons for requesting the review set out in part (7) of the appellants' submission the following points are noted:

- 1. The application site falls within an area designated for Housing in the Local Plan.***
- 2. The site is brownfield redevelopment and should be supported as it does not mean development in greenfield areas***

Whilst there is general support for the principle of small scale housing development within defined 'settlement area' it is incorrect to imply that the land is designated for housing development. This issue is addressed in section P of the report of handling.

The application site is located within the 'settlement area' of Achnagoul as defined by the Argyll and Bute Local Development Plan 2015, wherein the provisions of policy LDP DM 1, LDP 8 and SG LDP HOU 1 set out a general presumption in favour of 'small scale' housing development on appropriate sites, and subject to compliance with all other relevant provisions of the Development Plan. The current proposal for a single dwelling would fall within the definition of 'small scale'. NPF4 Policy 9 sets out support in principle for the sustainable reuse of brownfield land, including vacant and derelict land and buildings subject to consideration of impact upon biodiversity and potential contaminants from previous uses.

- 3. Refusal reason is due to the current access which serves 5 properties. Transport Scotland refused permission even though in their response to Jenni Minto, they clearly state the addition of one housing unit will have little or no impact.***
- 4. The junction is deemed as safe with no recorded accidents.***

It is noted that Transport Scotland have formally objected to the development in their consultation response; this matter is summarised in sections C and G of the report of handling.

Within their further response dated 22nd February 2021, Transport Scotland note that whilst the traffic associated with a single dwellinghouse is unlikely to be significant on its own, given the number of existing properties which already utilise the access they remain of the opinion that no further intensification should be permitted. It is advised that visibility to the left is between 120-130m and 196-215 to the right at set back distances of 4.5m and 2.4m. The visibility to the left is consequently well below the desired standard of 215m and there is little scope to improve this given the position of the access close to the brow of a hill, It is also observed that the stopping distance of traffic approaching the access is also well below the desirable minimum standard set out in the Design Manual for Roads and Bridges.

It is further observed by officers that there is also other pressure for development off of this substandard access, as evidenced by another application (21/02192/PPP) within the locality and identified in section D of the report of handling; that application was subsequently withdrawn prior to formal determination in light of objection raised by Transport Scotland and ABC Roads in relation to the suitability of the access arrangements.

5. *Transport Scotland approved the use of this access for slow moving HGV vehicles for forestry and mining operations. This shows a degree of hypocrisy.*

It is firstly noted that each planning application requires to be assessed on its own merits. The applicant's concerns in relation to the consistency of approach by Transport Scotland are noted and commented upon in detail under section G of the report of handling. The issues raised have also been subject to review by Transport Scotland and subject to detailed commentary dated 22nd February 2021.

In relation to the borrow pit permission (19/01422/PP) Transport Scotland have commented that this related to the extension of an existing borrow pit and that a maximum of 10 low loader trips were expected for the purpose of mobilisation and demobilisation, and that all other trips were generated within the forest area.

6. *It has been established that Argyll and Bute Planning could have over-ruled Transport Scotland's objection and granted Planning Permission. A report was commissioned by Mr MacArthur to compliment the application and assist in demonstrating the access junction was safe, This was ignored by Transport Scotland and Argyll & Bute Planning.*

The report commissioned by the applicant is detailed in section G of the report of handling and has been subject to commentary by Transport Scotland. It is incorrect to suggest that this information has

either ignored or that it has not been afforded weighting in the determination of the application.

The applicant is correct in identifying that a planning authority is not obliged to accept the advice of Transport Scotland as statutory consultee. However, where a planning authority intended to go against that advice it does not have the ability to grant planning permission without first notifying the application to Scottish Ministers who in turn may call the application in for their own determination. In this instance officers advised the applicant that the supporting information presented was not considered sufficient to demonstrate that the proposed development would not give rise to adverse effects upon road safety and accordingly a decision was made in line with the recommendation of Transport Scotland.

7. The length taken, and number of Planning Officers assigned to this case has been extremely disconcerting and upsetting for my client. It has taken the best part of 3 years to come the decision to refuse.

It is accepted that a timely determination was not reached in this matter and explanation of the operational issues, including the pandemic, loss of staff and subsequent issues with recruitment that impacted severely upon the resources of the Development Management Service have previously been provided to the applicant.

Nonetheless, it is noted that the time taken to reach a determination is not a material factor in the acceptability or otherwise of the proposed development and as such is not a factor that should be afforded weighting in the LRB process.

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.

The application site is located within 'settlement area' which pertains to an existing group of five dwellinghouses at Achnagoul, by Inveraray as defined by the Adopted 'Argyll and Bute Local Development Plan' 2015. Within this zone policies STRAT DC 1, LDP 8 and SG LDP HOU 1 set out a general presumption in support of 'small' scale residential development provided that such development is appropriately sited, is of a scale and design which fits within the context of the locale, is compatible with the character and amenity of its surrounds and, does not give rise to adverse access or servicing implications. NPF4 Policy 9 sets out support in principle for the sustainable reuse of brownfield land, including vacant and derelict land and buildings subject to consideration of impact upon biodiversity and potential contaminants from previous uses.

- **Does the proposed location, siting, design and finishes of the proposed development have sufficient regard to the context of their setting?**

The application site relates to an area of 0.36 hectares which is currently occupied by a derelict stone outbuilding, and native broadleaf woodland that forms part of the setting for the wider settlement area. The submitted site plan indicates that the proposed new dwellinghouse would be erected on the footprint of the existing outbuilding, the existing site access would be upgraded and car parking formed onsite. The applicant has claimed that the stone outbuilding forms part of a registered agricultural unit however, at the time of inspection by officers, there was no evidence to suggest that the site area currently formed part of a working farm operation.

