DEVELOPMENT SERVICES  
PLANNING APPLICATION REPORT  
Bute and Cowal Area  

Local Member  - Councillor D. Walsh  
Date of Validity  - 25th January 2006  
Committee Date  - 2nd May 2006  

10th April 2006  

Reference Number: 05/02427/DET  
Applicants Name: Mr M. Lindop  
Application Type: Detailed  
Application Description: Retention of 4 Dog Kennels/Runs and 2 Storage Sheds  
Location: 8 Crochan Road, Dunoon, PA23 7LL  

(A) THE APPLICATION  

Development Requiring Express Planning Permission.  

- Retention of 4 domestic Dog Kennels/Runs and 2 Storage Sheds. These require permission because of their proximity to a public road.  

(B) RECOMMENDATION  

It is recommended that planning permission be **Granted** subject to the following conditions and reasons together with a 'note to the applicant' set out overleaf.  

(C) DETERMINING ISSUES AND MATERIAL CONSIDERATIONS  

The department has received 11 letters of representation from 5 neighbouring properties of Dalriada raising concerns over the commercial use of the kennels/runs for the boarding and breeding of dogs and the impact of the kennels upon the amenity of the surrounding area.  

No substantive evidence has been produced that categorically proves the kennels are for a commercial use and the applicant has advised in writing the kennels are simply to provide accommodation for his own dogs. The department is satisfied that the structures are for a domestic use and it is proposed to condition the grant of permission to ensure the same.  

Concerns have been received regarding adverse odour and noise levels emanating from the keeping of dogs, however the Council’s Public Protection Service has raised no such concerns in this regard subject to suitable conditions. This includes an agreed management plan for the maintenance of the kennels, appropriate foul drainage arrangements and suitable screening to the west of the kennel structures to reduce the impact of the development upon the nearest neighbouring dwellinghouse, Pine Cottage. On this basis the retention of the kennels/runs and garden sheds are considered to be acceptable.  

Angus J Gilmour  
Head of Planning Services  

**Case Officer:** J. Irving 01369-70-8621  
**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 05/02427/DET

1. The dog kennels hereby approved shall be used for a purpose that is incidental to the enjoyment of the associated dwellinghouse, Dalriada and shall be used solely for keeping of dogs for a domestic purpose.

   Reason: For the avoidance of doubt and in the interests of residential amenity to ensure the kennels are not used for a purpose outwith that associated with a residential property.

2. The metal kennels/runs shall not be utilised for the keeping of dogs after 7.00 pm on one day and before 7.00 am the following day. No more than 8 dogs shall be accommodated in the kennel/run areas at any one time unless the prior written consent of the Planning Authority is obtained for variation of these restrictions.

   Reason: In the interest of preserving the residential amenity of neighbouring residential properties.

3. Within one month from the date of this permission a management plan shall be submitted to and approved in writing by the Planning Authority in consultation with Public Protection Unit, such a plan shall provide full details of suppression measures to address odour and noise from the keeping of dogs. This shall include full details for the management of the foul drainage arrangements from the kennels and suitable screening options to the west of the kennels that shall be solid in construction and run the entire length of the kennel block at a height of two metres. Any approved measures shall be implemented within three months from the date of this permission.

   Reason: In the interest of preserving the residential amenity of neighbouring residential properties.

NOTE TO APPLICANT

You are advised that the permission hereby granted (Ref: 05/02427/DET) relates to four dog kennels, the use of which is for domestic purposes only. Any commercial activity that includes the breeding and boarding of dogs would require the submission of a further change of use planning application. Should you wish to discuss the matter further please contact the department tel 01369-708621.
APPENDIX RELATIVE TO 05/02427/DET

A. OTHER MATERIAL CONSIDERATIONS

(i) Site History

05/00086/ENFOTH - An associated enforcement report elsewhere on this agenda.

(ii) Consultations

Public Protection Service (Memo dated 22\textsuperscript{nd} March 2005) No objection subject to Conditions.

Domestic use of the kennels do not require a licence under the Animal Boarding Establishments Act 1963 or the Breeding of Dogs Acts 1973 and 1991 as amended as there will be no "business" of providing accommodation for other people's animals nor will there be 5 or more litters of pups in any period of 12 months or a "business" of breeding of dogs for sale.

