27th February 2006

Reference Number: 05/02259/DET
Applicants Name: Mr Hepburn
Application Type: Detailed Application
Application Description: Erection of a Dwellinghouse
Location: Land to the East of Kames Hotel, Kames, Tighnabruaich

(A) THE APPLICATION

Development Requiring Express Planning Permission.

- Erection of a single storey dwellinghouse on a 0.099 hectares site to the front (east) of the Kames Hotel
- Formation of new vehicular access onto public road
- Connection to public water main and public sewer

(B) RECOMMENDATION

It is recommended that, subject to a discretionary hearing, planning permission be Granted subject to the standard condition and reason and the following conditions and reasons together with a 'note to the applicant' set out overleaf.

(C) DETERMINING ISSUES AND MATERIAL CONSIDERATIONS

The proposed development represents a rounding-off of the linear residential development along the shore road in this part of Kames. In the context of the scale and design of surrounding buildings and with the use of traditional materials, it is considered that the dwelling would not have an adverse visual impact. No significant infrastructure or servicing issues have been raised.

For these reasons, the proposal is considered to conform to Structure Plan, Local Plan and Draft Development Plan policies insofar as they encourage the development of such sites within settlements.

An approval at this site would not contradict the decision to refuse permission for the dwelling on land to the immediate south and within the garden ground of the dwelling known as ‘Tringa’. The current site is significantly larger and would not result in the loss of a substantial area of existing garden ground.

The previous use of the site for the enjoyment of patrons of the hotel would be discontinued as a result of the proposed development. However, this could not be substantiated as a reason to refuse the application given that the importance of this open space is considered to be limited and has not been afforded formal protection in the Finalised Draft of the Argyll and Bute Local Plan.

On the basis of all of the above factors, the proposal is considered to be acceptable.

Angus J Gilmour
Head of Planning and Building Standards

Case Officer: S. Gove 01369-70-8603
Area Team Leader: D. Eaglesham 01369-70-8608
"In reaching my assessment on this application, I have had regard to the documents identified in brackets above which are available for public inspection in terms of the Local Government (Access to Information) Act 1985".
CONDITIONS AND REASONS RELATIVE TO APPLICATION 05/02259/DET

2. The walls of the dwellinghouse shall be finished in a white wet dash render with smooth cement banding around the windows unless the prior written consent of the Planning Authority is obtained for variation.

   *Reason: In the interests of visual amenity and for the avoidance of doubt.*

3. The roof of the dwellinghouse shall be finished in a natural slate or a good quality slate substitute, the details of which shall be submitted to and approved in writing by the Planning Authority prior to the commencement of the development.

   *Reason: In the interests of visual amenity and for the avoidance of doubt.*

4. **No development shall commence** until details of the proposed surface water drainage scheme have been submitted to and approved in writing by the Planning Authority, in consultation with Scottish Water and SEPA. The scheme shall incorporate the basic principles of Sustainable Urban Drainage Systems identified in ‘Planning Advice Note 61’ and Section 3 (Environment) of the domestic technical handbook for compliance with building regulations.

   Unless the prior written consent of the Planning Authority is obtained for variation, the scheme shall be constructed in accordance with the approved details and shall be implemented prior to the first occupation of the dwellinghouse hereby approved.

   *Reason: In order to provide for sustainable development of the site, and to protect existing and proposed development from the effects of potential increased surface water run-off to surrounding areas.*

5. Prior to the commencement of the development, the access onto the public road shall have visibility splays of 60 metres x 2.5 metres in each direction formed from the centre line of the access, which shall be cleared of all obstructions over 1.0 metres above the level of the adjoining carriageway and thereafter shall be maintained clear of all obstructions over 1.0 metres in height unless the prior written consent of the Planning Authority is obtained for variation.

   *Reason: In the interests of road safety.*

6. Prior to the first occupation of the dwellinghouse the following works shall be undertaken:

   (i)  The vehicle crossing shall be constructed in accordance with Figure 10.16 of the Council’s Development Guidelines;

   (ii) The access shall be a minimum width of 2.75 metres and shall be surfaced in a bituminous material for the first 2 metres behind the back of the footway;

   (iii) A parking and turning area for two vehicles shall be formed and capable of use within the curtilage of the dwellinghouse.

   *Reason: In the interests of road safety.*

7. **No development shall commence on site** until a scheme of hard and soft landscaping works has been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include the following:

   (a) existing and finished ground levels in relation to an identified fixed datum;

   (b) existing trees and other landscaping features/vegetation to be retained;

   (c) location and design, including materials, of walls, fences and gates;

   (d) soft and hard landscaping works, including the location, type and size of each individual tree to be planted;

   (e) the programme for completion and subsequent on-going maintenance.