The replacement of the existing outbuilding with a dwelling of modest proportion and traditional design emphasis would be considered to be in keeping with the existing settlement pattern, would not give rise to any adverse landscape impact, and is sufficiently removed from neighbouring property that there is reasonable prospect that any concerns relating to privacy or amenity could be addressed through siting and design. The development of the site would necessitate some removal of existing self-seeded tree cover, it is however evident that trees have encroached upon the previously developed area around the outbuilding and it is considered that, subject to appropriate mitigation (tree survey and confirmation of minimal tree removal to accommodate the development) that there would not be any significant impact on the wider areas of woodland surrounding the site. It is considered that the site is capable of being developed in a manner that would be consistent with the relevant provisions of NPF4 Policy 6, LDP 3, LDP 9, SG LDP ENV 6, SG LDP ENV 14, and SG LDP Sustainable Design.

- **Is the existing access arrangements serving the proposed development suitable to accommodate the intensification in its use which would occur as a result of the development?**

In this particular instance Transport Scotland has advised that the existing junction with the A83 gives cause for concern in two respects:

- i) that the proposal will result in an increase in the number of vehicles entering and leaving the traffic stream at a point where visibility is restricted thus causing interference with the safety and free flow of traffic on the trunk road, and;
- ii) that the proposal would result in an intensification of waiting and right turning manoeuvres from the trunk road at a location where forward visibility for approaching westbound traffic on the trunk road is substandard thus creating interference with the safety and free flow of traffic on the trunk road.

The Council's Roads Service has advised that the private access serving the development already serves five dwellings and is considered to be unsuitable

for further development due to the condition of the surface and insufficient passing places.

The provisions of NPF4 Policy 13(g) set out that development proposals that have the potential to affect the operation and safety of the Strategic Transport Network will be fully assessed to determine their impact. Where it is identified that existing infrastructure does not have the capacity to accommodate a development without adverse impact on safety or unacceptable impacts on operational performance then the cost of the mitigation measures required to ensure the continued safe and effective operation of the network should be met by the developer.

The provisions of policy LDP 11 and SG LDP TRAN 4 of the adopted 'Argyll and Bute Local Development Plan' 2015 set out that the Council will seek to resist development where an existing private access regime is considered to be of such poor standard as to be unsuitable for vehicular traffic and is not capable of commensurate improvements unless the private access is brought up to a full adoptable road.

The land necessary for the upgrade of the existing junction with the A83, improvement of forward visibility to westbound traffic on the A83 and, the improvement of the private access to adoptable standard is located both outwith the application site boundary and land within the control of the applicant and consequently the requisite offsite highway improvements cannot be secured within the confines of the application as submitted and the proposed development is consequently, in view of the above, considered likely to have a significant adverse impact upon highway safety.

The proposal is considered to be contrary to NPF4 Policy 13, and policy LDP 11 and SG LDP TRAN 4 of the Argyll and Bute Local Development Plan 2015, and there are no other material considerations of sufficient significance to indicate that it would be appropriate to grant planning permission in this instance as a departure to the Development Plan having regard to s25 of the Act.

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

Appended documents:

Report of Handling dated 17.02.2023

Further comments from Transport Scotland dated 22.02.2021

Delegated 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: 20/01901/PPP
Planning Hierarchy: Local
Applicant: Mr I. MacArthur
Proposal: Demolition of outbuilding and site for the erection of a dwellinghouse
Site Address: Land North of Swallowtale, Achnagoul, Inveraray

DECISION ROUTE

Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997

(A) THE APPLICATION

- (i) Development Requiring Express Planning Permission in Principle**
- Site for the erection of one dwellinghouse (no details of siting, design, submitted for approval at this time);
 - Installation of bio-treatment plant and partial soakaway (no detail submitted for approval at this time)
- (ii) Other specified operations**
- Connection to public water supply
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(B) RECOMMENDATION:

Recommend that planning permission be refused for the reasons attached.

(C) CONSULTATIONS:

Transport Scotland (28.01.2021, 22.02.2021) – Recommend refusal on road safety grounds. It is noted that in the event that the planning authority was minded to grant planning permission contrary to the advice of Transport Scotland then it would require to notify the application to Scottish Ministers.

ABC Roads (08.01.2021, 26.02.2021) – Recommend refusal. It is identified that the development is served by an existing substandard private access, it is intimated that further development would require the access to be brought up to an adoptable standard.

West of Scotland Archaeology Service (14.01.2021) – No objections subject to a condition requiring an archaeological watching brief being imposed on any grant of planning permission.

Scottish Water (24.12.2020) – No objection raised to the proposal to connect to the public water supply subject to a note to the applicant. Confirmation provided that there is no public sewer system in the vicinity of the development.

ABC Environmental Health – (05.12.2022) Notes potential for contamination of site from previous land management activities. No objections subject to condition if further info is not provided prior to determination.

(D) HISTORY:

Application Site:

Planning permission has previously been refused for development of this location:

09/00745/PP – Erection of a dwellinghouse and office – Refused 08.09.2009. This decision was subsequently upheld by Local Review Board (09/0003/LRB) on 09.02.2010.