Odour can arise from the accumulation of urine/faecal material within the runs. To overcome this, the flooring should be of solid construction, laid to a fall and drain away to a suitable sewer or soak away capable of accepting foul waste. A management plan should be in place to describe the frequency and methods of cleaning to prevent odour nuisance.

The keeping of dogs can affect the amenity of the surrounding area due to excessive barking. Factors which can cause dogs to bark include external disturbances such as visitors to the property, boredom and lack of stimulation. The construction of the kennel/run area is not designed for noise absorption, therefore control of noise must be achieved by other means, such as the restriction of numbers of dogs and/or times of usage.

The Kennel Club (letter dated 21\textsuperscript{st} March 2006).

This organisation is responsible for the registering of pedigreed dogs/litters and provided the following information about registered dogs/litters from Dalriada 8 Crochan Road:

30\textsuperscript{th} June 1995 – litter of 7 pups
14\textsuperscript{th} March 1996 – litter of 6 pups
26\textsuperscript{th} June 1996 – litter of 8 pups
30\textsuperscript{th} September 1996 – litter of 9 pups
6\textsuperscript{th} May 1997 – litter of 6 pups
17\textsuperscript{th} December 1997 – litter of 7 pups
20\textsuperscript{th} June 1999 – litter of 7 pups
27\textsuperscript{th} May 2002 – litter of 9 pups
25\textsuperscript{th} September 2003 – litter of 9 pups
22\textsuperscript{nd} March 2004 – litter of 8 pups
8\textsuperscript{th} June 2004 – litter of 8 pups

Whilst a dog maybe in the registered ownership of a particular party, this may not necessarily mean that the dog is still in the physical ownership of that person. It is not compulsory for a new owner to apply for transfer of ownership and therefore the dog concerned may still appear in the physical ownership of the breeder.

(iii) Publicity and Representations

Under Article 9 neighbour notification procedures and Potential Departure advertisement (published 3\textsuperscript{rd} February 2006, expires 24\textsuperscript{th} February 2006), 5 letters of representation have been received. Letters of representation have been received from the following:

Mr T. Gorman (letter dated 30\textsuperscript{th} December 2005) 25 Kilbride Road, Dunoon, PA23 7LL. Frank & Margaret Whittaker (letters dated 28\textsuperscript{th} November 2005, 15\textsuperscript{th} February 2006 & 19\textsuperscript{th} February 2006) Craigendarroch, 21 Kilbride Road, Dunoon, PA23 7LL. Mrs Joan Mitchell (letters dated 2\textsuperscript{nd} December 2005, 17\textsuperscript{th} February 2006 & 21\textsuperscript{st} February 2006 (c/o Blair & Bryden Solicitors)) Pine Cottage Crochan Road, Dunoon. Mr A. Colquhoun (letters dated 11\textsuperscript{th} November 2005, 3\textsuperscript{rd} December 2005, 16\textsuperscript{th} February 2006) Edgemount, 10
Crochan Road, Dunoon, PA23 7LW, Bill Lawns Dunoon (letter received 17th February 2006), Fernhill, 1 Crochan Road.

The points raised can be summarised as follows:

i. Kennels are for the running of a business being used for the breeding of dogs and for the boarding of other dogs. Although the Lindops have had dogs, over time the number of dogs has increased and appears to be run as a business and is a disruption to the neighbourhood.

Comment: See assessment below.

ii. Excessive odour (especially during hot weather) and noise levels emanating from the property are interrupting the reasonable peace which other neighbouring residents should be entitled to enjoy. In general terms the amenity of the area is adversely affected by the establishment of these kennels.

Comment: See assessment below.

iii. The value of our home would be considerably reduced if these kennels are allowed.

Comment: This is not a material consideration.

iv. We also note the number of cars blocking the road has increased with people delivering and taking dogs suggesting they have been boarded at the kennels. There are no parking or turning facilities to support a commercial enterprise at Dalriada along with poor access provision of Crochan Road.

Comment: See assessment below.

v. The submitted plans do not show how close the neighbouring properties are to the metal kennels.

Comment: See assessment below.

vi. At the rear of my house (Pine Cottage) I have a patio and the buildings erected by the applicant are directly below this, not a sight I wish to view, and no drawing of my property is shown. These are very unsightly metal cages and are an intrusion of my privacy.

