

Reference Number: 08/00632/DET
Applicants Name: Steve Stobie
Application Type: Detailed
Application Description: Erection of dwelling house and garage, installation of private waste water treatment plant and formation of access.
Location: Land 170 metres west of Dunmore Cottage, Kilberry Road, Dunmore, West Loch Tarbert

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of dwelling-house and detached garage;
- Installation of private foul drainage treatment plant;
- Formation of access.

(ii) Other specified operations.

- Connection to private water supply.
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(B) RECOMMENDATION

It is recommended that planning permission be granted subject to:

- a) the prior conclusion of a legal agreement to prevent the implementation of an alternative dwelling previously approved on land in the applicant's control at Dunmore, in the event that this permission is implemented;
 - b) and subject to the conditions and reasons attached.
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(C) SUMMARY OF DETERMINING ISSUES AND MATERIAL CONSIDERATIONS

(i) Development Plan Context:

This application relates to a site on the landward side of the Kilberry Road in wooded surroundings which is subject to the effect of Policies RUR 1 and RUR 2 of the adopted 'Mid Argyll Local Plan'. It lies within a 'rural opportunity area' delineated by the emergent 'Argyll and Bute Local Plan' giving effect to Policy STRAT DC 4 of the 'Argyll and Bute Structure Plan' 2002, and subject to Policy HOU 1 of the emergent plan. In this context there is a presumption in favour of small scale housing in the countryside, subject to conformity with the development pattern and landscape character of the area, and in the absence of any infrastructure or servicing constraints.

(ii) Representations:

One representation against the proposal has been received.

(iii) Consideration of the Need for Non-Statutory or PAN 41 Hearing:

Not required given a single representation.

(iv) Reasoned Justification for a Departure to the Provisions of the Development Plan.

Not applicable

(v) Is the Proposal a Schedule 1 or 2 EIA development:

No

(vi) Does the Council have an interest in the site:

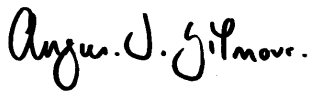
No

(vii) Need and Reason for Notification to Scottish Ministers.

None

(viii) Has a sustainability Checklist Been Submitted:

Not applicable for this scale of development.



Angus J Gilmour
Head of Planning
16th November 2008

Author: Derek Hay
Reviewing Officer: Richard Kerr

Date: 12.11.08
Date: 14.11.08

NOTE: Committee Members, the applicant, agent and any other interested party should note that the consultation responses and letters of representation referred to in Appendix A, have been summarised and that the full consultation response or letter of representations are available on request. It should also be noted that the associated drawings, application forms, consultations, other correspondence and all letters of representations are available for viewing on the Council web site at www.argyll-bute.gov.uk

CONDITIONS AND REASONS RELATIVE TO APPLICATION: 08/00632/DET

1. That the development to which this permission relates must be begun within five years from the date of this permission.

Reason: in order to comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.

2. Development shall not begin until details of the proposed finished floor levels of the dwelling and the detached garage have been identified relative to a fixed datum outside the application site and have been submitted to and have been approved in writing by the Council as Planning Authority. This plan to be submitted for approval shall also define any proposed changes in land levels within the curtilage of the dwelling house as may be sought to ensure that the development 'can be implemented in such a way as to minimise visible under-building. The development shall be implemented in accordance with the agreed details to the satisfaction of the Planning Authority.

Reason: To ensure the development satisfactorily integrates into the surrounding topography, landscape and built environment.

3. Prior to work starting on site, the access hereby permitted shall be formed in accordance with a combination of the Council's Highway Drawings No G300 and TM377 type C construction with the bellmouth area surfaced in dense bitumen macadam or as otherwise agreed in writing with the Planning Authority. The proposed access shall have visibility splays of 2.0 by 90.0 metres in each direction formed from the centre line of the proposed access. Prior to work starting on site these visibility splays shall be cleared of all obstructions over one metre in height above the level of the adjoining carriageway and thereafter shall be maintained clear of all obstructions over one metre in height to the satisfaction of the Planning Authority.

Reason: In the interest of road safety.

4. Prior to work starting on the formation of the access driveway, construction details including a precise alignment, a longitudinal section and a series of cross-sections distinguishing the differences between the existing contours and those proposed, particularly concentrating on those sections of the driveway to be constructed in the vicinity of trees, shall be submitted to and agreed in writing by the Planning Authority. These details shall (a) ensure that the gradient of the driveway does not exceed 1 in 15 within 4.5 metres of the edge of the existing public highway and shall thereafter not be steeper than 1 in 7 and (b) shall employ an alignment and construction method which minimises the visual impact of the driveway upon its surroundings and the risk of potential damage to any nearby trees. Where the driveway adjoins the root system of any tree to be safeguarded, rather than there be a 'cut' into the topography and root system, the driveway shall, wherever practicable, traverse this section of the route using a raised foundation with a permeable membrane system (such as 'Terram') rolled directly on top of the existing ground surface with a granular sub-base.