The reasons for the previous refusal of planning permission in relation to application ref. 09/00745/PP were set out as follows:

1. The proposed development would result in increasing the number of vehicles entering and leaving the traffic stream on the A83(T) at a point where visibility is restricted, thus creating interference with the safety and free flow of traffic on the trunk road.
2. The proposed development would result in an intensification of waiting and right turning manoeuvres from the A83(T) trunk road at a location where forward visibility for approaching westbound traffic on the trunk road is substandard thus creating interference with the safety and free flow of traffic on the trunk road.
3. The development conflicts with policy LP TRAN 4 of the adopted Argyll and Bute Local Plan 2009 in so much as the lengthy substandard private access which already serves 5 dwellings would need to be brought up to adoptable standard to serve the development proposed; being suitably surfaced and provided with appropriate passing places, and over which the applicant has no control, given that land required for such improvement lies beyond the application site and outside the ownership of the applicant.
4. The proposal conflicts with LP BUS 1 of the adopted Argyll and Bute Local Plan as the office element of the proposal would erode the residential character of the area and adversely affect local residents and the amenity of the area through an increase in traffic levels and the introduction of commercial activity, which would be a source of nuisance and disturbance to residents contrary to the interests of the residential amenity of the area.
5. Having regard to the combined scale of the built development associated with the provision of residential and office accommodation proposed along with the associated parking area, their location and the consequential loss of some mature trees which contribute to the setting of the settlement, together with

elements of the design and materials of the buildings which are uncharacteristic of its surroundings, such as projecting glazed/timber extension to the dwelling and the metal profiled roof of the office building, it is considered that the proposal in its siting and design fails to accord with LP ENV 19 and Appendix A of the Argyll and Bute Local Plan 2009.

Locality:

Application ref. ref. 21/02192/PPP: Recent application for development of land adjoining the current application site– Site for Erection of Dwellinghouse - Withdrawn prior to determination following objections raised by Transport Scotland and ABC Roads.

Application ref. 19/01422/MIN. Land west of Dalchenna Farm, Inveraray. Temporary planning permission approved 27.11.2019. This permission provided for the extension of an existing Forestry Commission borrow pit as a temporary mineral working for the extraction of hardrock required to provide/improve access tracks and construction requirements associated with the construction of a section of the Inveraray-Crossaig Overhead Line by Scottish and Southern Electricity Networks. This permission provided consent to temporarily extract material for use in the immediate locality as a means of avoiding the need to transport large volumes of hard rock over large distances on the road network. The borrow pit utilised the same junction onto the A83(T) as the current application but is served by a forest access that splits off from the private road some 280m east of the Auchnagoul 'settlement area'.

(E) PUBLICITY:

Regulation 20 Advert published 15th January 2021 – Expired 5th February 2021

(F) REPRESENTATIONS:

(i) Representations received from:

Representations have been received from two third-parties raising objection:

- Mr Knowles, Auchnagoul House, Inveraray (08.01.2021)
- Mrs Knowles Auchnagoul House, Inveraray (08.01.2021)

Representations are published in full on the planning application file and are available to view via the [Public Access](#) section of the Council's website.

(ii) Summary of issues raised:

- Concern is raised that the proposed septic tank would be above the level of the objectors property giving rise to potential impact upon a watercourse, localised flooding and potential for odour nuisance arising from the outfall.

Comment: It is noted that the current application is for planning permission in principle and does not include detail of the proposed means of foul

drainage. The application indicates that foul drainage will be to a new bio-treatment plant and partial soakaway however any detail in that respect would require to be subject to an AMSC submission in the event of PPP being granted. The foul drainage arrangements would also be subject to separate controls under Building Regulations and CARS (SEPA) in relation to its operation and impact on the water environment.

- No detail is provided on how an electricity supply will be provided to the site. Concern is raised that works by SSE may cause disruption to residents.

Comment: It is noted that the provision of an electrical connection would be undertaken by SSE as a statutory undertaker utilising 'permitted development rights'. This is not a material planning consideration in the determination of the current application.

- The plan shows the removal of 5 trees which would detract from the appearance of the settlement, and no provision appears to be made for replacement planting.

Comment: The current proposal provides an indicative footprint for a new dwelling that would indicate that this could be accommodated in a manner which would involve removal of a small number of trees that encroach on the existing building and its immediate surrounds whilst allowing retention of the majority of tree cover and thereby avoid any significant adverse impact upon the setting of the existing settlement. It is noted that in the event that planning permission in principle were to be granted it would however be appropriate to secure further detail of proposals for tree retention/protection/felling for assessment and approval.

- Concern is raised that the existing access to Auchnagoul is by a rough single track road with no passing places. The proposals do not include any mention of upgrades to the road or permission of the land owner to implement such works.

Comment: This concern is noted. Further commentary on the suitability of the access regime to serve further development is contained within the assessment below.

- Concern is raised that the proposal will impact upon the pressure of the water main serving existing properties. Assurance is sought that the water pressure will not be affected.

Comment: It is noted that Scottish Water have not objected to the proposal. It is further advised that the impact upon water pressure of existing users would be a matter to be resolved directly with Scottish Water in the event that they permitted a connection to a new development. This is not a material planning consideration in the determination of the current application.

(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: | Yes |

Design Statement (09.12.2020)

The document identifies that the application site contains an existing stone built building which is assumed to have originally been utilised as a croft house before subsequently being repurposed as a byre.

It is contended that the proposed new dwelling would not create an undue additional burden on the existing private access. It is suggested that additional passing places could be provided along the track to improve road safety. It is also intimated that the acceptance of one additional dwelling should be accepted without requirement to upgrade the road to adoption standard as no other development would be permitted at this rural location.

Officer Comment: It is noted that the assertion that there is no further opportunity for development in this locality is incorrect as there are further areas of 'settlement area' and rural opportunity served by the private access which indicate potential capacity/demand for development beyond the scope of the current application site. This is directly evidenced by a recent application (ref. 21/02192/PPP) on adjoining land within the 'settlement area'. This was withdrawn prior to determination following unresolvable objections raised by ABC Roads and Transport Scotland.

It is proposed to create a modest family home by demolishing the existing stone built building and replacing this with a modest building of design and finishes that reflect the vernacular design of the existing settlement. It is suggested that the existing building forms the basis of the development and is retained with minimal modifications. The proposed palette of materials would likely incorporate natural stone, timber windows and doors, metal down pipes and gutters, slate or corrugated metal roofing, natural larch cladding.