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

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

**Reason:** In the interests of visual amenity in order to successfully integrate the proposal into its surrounding landscape setting and to ensure the implementation of a satisfactory scheme of landscaping.

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**NOTES TO APPLICANT**

**Surface Water**

The Area Roads Manager has advised that a system of surface water drainage is required to prevent water running off the road and to do so would be contrary to Section 99 of the Roads (Scotland) Act 1984 that states that:

"(i) The owner and occupier of any land, whether or not that land is such as constitutes a structure over or across a road, shall prevent any flow of water, or of filth, dirt or offensive matter from, or any percolation of water through, the land onto the road."

A drainage system including positive surface water drainage measures should be agreed with the Area Roads Manager. The applicant is advised to contact the Area Roads Manager (Mr. Paul Farrell, tel. 01369 703959) directly in this regard.

**Water/Sewerage**

The applicant must make separate application to Scottish Water, Planning & Development Services team, for permission to connect to the public wastewater system and water network at the appropriate time. It is important to note that the granting of planning permission does not guarantee a connection to Scottish Water's assets.

Scottish Water’s sewer network assets have adequate capacity to accommodate the development at the present time; however, a connection is dependent on the spare capacity at the time of applying for a sewer connection.

Scottish Water’s water network infrastructure is not affected by the development at the present time; however, a supply from the public water network is dependent on the spare capacity at the time of the application for a water connection.

For all of the advisory points given above, the applicant/developer is advised to contact Scottish Water directly (Developer Services, tel. 0845 601 8855, or at www.scottishwater.co.uk ).
A. OTHER MATERIAL CONSIDERATIONS

(i) Site History

Outline Planning Permission (ref: 04/02558/OUT) for the erection of a dwellinghouse within the garden ground of ‘Tringa’ (land immediately to the south of the present application site) was refused on 23rd March 2005 on the grounds that it would have represented a cramped and confined development that would have been detrimental to the existing character of the streetscene and the immediate settlement pattern of the area. It was also considered that the removal of a sizeable garden area from ‘Tringa’ would have reduced its available curtilage to an unacceptable degree.

(ii) Consultations

Area Roads Manager (Memo dated 17th November 2005)

No objections subject to conditions

Scottish Water (Letters dated 13th November 2005 and 10th February 2006)

Public sewer and water supply are not affected by the proposal at the present time.

Access Officer (E-mail dated 30th January 2006)

Whilst an access route will be lost by the proposed development, continued reasonable access between the starting and finishing points of that route would remain in the form of the road that skirts around the application site.

(iii) Publicity and Representations

The application has been advertised under Article 9 Vacant Land procedures (closing date 9th December 2005). Seven letters of objection have been received from the following:

Mr and Mrs McDonald, Kames (letter dated 8th November 2005)
Tom Duff, Paisley (letter dated 9th November 2005)
J Stirling, Kames (letter dated 13th November 2005)
Norman MacDonald, Millhouse (letter dated 17th January 2006)
Patrick Jenner, Kames (letter dated 17th January 2006)
Kilfinan Community Council (letters dated 1st February and 7th February 2006)

A petition of objection containing 52 signatories has also been submitted. One of the signatories has subsequently asked for his name to be removed from the petition.

One letter of support has been received from:

R Alexander, Kames (letter dated 13th February 2006)

The points raised can be summarised as follows:

i. The proposed dwelling would not interfere with public access; there are no historical or conservation issues involved; and the dwelling would enhance the local area.

Comment: These points are noted and will be referred to later in this report.

ii. The proposed dwelling would have an adverse effect upon the appeal of the Kames Hotel to prospective purchasers.

Comment: This comment was submitted whilst the hotel was being advertised for sale. It is understood that the property has changed ownership in the intervening period.
iii. The proposal would have an adverse effect upon the numbers of customers for the hotel as the dwelling would obscure the view of the premises for passing craft through the Kyles of Bute. This would also have a knock-on effect for other businesses in the area.

**Comment:** Whilst the continued vitality of local facilities and amenities is to be supported, the Department does not consider that the erection of a modest single storey dwelling would have a seriously detrimental effect upon the commercial viability of the Kames Hotel.

iv. Concern is expressed regarding the design of the proposed dwelling.

**Comment:** This issue will be addressed in the ‘Assessment’ section below.

v. Concern is expressed regarding the southerly position of the proposed dwelling and that sufficient space could be left for a further house in the northern part of the site.

**Comment:** Any further development within the site would require being the subject of a separate application that would be judged on its own merits at that time. On a without prejudice basis, however, the Department is likely to have concerns that the site would be large enough to accommodate two buildings with sufficient curtilage space and parking/turning areas.

vi. Concern is expressed that there would be no privacy for prospective occupiers of the house and that trees/shrubs would be required for screening.