The construction of the driveway shall be implemented in accordance with the duly agreed details.

Reasons: In the interests both protecting the quality of the landscape and of road safety.

5. Prior to the first occupation of the dwelling house, the parking and turning area for two cars as shown on the approved plans shall be constructed and made available for use to the satisfaction of the Planning Authority.

Reasons: In the interests of road safety.

6. Development shall not begin until details of the scheme of boundary treatment, tree management and soft landscaping works has been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:
 - i) existing trees and landscaping features to be retained and safeguarded and specifying any trees to be felled within the application site and the following areas of the land edged in blue: (a) the wood between points 1-2 on the site location plan in the vicinity of the driveway, (b) the trees in the vicinity of point 3 contributing to the setting of the proposed dwelling, and (c) the trees between points, 4, 5, 6 and 7 on that plan contributing to the setting of Dunmore House. The plan shall ensure that the majority and the most important of these trees are retained as part of the development;
 - ii) the location and design, including materials, of walls, fences and gates;
 - iii) soft landscaping works, including the location, type and size of any additional individual tree or shrub/hedge to be planted. (consideration should be given to additional planting along the limited but more visually exposed sections of the driveway within the upper limits of the open field);
 - iv) a tree management plan for the on-going retention of woodland in the positions safeguarded under (i) above;
 - v) a programme for completion and subsequent on-going maintenance.

The requirements of the tree management plan, as approved, and the soft landscaping works, as also agreed, shall be carried out in accordance with the duly agreed details. 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 advance in writing with the Planning Authority.

Any trees or plants which within a period of ten years from the completion of the development die, for whatever reason or are removed or 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: To ensure the implementation of a satisfactory scheme of landscaping.

7. Those trees to be safeguarded close to the driveway works and building operations (as identified pursuant to the requirements of condition 6 above) shall be protected by means of fencing erected around the canopy spread of each of the specified trees prior to the works occurring and such fencing shall remain in place for the full duration of the engineering and building operations. The fencing to be erected shall be a 1.2 metre high fence in accordance with Clause 8.2.2 of BS 5837 "Trees in Relation to Construction" and shall be erected at least one metre beyond the canopy spread of each tree, unless otherwise agreed in writing by the Planning Authority.

Reason: To avoid damage to trees or compaction of root systems during construction activities in the interests of tree retention and visual amenity.

8. The development shall be completed with external materials which have been agreed in advance writing by the Planning Authority. Samples of the proposed materials to be used for (a) the grey coloured tone for the staining of the structural timbers and garage doors, and (b) the roofs of the development, hereby granted consent, shall be submitted to the Planning Authority for prior approval. Notwithstanding the specified white colouring of the rendered wall panels, prior to installation, samples finished in a choice of white, off-white, and pale grey shall be provided for consideration in situ and approval in writing by the Council as Planning Authority. The dwelling shall be completed in accordance with the duly approved details.

Reason: In the interests of visual amenity and in order to integrate the proposal with its surroundings

9. Prior to the commencement of the development the surface water drainage details shall be submitted to and approved in writing by the Planning Authority which shall ensure that surface water drainage is dealt with separately from the waste water drainage system. The details of the surface water drainage shall also be compliant with the principles of a Sustainable Urban Drainage System (SuDS) in line with Planning Advice Note 61 (PAN61) 'Planning and Sustainable Urban Drainage Systems' and Section 3 of the Domestic Technical Handbook (which sets out guidance on how proposals may meet the Building Standards set out in the Building (Scotland) Regulations 2004).

Reason: In the interest of public health and to safeguard the water environment.

10. Prior to the development commencing a full appraisal to demonstrate the wholesomeness of the private water supply to serve the development shall be submitted to and approved in writing by the Planning Authority. This assessment shall be carried out by a qualified and competent person(s). Such appraisal shall include a risk assessment having regard to the requirements of Schedule 4 of the Private Water Supplies (Scotland) Regulations 2006 and shall on the basis of such risk assessment specify the means by which a wholesome water supply shall be provided and thereafter maintained to the development. The development shall not be brought into use or occupied until the required supply has been installed in accordance with the agreed specification.

Reason : In the interest of public health.

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

PART 1: DEVELOPMENT WITHIN THE CURTILAGE OF A DWELLINGHOUSE

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

No such development shall be carried out at any time within these Parts and Classes without the express grant of planning permission.

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

ADVICE NOTE:

Attention is drawn to the fact that the applicant / developer should contact the Area Roads Engineer on 01546 604655 prior to the formation of the access point onto the public road, in order to obtain the 'Road Opening Permit' as required by Section 56 of the Roads (Scotland) Act 1984. Additionally the works shall be implemented so that no surface water drainage is discharged from the development onto the public road.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 08/00632/DET

MATERIAL CONSIDERATIONS AND ADVICE

(i) POLICY OVERVIEW AND MATERIAL ADVICE

The adopted 'Mid Argyll Local Plan' (1985 & 1989): Policies RUR 1 and RUR 2 sets out the criteria applicable to the assessment of proposals in areas of local landscape importance.