Officer Comment: It is noted that the Agent for the application clarified elsewhere in correspondence dated 08.12.20 that the existing byre would be demolished although this does not appear to have been corrected in the Design Statement.

Correspondence with Transport Scotland in Response to Recommendation of Refusal (dated 03.02.2021)

It is highlighted that Transport Scotland did not raise objection to another application (19/01422/MIN) utilising the junction with the A83(T) at this location. It is contended that Transport Scotland have been inconsistent in raising objection to the current application but

permitting a commercial use involving slow moving HGV and operator vehicles to utilise the junction.

It is suggested that Transport Scotland's acceptance of the borrow pit application indicates that circumstances have changed since their previous recommendation to refuse application ref. 09/00745/PP in 2009 and clarification was requested on that issue.

Transport Consultant Report (dated 05.02.2021)

It is contended that the current application site forms part of an agricultural holding and as such there is nothing impeding the applicant from continuing to utilise the access for agricultural purposes which would generate on average 2-2.5 two way trips on a daily basis. It is suggested that the replacement of the existing agricultural activity by the proposed dwellinghouse would not generate additional traffic movements. It is also contended that agricultural vehicles are generally cumbersome and slow moving compared to a private car and as such the proposal could provide an improvement over existing circumstances. It is contended that this position also addresses the concerns raised by the Council's Roads Officers.

It is contended that previous acceptance of Transport Scotland of the use of the junction with the A83(T) by HGV forestry related movements on the basis that their increased height affords enhanced visibility over that of other vehicles is erroneous as visibility splay standards are regulated on the basis of visibility over 1.05m in height (i.e. aligned private cars). It is also contended that HGV traffic is slower moving and likely to give rise to greater risk of disruption to freeflow of traffic and road safety than the movement of smaller vehicles. A similar position is stated in relation to both Transport Scotland and ABC Roads position relating to a borrow pit development (19/01422/MIN).

Officer Comment: It is noted that this further information was subject to additional consultation with both Transport Scotland and ABC Roads; both provided further responses maintaining their objection to the current application.

Transport Scotland provided further commentary (22.02.21) accepting that there is some usage associated with the existing byre that could potentially cease or decrease if it were replaced by a dwellinghouse. It was however noted that any such reduction could not be guaranteed and as such their position remains that the development (in addition to the existing 5 dwellinghouses served by the access) would be expected to result in a potential intensification of use of a substandard junction with the A83(T).

Transport Scotland further note that whilst the traffic associated with a single dwellinghouse is unlikely to be significant on its own, given the number of existing properties which already utilise the access they remain of the opinion that no further intensification should be permitted. It is advised that visibility to the left is between 120-130m and 196-215 to the right at set back distances of 4.5m and 2.4m. The visibility to the left is consequently well below the desired standard of 215m and there is little scope to improve this given the position of the

access close to the brow of a hill, It is also observed that the stopping distance of traffic approaching the access is also well below the desirable minimum standard set out in the Design Manual for Roads and Bridges.

In relation to the borrow pit permission (19/01422/PP) Transport Scotland have commented that this related to the extension of an existing borrow pit and that a maximum of 10 low loader trips were expected for the purpose of mobilisation and demobilisation, and that all other trips were generated within the forest area.

Transport Scotland also confirm that the concerns relating to 09/00745/PP have not been alleviated by any material change in circumstances of the access of the development site.

- (iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** No

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: No

-
- (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.**

[National Planning Framework 4 \(Adopted 13th February 2023\)](#)

(delete as appropriate)

Part 2 – National Planning Policy

Sustainable Places

NPF4 Policy 1 – Tackling the Climate and Nature Crises

NPF4 Policy 2 – Climate Mitigation and Adaption

NPF4 Policy 6 – Forestry, Woodland and Trees

NPF4 Policy 9 – Brownfield, Vacant and Derelict Land and Empty Buildings

NPF4 Policy 12 – Zero Waste

NPF4 Policy 13 – Sustainable Transport

Liveable Places

NPF4 Policy 14 – Design, Quality and Place

NPF4 Policy 15 – Local Living and 20 Minute Neighbourhoods

NPF4 Policy 16 – Quality Homes

NPF4 Policy 17 – Rural Homes

NPF4 Policy 18 – Infrastructure First

[‘Argyll and Bute Local Development Plan’ Adopted March 2015](#)

(delete as appropriate)

LDP STRAT 1 – Sustainable Development
LDP DM 1 – Development within the Development Management Zones
LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment
LDP 8 – Supporting the Strength of our Communities
LDP 9 – Development Setting, Layout and Design
LDP 10 – Maximising our Resources and Reducing our Consumption
LDP 11 – Improving our Connectivity and Infrastructure

Local Development Plan Schedules

[‘Supplementary Guidance to the Argyll and Bute Local Plan 2015’ \(Adopted March 2016 & December 2016\)](#)

Natural Environment

SG LDP ENV 1 – Impact on Habitats, Species and our Biodiversity
SG LDP ENV 6 – Impact on Trees / Woodland
SG LDP ENV 7 – Water Quality and the Environment

Landscape and Design

SG LDP ENV 14 – Landscape

Historic Environment and Archaeology

SG LDP ENV 20 – Impact on Sites of Archaeological Importance

General Housing Development

SG LDP HOU 1 – General Housing Development Including Affordable Housing Provision

Sustainable Siting and Design

SG LDP Sustainable – Sustainable Siting and Design Principles

Resources and Consumption

SG LDP SERV 1 – Private Sewage Treatment Plants & Wastewater Systems
SG LDP SERV 2 – Incorporation of Natural Features / SuDS
SG LDP SERV 4 – Contaminated Land
SG LDP SERV 5(b) – Provision of Waste Storage & Collection Facilities within New Development

Transport (Including Core Paths)