**Comment:** A condition is attached requiring the submission of a landscaping scheme.

vii. Concern is expressed regarding the outfall of raw sewerage from the Kames Hotel onto a public beach. A condition should be attached to any permission given that ensures the connection of the hotel into the public sewer.

**Comment:** The matter of an outfall that is unrelated to the development under consideration does not have a material bearing upon the planning aspects of this case.

viii. Surface water drainage must be investigated and a Sustainable Urban Drainage Scheme should be a condition of any permission that is granted.

**Comment:** As recommended by Scottish Water, a condition is attached requiring the submission of a SUDS to address surface water drainage issues.

ix. Concern is expressed that views from the Kames Hotel would be compromised by the proposed dwelling.

**Comment:** Loss of view does not have a material bearing upon the planning aspects of the case.

x. Concern is expressed regarding the effect of the proposed development upon the public access footpath through the site.

**Comment:** The Council’s Access Officer has investigated this matter and he is of the opinion that, whilst an access route will be lost by the proposed development, continued reasonable access between the starting and finishing points of that route would remain in the form of the road that skirts around the application site.

xi. Concern is expressed that existing sewerage pipes run through the site.

**Comment:** There is no indication from Scottish Water that any public infrastructure would be affected by the proposed development.

xii. It is contended that the land in question has always been an integral part of the Kames Hotel’s amenities allowing a safe, child-friendly environment.

**Comment:** This issue will be addressed in the ‘Assessment’ section below.
xiii. The local community was not informed or notified about the development. The proposal has only come to light through word-of-mouth.

**Comment:** The application was advertised in the local press and neighbour notification, as far as can be ascertained, was undertaken properly in terms of Article 9 of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992. On this basis, all normal procedures were adopted in a development of this type.

xiv. There are possible restrictions by previous owners on the use of the land.

**Comment:** This issue is essentially a legal matter between the relevant parties concerned and it does not have a material bearing upon the planning aspects of the case.

xv. It is contended that the site has historical importance. There is anecdotal evidence that the land was used for herding sheep together for loading onto cargo boats; and that bands from excursion boats would entertain visitors and locals on the site.

**Comment:** This issue will be addressed in the ‘Assessment’ section below.

(iv) Applicants supporting Information

Colliers CRE (Chartered Surveyors) have submitted, on behalf of the applicant, a statement in support of the application (letter dated 14th February 2006). A summary of this statement is as follows:

- The Argyll and Bute Structure Plan 2002 generally encourages development within urban areas. The site is located within the Inset Map for the settlement of Tighnabruaich under Policy POL HO 8 of the Cowal Local Plan 1993. The proposal meets the terms of these policies;
- There is no evidence to suggest that the development would frustrate patronage of the Kames Hotel or would ruin the prospects of tourists visiting Tighnabruaich;
- The site is of no historic value and there are no Listed Building or other special controls;
- The public access footpath through the site is in private ownership and is not a right of way;
- There is a history of residential development on the Tighnabruaich foreshore; the design of the dwelling is not out of keeping with recent development in the area; the plot ratio is appropriate; and there are no valid planning issues in relation to overshadowing and amenity;
- A number of the observations by third parties are not valid in planning terms. They do not relate to land use issues and are merely assertions about levels of disruption to tourist trade and effects on amenity. No evidence has been submitted by any third party either in design terms or appropriate planning terms to suggest that development in this location would be inappropriate.

John Peace Associates (letter dated 15th February 2006) have forwarded a statement from the applicant in response to the letters of objection. A summary of the salient points contained within the statement is as follows:

- There are gates into the site as it was previously used as a beer garden but this does not make it an established right of way. Most people use the road around the site as it is the easiest and most direct route to the hotel;
- The summer trade comes from several different groups (including yachtsmen) and nautical guides mention the hotel. The real advertisements are the 14 moorings in front of the hotel and the large lettering on the building;
- The sewerage pipe is at the far end of the site and would not be obstructed or affected by the proposed building;
- The site is privately owned and is not part of the hotel. It used to have three picnic tables on it and was used as a beer garden. In July 2003, a member of staff slipped on the slope whilst
carrying food and, after a health and safety risk assessment, it was decided to cease the beer garden use;

- The land has never been used for village or Hogmanay celebrations in the last five years and it is doubtful if it ever was;
- Any legal agreement entered into regarding development upon the site is no longer applicable as the parties involved are either deceased or no longer live in the area;
- Any issues of sewage on the beach have been rectified and no contact has ever been made by SEPA;
- It is not clear whether the objection from the Kilfinan Community Council is based on a duly constituted meeting and resolution of the Community Council or whether they are the views of the Secretary. Clarification will be sought on this point;
- At the time of being proprietor of the hotel, it was always the intention to seek permission to build a family home and it is not considered that the proposal would threaten the viability of the hotel;
- Other premises referred to (e.g. the Chalet Hotel; Kyles Hotel; etc.) have either closed many years ago or through the retirement of the owner.