Comment: See assessment below.

vii. The activities underway at Dalriada have precluded me from properly enjoying my garden, the boundary of which is approximately 12 feet in distance from the kennel buildings. I am 81 years of age and shall soon be in a position of having to rely on my garden as the sole means of pursuing some degree of outdoor living.

Comment: See assessment below.

viii. Concern over the accuracy and quality of the submitted plans and drawings.

Comment: The submitted plans are not to an architectural standard but are sufficient to enable the Planning Authority to consider the application.

ix. Concern about welfare of dogs being kept at the kennels/runs.

Comment: This is not a material planning consideration and furthermore the Council’s Public Protection Service has raised no concerns in this regard.

x. I object to commercial activities occurring at a neighbouring property where no planning consent has been obtained, I would request that enforcement of planning laws should be instigated. I am aware people are prepared to erect buildings and commence commercial operations in residential area without first applying for planning permission, as it is recognised that retrospective planning consent is an easier avenue to pursue with greater chance of success.
**Comment:** Should this application be refused and it considered expedient to instigate enforcement proceedings to regularise this breach of planning control, the necessary action will follow. This is in line with the principles of Planning Circular 4/1999 ‘Planning Enforcement’.

xii. Environmental health issues of contaminated surface water from Dalriada flowing through neighbouring properties.

**Comment:** See assessment below.

xiii. The present 9 dog strong population might belong entirely to the Lindop family. These dogs have been used to service an on-going dog breeding programme which has steadily been on the increase. Litters of puppy dogs have been bred, and there is most definitely a commercial operation in existence.

**Comment:** See assessment below.

xiv. The industrial size and quantity of the kennels are an unsightly appearance that all of the immediate neighbours now face.

**Comment:** See assessment below.

(iv) Applicant Supporting Information

Summary of letters dated 20th February 2006 & 12th April 2006

- The kennels are being constructed for the use of our own pet dogs only.
- The kennels are of a sturdy construction to keep my dogs safe and secure.
- As for breeding the last litter of puppies I had was during April 2004, I only ever breed when I have the time and an exceptionally good dog, and I have no plans for the immediate future.
- I have installed a drainage system for the kennels that goes directly into the main sewer.
- The dogs are trained not to bark, I do this with the tone of my voice which they recognise.
- I don’t understand complaints about commercial vehicles we have no more deliveries than other neighbours and we have parked our cars in the lane for the last 21 years.
- As I have stated in previous correspondence we have never housed any other dogs except our own in our kennels and do not intend to do so in the future.

B. POLICY OVERVIEW

Cowal Local Plan 1993

Policy POL COM 5 - Bad Neighbour Development

‘The Council will oppose potential ‘Bad Neighbour’ developments when it is considered that they are likely to adversely affect the amenity of neighbouring properties and land.’

Policy POL RUR 1 – Landscape Quality

The Council will seek to maintain and enhance the landscape quality of area of local landscape significance. Within such areas the Council will resist prominent or sporadic developments which would have an adverse landscape impact. All developments in these areas will require to be justified and assessed against the following:

- Environmental Impact,
- Locational/Operational Need,
- Economic benefit (including agricultural diversification),
- Infrastructure and servicing implications.

Policy POL RUR 2 – Nature Conservation
‘The Council will resist developments and land use changes which would erode or have an adverse effect on features of wildlife and scientific value in particular those having an adverse effect on; local features of wildlife value…’

Argyll & Bute Finalised Draft Local Plan (May 2005)

Policy LP BAD 1 – Bad Neighbour Development

‘In all Development Control Zones proposals for developments classed as ’Bad Neighbour’ Developments will only be permitted where:

(A) There are no unacceptable adverse effects on the amenity of neighbouring residents;
(B) The proposal includes appropriate measures to reduce the impact on amenity as defined by uses classes order (i.e. noise, light, smell);
(C) There are no significant transport, amenity or public service provision objection;
(D) Technical standards in terms of parking, traffic circulation, vehicular access and servicing, and pedestrian access are met in full
(E) The proposal does not conflict with any other Structure Plan or Local plan policy.’