SG LDP TRAN 4 – New & Existing, Public Roads & Private Access Regimes
SG LDP TRAN 6 – Vehicle Parking Provision

- (ii) **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. (delete as appropriate)**

[Chief Planner's Letter 08.2.2023 – Transitional Arrangements for NPF4](#)

[Argyll and Bute proposed Local Development Plan 2 \(November 2019\)](#) – The reporters have written to Argyll and Bute Council regarding the Proposed Local Development Plan 2, which is currently at Examination. Due to the status of the revised draft National Planning Framework 4 the reporters are currently determining what, if any, further processes are required as a consequence. Although PLDP2 remains a material consideration it is now subject to this further assessment [against NPF4 policies](#). Therefore, it is considered appropriate **not** to attach significant weight to PLDP2 [policies](#) during this time, i.e. until the consequences of NPF4 [policies](#) for the PLDP2 have been assessed by the reporters and the Examination report is issued. [Specific sites in PLDP2 that have not received objections and are not being dealt with at the Examination may continue as strong material considerations, e.g. allocations and potential development areas.](#)

(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

The proposal seeks Planning Permission in Principle for a site for the erection of a dwellinghouse on land to the North of Swallowtale, Achnagoul, Inveraray. Aside from details of site access, only indicate detail of siting and services has been provided for assessment at this time. The application site has previously been the subject of an earlier application for planning permission (09/00745/DET) for the erection of a dwellinghouse and an office which was refused due to concern about the suitability of the access to serve the development.

NPF4 Policy 1 seeks to prioritise the climate and nature crises in all decisions; it requires to be applied together with other policies in NPF4. Guidance from the Scottish Government advises that it is for the decision maker to determine whether the significant weight to be applied tips the balance in favour for, or against a proposal on the basis of its positive or negative contribution to climate and nature crises.

NPF4 Policy 2 seeks to ensure that new development proposals will be sited to minimise lifecycle greenhouse gas emissions as far as possible, and that proposals will be sited and designed to adapt to current and future risks from climate change. Guidance from the Scottish Government confirms that at present there is no single accepted methodology for calculating and / or minimising emissions. The emphasis is on minimising emissions as far as possible, rather than eliminating emissions. It is noted that the provisions of the Settlement Strategy set out within the Argyll and Bute Local Development LDP DM 1 promotes sustainable levels of growth by steering significant development to our Main Towns and Settlements, rural growth is supported through identification of Key Rural Settlements and safeguards more sensitive and vulnerable areas within its various countryside designations.

The application site is located within the 'settlement area' of Achnagoul as defined by the Argyll and Bute Local Development Plan 2015, wherein the provisions of policy LDP DM 1, LDP 8 and SG LDP HOU 1 set out a general presumption in favour of 'small scale' housing development on appropriate sites, and subject to compliance with all other relevant provisions of the Development Plan. The current proposal for a single dwelling would fall within the definition of 'small scale'. NPF4 Policy 9 sets out support in principle for the sustainable reuse of brownfield land, including vacant and derelict land and buildings subject to consideration of impact upon biodiversity and potential contaminants from previous uses.

The application site relates to an area of 0.36 hectares which is currently occupied by a derelict stone outbuilding, and native broadleaf woodland that forms part of the setting for the wider settlement area. The submitted site plan indicates that the proposed new dwellinghouse would be erected on the footprint of the existing outbuilding, the existing site access would be upgraded and car parking formed onsite. The applicant has claimed that the stone outbuilding forms part of a registered agricultural unit however, at the time of inspection by officers, there was no evidence to suggest that the site area currently formed part of a working farm operation.

The replacement of the existing outbuilding with a dwelling of modest proportion and traditional design emphasis would be considered to be in keeping with the existing settlement pattern, would not give rise to any adverse landscape impact, and is sufficiently removed from neighbouring property that there is reasonable prospect that any concerns relating to privacy or amenity could be addressed through siting and design. The development of the site would necessitate some removal of existing self-seeded tree cover, it is however evident that trees have encroached upon the previously developed area around the outbuilding and it is considered that, subject to appropriate mitigation (tree survey and confirmation of minimal tree removal to accommodate the development) that there would not be any significant impact on the wider areas of woodland surrounding the site. It is considered that the site is capable of being developed in a manner that would be consistent with the relevant provisions of NPF4 Policy 6, LDP 3, LDP 9, SG LDP ENV 6, SG LDP ENV 14, and SG LDP Sustainable Design.

The application site is not located within a conservation area or within the immediate setting of any listed building or scheduled ancient monument. The West of Scotland Archaeology Service have however identified that the application site is located within a landscape that is populated with recorded archaeological sites and noted that as the proposal would affect the upstanding remains the area of ground to be disturbed has a good chance of unearthing visible or buried unrecorded remains that may survive below ground level. WoSAS have advised that in the event that planning permission were to be granted that development be subject of a programme of archaeological works. Such mitigation measures would be consistent with the

requirements of policy LDP 3 and SG LDP 20 and could readily be secured by suspensive planning condition.

The details accompanying the application identify that water would be by connection to an existing water supply and foul drainage would be to a new package treatment plant. Scottish Water have not raised objection to the proposed connection to the public water supply. The application site is not located in an area served by public drainage and accordingly the installation of a private drainage solution is, in principle, consistent with the relevant provisions of policy LDP 10 and SG LDP SERV 1.

The Council's Contaminated land Officer has identified that the proposed development involves the redevelopment of land where there is an indication that previous use which may be contaminative. The land is associated with agricultural buildings and has previously been occupied by a number of structures whose relationship with nearby historic lime kilns is uncertain. It is advised that further investigation of potential land contamination would be required, and in the event that permission were to be granted this could be addressed by means of a suspensive planning condition to ensure compliance with NPF Policy 9, policy LDP 10 and SG LDP SERV 4.