B. POLICY OVERVIEW

**Argyll & Bute Structure Plan**

STRAT DC 1 of the Argyll and Bute Structure Plan 2002 encourages, within the small towns and villages (such as Kames), the development of up to and including medium scale development (between 1 and 30 dwellings) on appropriate infill, rounding-off and redevelopment sites.

**Cowal Local Plan**

The site is located within Kames where, under Policy POL HO 8 of the Cowal Local Plan 1993, infill, rounding off and redevelopment related to the existing built form will be encouraged. Proposals that do not relate to the existing built form will be assessed for servicing and environmental implications and those considered to have an adverse visual or environmental impact will normally be resisted.

**Emerging Policy**

The development for residential purposes of infill, rounding-off and redevelopment sites within settlements has been incorporated into Policy LP HOU 1 of the Argyll and Bute Local Plan (Finalised Draft).

C. ASSESSMENT

The application site is a triangular area of grassed ground measuring approximately 0.09 hectares and is located at a lower level in front of the Kames Hotel. The public road skirts around the site and the dwelling known as ‘Tringa’ is situated to the immediate south of the land.

The application proposes the erection of a single storey dwelling within the southern part of the site; the formation of a new vehicle access onto the public road; and the provision of a parking/turning area within the curtilage of the proposed dwelling.

**Relationship with Settlement Pattern**

With the exception of the Kames Hotel, this part of Kames is characterised by residential properties. From the perspective of the manner in which a dwelling would accord with the surrounding settlement pattern, it is considered that the site represents a rounding-off of the linear development that runs along the shore in the sense that it is located between the dwelling known as ‘Tringa’ and the bend in the road that skirts around three sides of the site.

**Design and Scale of Dwelling**
The dwellings that the site most closely relates to are ‘Tringa’ (to the south) and the dwelling recently erected on the former coal pier (to the north east). Both of these dwellings are single storey, modest in scale and with a relatively simple design.

It is considered that the proposed dwelling, whilst not of the highest design standards, can be justified in the context of its immediate surroundings, particularly with the use of a white wet dash render external wall finish and a natural slate/good quality slate substitute.

**Previous Application for ‘Tringa’**

The current application site is considered to be significantly different from the application referred to under Site History since it relates to a markedly larger site and would not impinge upon the amenity of ‘Tringa’ as it does not involve the loss of any of its garden area. As a consequence, it is not considered that the approval of the present application would undermine the decision to refuse permission on the adjacent plot last year.

**Proximity to Kames Hotel**

The proposed dwelling would be on land to the front of the hotel and there might be the potential for the privacy and amenity of the dwelling to be affected by activity at the hotel during ‘unsociable’ hours. However, this part of Kames is characterised by dwellings that surround the hotel and the proposed building would be affected no more or less than the other residences in the vicinity. Furthermore, any prospective purchaser of the property would see the building in its context and would be fully aware of its position relative to the hotel.

**The Historic and Community Value of the Site**

This has, perhaps, been the most significant issue raised from the perspective of opposition to the proposal, which has included communications from Kilfinan Community Council.

Based upon all information to hand, the application site would appear to have been in the same ownership as the Kames Hotel for a number of years. Notwithstanding that the public road separates the hotel and the land, it appears that the site formed part of the curtilage of the hotel, used for the enjoyment of its patrons. The hotel has changed ownership very recently and the present applicant (who was the previous owner of the hotel) would appear to have decided to retain ownership of the application site. On this basis, it is highly likely that the land will no longer form part of the curtilage of the hotel.

As regards the importance of open spaces, Members may wish to note that the emerging policy within the Argyll and Bute Local Plan (Finalised Draft) acknowledges that such spaces can be important and has accordingly designated specific Open Space Protection Areas in the main Proposals Maps. Policy LP REC 2 of the plan presumes against development on the designated spaces. However, the land in question has not been designated as an Open Space Protection Area and this is understandable given that it has very much been historically linked to a commercial business as opposed to representing a site in public ownership/maintenance.

Whilst sympathising with those who have expressed disappointment, the Department considers that there are no compelling planning reasons to refuse the present application on the grounds that the previous use of the site would be discontinued as a result of the development.

**Discretionary Hearing**

Members may wish to give consideration to an ‘informal hearing’ since seven letters of objection (including from the Kilfinan Community Council) have been received together with a petition containing 51 signatories. Notwithstanding the Development Plan, views of consultees and that planning conditions can be imposed, the Department would support a discretionary hearing in this particular instance.