C. ASSESSMENT

Retrospective planning permission is sought for the retention of four partially built metal dog runs and two garden storage sheds located upon garden ground to the west of Dalriada, 8 Crochan Road. Dalriada is accessed from Crochan Road in this semi-rural location on the western fringes of Dunoon town settlement. The property is encompassed by neighbouring residential properties with the nearest neighbour, Pine Cottage at 9 Crochan Road being no more than 5 metres west of Dalriada.

Located to the north of Dalriada are existing timber kennels that currently house the applicant’s dogs. These structures have been in situ for more than four years and under Section 124 of the Town & Country Planning (Scotland) Act 1997 are exempt from requiring retrospective planning permission. The applicant has advised that the metal kennels/runs, for which this application seeks their retention, are simply to provide an enclosed space to allow the dogs to exercise during the day and all dogs will be returned to the existing timber kennels each evening.

Commercial/Domestic use

Numerous representations have been received from surrounding properties raising concerns that a commercial dog boarding and breeding enterprise is underway at Dalriada. The department has been investigating this matter for some time, and while the applicant has a total of nine dogs, six housed with the kennels and three within the house, he claims they are all pets and there is no evidence to prove a commercial business is being run from the property.

The Council’s Public Protection Service has advised that under The Breeding of Dogs Acts 1973 a dog breeding license is only required where 5 or more litters of pups are produced in any 12 month period. Litters of pups have to be Kennel Club registered to ensure pedigree status and to give the pups value when sold. As can been seen from the information received from the Kennel Club only eleven litters of pups have been registered in the last eleven years, and no litter has been registered for almost two years, this supports the claims being made by the applicant. The department does not therefore consider a dog breeding venture to be underway at the property and no substantiate evidence has come to light that would otherwise change this view. It is therefore proposed that should members be minded to grant permission that a suitable condition be attached that restricts the uses of the kennel/runs to domestic only.

Representations have also been received that a commercial dog boarding business is underway and the metal kennels are to provide additional accommodation for more dogs. Again, there is no evidence to prove such a business is underway at Dalriada other than there being a large number of dogs at the property. Indeed the applicant has advised that the metal kennels are to provide enclosed exercise space for his dogs during the day and as such the department intend to condition the grant of planning permission to ensure the new metal kennels are not used for the purpose of overnight accommodation, rather only between the hours of 7.00am and 7.00pm, as recommended by the Council’s Public Protection Service. This not only reduces the potential use of the structures to a domestic purpose but also safeguards the amenity afforded to the neighbouring properties, particularly Pine Cottage.
Odour & Noise

Concerns have also been expressed regarding noise, odour and foul drainage arrangement from the proposed and existing kennels. Failure to address such concerns will undoubtedly have an adverse impact on the amenity afforded to surrounding dwellinghouses and may render the retention of the kennels to be a bad neighbour development that is contrary to the provisions of POL COM 5 of the adopted local plan. However, the Councils Public Protection Service has raised no objection in this regard subject to suitable conditions to address these issues. This will include the submission of a noise and odour management plan to be agreed with the Public Protection department and must include appropriate foul drainage arrangements and suitable screening around the kennels to buffer noise emanating from the kennels.

Policy POL RUR 1

Dalriada is located within an area defined as being of landscape quality and will therefore have to be assessed policy POL RUR 1 'Landscape Quality' of the Cowal Local Plan 1993. The impact of the kennels on the wider landscape and character of the area is considered to be minimal given the site is only visible from a limited number of vantage points, all within close vicinity of the site itself. Furthermore, there is no known economic benefit associated with this development, nor are there any servicing or infrastructure implications. In terms of location need, the kennels are better suited to this semi rural location rather than a heavily built up residential area. Given the aforementioned this proposal is not considered to be contrary to policy POL RUR 1.

Garden Storage Sheds

The two garden sheds present no land use, amenity of privacy concerns and are considered to be entirely acceptable.

Conclusion

On the basis of available information, the department is satisfied that the proposed kennels are for domestic purposes only and recommends the grant of permission is conditioned to ensure the same.

It is considered that the amenity concerns expressed by the neighbouring residents can be addressed by imposition of suitable conditions, as recommended within this assessment, and on this basis the retention of the metal kennels/runs and the two storage sheds are considered to be acceptable.