Access to the site would be off of an existing private access that connects to the A83(T). The application site is located some 600m from the junction with A83(T) when following the alignment of the private access. There is ample room within the boundary of the application site to provide onsite parking and turning that would comply with SG LDP TRAN 6. The proposal would also require to include appropriate refuse collection facilities to comply with the requirements of NPF4 Policy 12, policy LDP 10 and SG LDP SERV 5(b) although these could potentially be addressed by means of planning condition.

The provisions of NPF Policy 13(g) set out that development proposals that have the potential to affect the operation and safety of the Strategic Transport Network will be fully assessed to determine their impact. Where it is identified that existing infrastructure does not have the capacity to accommodate a development without adverse impact on safety or unacceptable impacts on operational performance then the cost of the mitigation measures required to ensure the continued safe and effective operation of the network should be met by the developer.

In this instance the development has been identified to impact upon the safety and free flow of traffic on the A83 Trunk Road, in addition to concern being raised about the suitability of the private access regime serving the development to accommodate additional traffic.

The provisions of policy LDP 11 set out a requirement that an appropriate standard of access is delivered to serve new developments, including off-site highway improvements where appropriate.

This requirement is specified in more detail within SG LDP TRAN 4 (2) which sets out that further development that utilises an existing private access or private road will only be accepted if:

- i) The access is capable of commensurate improvements considered by the Roads Authority to be appropriate to the scale and nature of the proposed new development and that takes into account the current access issues (informed by an assessment of useage); AND the applicant can;

- ii) Secure ownership of the private road or access to allow for commensurate improvements to be made to the satisfaction of the Planning Authority; OR,
- iii) Demonstrate that an appropriate agreement has been concluded with the existing owner to allow for commensurate improvements to be made to the satisfaction of the Planning Authority.

The current application has been subject to objections from both Transport Scotland and the Council's Roads Service.

In this particular instance Transport Scotland has advised that the existing junction with the A83 gives cause for concern in two respects:

- i) that the proposal will result in an increase in the number of vehicles entering and leaving the traffic stream at a point where visibility is restricted thus causing interference with the safety and free flow of traffic on the trunk road, and;
- ii) that the proposal would result in an intensification of waiting and right turning manoeuvres from the trunk road at a location where forward visibility for approaching westbound traffic on the trunk road is substandard thus creating interference with the safety and free flow of traffic on the trunk road.

The Council's Roads Service has advised that the private access serving the development already serves five dwellings and is considered to be unsuitable for further development due to the condition of the surface and insufficient passing places. It is noted that the land required for the provision of commensurate improvements to provide additional passing places/improved road surface lies outwith the land identified as being within the control of the applicant in this instance.

The provisions of policy LDP 11 and SG LDP TRAN 4 of the 'Argyll and Bute Local Plan' 2015 set out that the Council will seek to resist development where an existing private access regime is considered to be of such poor standard as to be unsuitable for vehicular traffic and is not capable of commensurate improvements unless the private access is brought up to a full adoptable road.

The land necessary for the upgrade of the existing junction with the A83, improvement of forward visibility to westbound traffic on the A83 and, the improvement of the private access to adoptable standard is located both outwith the application site boundary and land within the control of the applicant and consequently the requisite offsite highway improvements cannot be secured within the confines of the application as submitted and the proposed development is consequently, in view of the above, considered likely to have a significant adverse impact upon highway safety.

The applicant has submitted supporting information from a Transport Consultant which has sought to contend both that Transport Scotland are inconsistent in their approach citing their support for development involving forestry activity off of this junction with the A83(T) and also that some allowance should be made in recognition of claimed agricultural activity associated with the application site. A summary of the supporting claims, further input from Transport Scotland, and officer comment on these matters is set out in Section G above.

(Q) Is the proposal consistent with the Development Plan: No

(R) Reasons why Planning Permission or Planning Permission in Principle Should be Granted:

The proposal is considered to be contrary to NPF4 Policy 13, and policy LDP 11 and SG LDP TRAN 4 of the Argyll and Bute Local Development Plan 2015, and there are no other material considerations of sufficient significance to indicate that it would be appropriate to grant planning permission in this instance as a departure to the Development Plan having regard to s25 of the Act.

(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:

None unless it were proposed to grant permission contrary to the recommendation of Transport Scotland.

Author of Report: Peter Bain **Date:** 10.02.2023

Reviewing Officer: Sandra Davies **Date:** 17.02.2023

Fergus Murray
Head of Development and Economic Growth

REASONS FOR REFUSAL RELATIVE TO APPLICATION REF. NO. 20/01901/PPP

1. The development conflicts with NPF4 Policy 13, and policy LDP 11 and SG LDP TRAN 4 of the adopted Argyll and Bute Local Plan 2015 as the proposed development would result in increasing the number of vehicles entering and leaving the traffic stream on the A83 (T) at a point where visibility is restricted, thus creating interference with the safety and free flow of the traffic on the trunk road.
2. The development conflicts with NPF4 Policy 13, and policy LDP 11 and SG LDP TRAN 4 of the adopted Argyll and Bute Local Plan 2015 as the proposed development would result in an intensification of waiting and right turning manoeuvres from the A83 (T) trunk road at a location where forward visibility for approaching westbound traffic on the trunk road is substandard thus creating interference with the safety and free flow of the traffic on the trunk road.
3. The development conflicts with NPF4 Policy 13, and policy LDP 11 and SG LDP TRAN 4 of the adopted Argyll and Bute Local Plan 2015 in so much as the lengthy substandard private access which already serves 5 dwellings would need to be brought up to adoptable standard to serve the development proposed; being suitably surfaced and provided with appropriate passing places, and over which the applicant has no control, given that land required for such improvement lies beyond the application site and outside the ownership of the applicant.

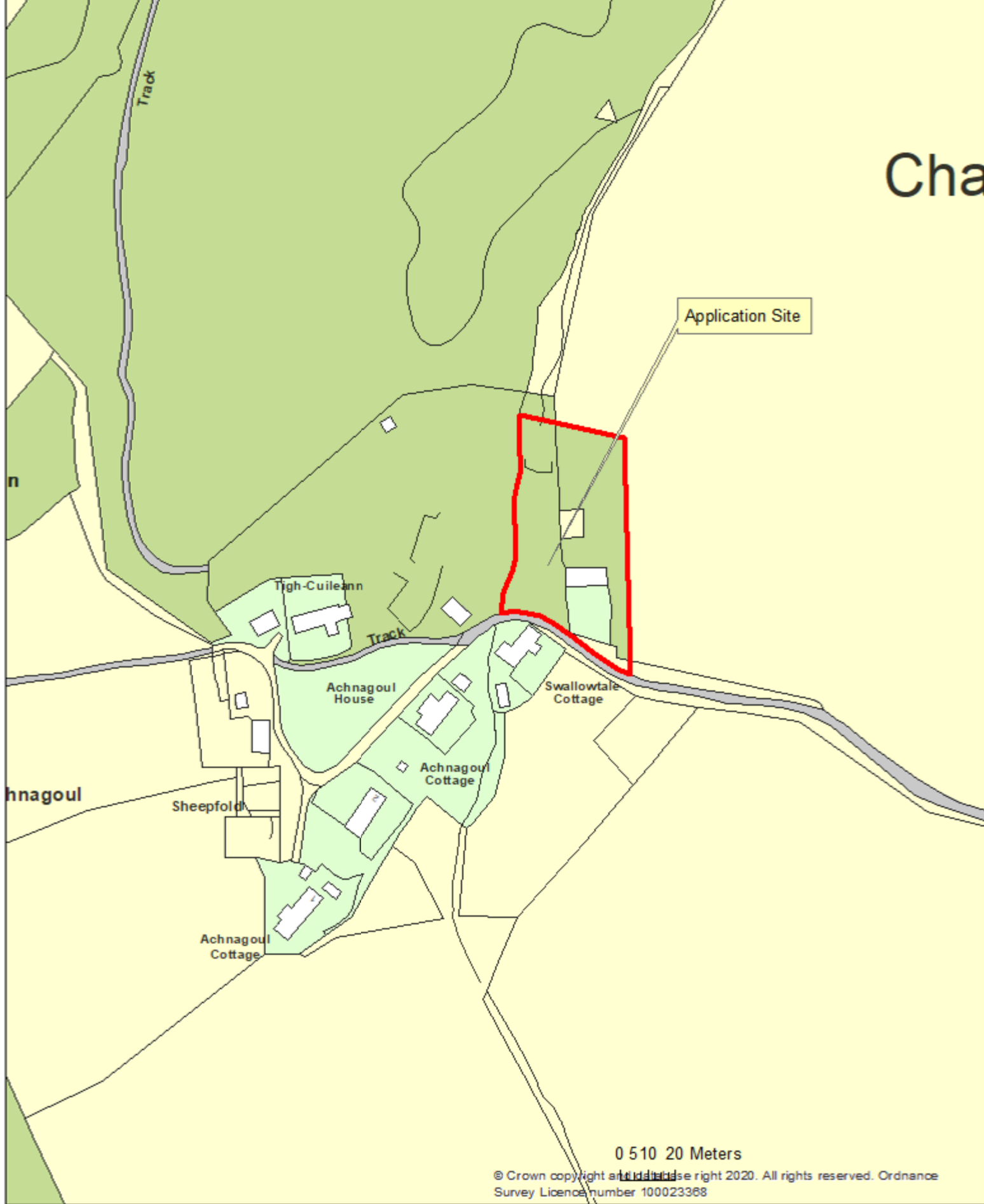
APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **20/01901/PPP**

(A) 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**

(B) The reason why planning permission has been refused:

The proposal is considered to be contrary to NPF4 Policy 13, and policy LDP 11 and SG LDP TRAN 4 of the Argyll and Bute Local Development Plan 2015, and there are no other material considerations of sufficient significance to indicate that it would be appropriate to grant planning permission in this instance as a departure to the Development Plan having regard to s25 of the Act.



Location Plan Relative to: 23/0003/LRB



1:1,750

Kemp-Smith, Cara

From: Shewan, Norman <Norman.Shewan@argyll-bute.gov.uk>
Sent: 22 February 2021 13:32
To: maki, planning
Subject: 20/01901/PPP - New house in principle at Achnagoul, Inveraray [OFFICIAL]

Categories: Cara

Classification: OFFICIAL

Hi all,

Can you please index this e-mail consultee response from Transport Scotland onto application file ref: 20/01901/PP – Land north of “Swallowtale”, Achnagoul, Inveraray.

It should be indexed as a public document.

Thanks.

Norman

Norman Shewan
Planning Officer
MAKI Team
Development Management
Development and Economic Growth
Argyll and Bute Council



t: 01546 604542
e: norman.shewan@argyll-bute.gov.uk
w: www.argyll-bute.gov.uk

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The Planning Service are keen to get customers views on how we deliver our services. Your feedback is important to allow us to tailor our services to customer needs.

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From: Gerard.McPhillips@transport.gov.scot [mailto:Gerard.McPhillips@transport.gov.scot]
Sent: 22 February 2021 12:48
To: Shewan, Norman <Norman.Shewan@argyll-bute.gov.uk>
Cc: Alan.Hobbs@transport.gov.scot
Subject: RE: 20/01901/PPP - New house in principle at Achnagoul, Inveraray. [OFFICIAL] (TS Ref. NW/13/2021)

Norman

(With correct TS Ref. NW/13/2021)

All's good here and I hope all is well with you and yours.

With reference to the above planning application and the additional information provided by the applicant, namely the Transport Statement presented by Millard Consultants in support of the application, I would wish to comment as follows on behalf of Transport Scotland:

The above application is for the demolition of an existing byre and replacement with the construction of a single dwellinghouse. The development site already includes 5 other houses, plus some employment / agricultural usage.

Transport Scotland has recommended refusal of this application, citing the following reasons:

- *The proposed development would result in increasing the number of vehicles entering and leaving the traffic stream at a point where visibility is restricted thus creating interference with the safety and free flow of the traffic on the trunk road.*
- *The proposed development would result in an intensification of waiting and right turning manoeuvres from the trunk road at a location where forward visibility for approaching westbound traffic on the trunk road is substandard thus creating interference with the safety and free flow of the traffic on the trunk road.*

Transport Scotland accepts that there is some existing usage associated with the byre which could potentially cease or decrease if this is replaced by a dwellinghouse. Any such reduction cannot however be guaranteed and some or all of these existing movements may still take place. In considering the application for the dwellinghouse as it stands, which is in addition to the existing 5 houses already on the site, the proposed new dwelling would be expected to result in a potential intensification of use of the existing below standard access onto the A83(T). This was a fundamental consideration in assessing and responding to this application.

Transport Scotland accepts that the traffic associated with a single property is unlikely to be significant. However, given the number of other existing properties already using the existing access, Transport Scotland is of the opinion that it does not wish any further intensification of use of the existing access, given it is below standard in terms of the visibilities which can be achieved. Measurements taken by our Operating Company suggest the visibilities which can be achieved are between 120m and 130m to the left and between 196m and 215 to the right, at 'x' distances of 4.5m and 2.4m. The visibility to the left is therefore well below the minimum desirable standard of 215m. Unfortunately, given the vertical alignment of the A83(T) mainline, particularly to the east (left when exiting the access) where there is a brow of a hill, there is little opportunity to improve this. Furthermore, as a consequence of the brow of the hill on the A83(T) to the east of the access, the available Stopping Site Distance for traffic on the A83(T) mainline on the approach to the access is also well below the desirable minimum recommended by the Design Manual for Roads and Bridges.

A recent RouteShoot (in-vehicle video) survey undertaken by our Operating Company BEAR on 19th January 2021, shows that the approach speed of traffic from the east approaching the access is fairly

high. The video shows the vehicle speed of 47mph which is close to the maximum speed the video surveys are generally carried out at. As the approach to the access from the east involves vehicles coming over the brow of a hill, the actual reaction time and stopping sight distance available to mainline traffic, should a vehicle be waiting to enter the access or be exiting the access and heading west, is considerably less than the desirable minimum and therefore presents a potential road safety risk.

Transport Scotland welcomes the fact that there is no pattern of historic accidents associated with the existing access. However, this does not warrant allowing further development and further intensification of use of the access and indeed it could be argued that this supports not increasing the existing level of use of the access.

With regard the other recent application, 19/01422/MIN (TS Ref. NW/331/2019), this relates to the use of an existing borrow pit to extract rock. In assessing this application Transport Scotland noted that access to the site was to be via an existing forestry access off the A83(T) – the same access as proposed in the most recent application highlighted above. In the supporting information submitted with this application, it was anticipated that a maximum of 10 low loader trips would be needed for mobilisation and demobilisation, and that all other trips occurring would be within the forestry area – refer to Written Statement 12/9/19 available on the ABC planning portal. On this basis, the Operating Company and the Area Manager did not raise any concerns, and Transport Scotland did not object to this application.

Although Transport Scotland is only responsible for considering the road safety implications associated with the trunk road network, we note ABC's policy requirement for development roads to be of an adoptable standard for developments of 5 or more properties. This additional dwelling would trigger this requirement. Transport Scotland's unwillingness to accept a further additional property on the site therefore aligns with the concerns raised by ABC.

Transport Scotland would also wish to highlight that a similar application was made for the erection of a single dwellinghouse plus office back in 2009 (ABC ref. 09/00745/DET). Transport Scotland issued a refusal to this application highlighting the same concerns that we have with this application. The 2009 application was refused by Argyll and Bute Council and the refusal was upheld at appeal. The reasons for refusal included the road safety concerns raised by Transport Scotland regarding the existing access onto the A83(T), as well as some policy related matters / concerns.

I trust this helps to outline Transport Scotland's position and ongoing concerns associated with any further development which may lead to an intensification of use of the existing access onto the A83(T) and the associated road safety concerns which we continue to have.

Regards.

Gerard

a

Gerard McPhillips
Transport Scotland
Development Management Quality Manager
Roads Directorate
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gerard.mcphillips@transport.gov.scot
transport.gov.scot

From: Shewan, Norman <Norman.Shewan@argyll-bute.gov.uk>
Sent: 12 February 2021 11:02
To: McPhillips G (Gerard) <Gerard.McPhillips@transport.gov.scot>
Subject: 20/01901/PPP - New house in principle at Achnagoul, Inveraray. [OFFICIAL]

Classification: OFFICIAL

Hi Gerard,

I hope that all is well with you.

Thanks for your consultation response dated 17th January 2021 regarding the above.

I understand from correspondence with the agent that the applicant has since discussed this with you and notwithstanding that you didn't encourage him to commission a Transport Consultant Report he has submitted one.

I've re-consulted you for any comments that you may have on the basis of this additional supporting document for the record.

If you would find it helpful to have a telephone conversation about any of the planning issues raised within that report prior to your formal response then please give me a ring.

Best Regards,

Norman

Norman Shewan
Planning Officer
MAKI Team
Development Management
Development and Economic Growth
Argyll and Bute Council



t: 01546 604542

e: norman.shewan@argyll-bute.gov.uk

w: www.argyll-bute.gov.uk

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