The adopted 'Argyll and Bute Structure Plan' (2002): Policy STRAT DC 4 is applicable to the assessment of development proposals in 'rural opportunity areas' established by the 'Argyll and Bute Local Plan'.

'Argyll and Bute Local Plan' (Modified Finalised Draft) 2006: This designates the site as 'rural opportunity area' where small scale development may be considered favourably subject to conformity with other local plan policies. The other relevant local plan policies are:

LP HOU 1 - supports the principle of small scale development within 'rural opportunity areas';

LP ENV 1 - sets out general criteria against which development proposals will be assessed;

LP ENV 19 - establishes principles in terms of the setting layout and design of development;

LP ENV 7 - requires development to be assessed in terms of its impact on trees and woodlands.

LP ENV 13(a) - requires the settings of listed buildings to be assessed and protected.

LP SERV 1 - establishes foul drainage considerations;

LP SERV 4 - establishes water supply considerations

LP TRAN 4 - establishes access considerations.

Note (i): The applicable elements of the above Policies have not been objected to or have no unresolved material planning issues and are therefore material planning considerations.

Note (ii): The Full Policies are available to view on the Council's Web Site at www.argyll-bute.gov.uk

(ii) SITE HISTORY

There is no planning history for this site, but earlier in 2007 a renewal of a previous planning permission was given (02/00376/DET & 07/00496/DET) for a large well proportioned dwelling (not yet commenced) in a nearby elevated position within an open field. The applicants own both the field in which the permission exists and the alternative site for which permission is now sought. They propose to forego the implementation of the previous consent in the event that this permission is granted and are willing to enter into a legal agreement to ensure that this is the case.

(iii) CONSULTATIONS

Historic Scotland (letter dated 22.05.08): "has no comment to make on this application as there are no scheduled ancient monuments, listed buildings or gardens and designed landscapes affected by the proposal."

West of Scotland Archaeology Service (letter dated 22.05.08): no objections.

Area Roads Engineer (report dated 27.05.08): no objections subject to attainable conditions relating to junction standard, visibility, gradient and parking.

Area Environmental Health Manager (report dated 27.05.08): no objections.

(iv) PUBLICITY AND REPRESENTATIONS

A discretionary advert was placed in June (20.06.08), the period for representations ending on the 04.07.08.

One representation has been received (24.07.08) from Mr. Stewart Robertson of Dunmore House.

The points of objection may be summarised as follows:

- Any view of the structure damages the visual amenity of my home (a Grade B Listed Building). A non traditional roof structure will be a considerable distraction viewed from the tower and grounds of Dunmore House. The roof would be clearly visible from the 1st, 2nd and 3rd floors of Dunmore House and this is the point that I have taken up with the Architectural Heritage Society of Scotland.

Comment - Detailed comments on the visibility of the proposal and its affect upon the listed building are contained within my assessment below. I have concluded that the setting of the listed building will not be affected in any material way. No representation has been received on behalf of the Architectural Heritage Society of Scotland.

- The proposed garage is closer still to my house than the proposed dwelling which I view with dismay. As it does not appear within the section, assessment of its visual impact is difficult.
- Mr. Robertson considers a position a little further north should be investigated to offer more breathing space. 'Such relocation would give a greater sense of privacy commensurate with our two homes in their respective essentially rural settings.' Landscape capacity is also raised in relation to this and other proposals.
- The screening effect of the existing trees between the two properties will not overcome a presence of light in the winter with absent foliage, particularly given the presence of so much glass in the design.

Comment: These issues are addressed in the assessment below.

APPENDIX B – RELATIVE TO APPLICATION NUMBER: 08/00632/DET

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The adopted Local Plan allows development within this area of local landscape significance provided it has no adverse environmental impact (policies RUR1 and RUR 2 refer). Equally, the policies that are pertinent to the 'rural opportunity area' status which the area enjoys through the emergent local plan, allow small scale development which can be integrated successfully into its landscape setting. The development pattern established in this locality is one of notable dwellings of individual character sitting well back and elevated above the West Loch, with significant intervening spaces and the maintenance of a wooded context. Because of the careful siting of this proposal within a small clearing within an overall wooded context, I am satisfied that it will not give rise to an adverse environmental impact upon its surroundings and that it is compliant with the advice on the siting and design of houses in the countryside given in PAN 72. This proposal is advanced as an alternative dwelling to one already granted in an open field below the site which the applicants are prepared to forgo via the mechanism of a section 75 legal agreement.

B. Location, Nature and Design of Proposed Development, with reference to the Natural Environment and Landscape Character.

This proposal utilises the same permitted (and unimplemented) access as the earlier consent (referenced 07/00496/DET), the driveway following the route of the earlier consent, and then extending further to reach the new building plot. The original scheme (as permitted) was for a substantial 1¾ storey traditional rendered dwelling with wings, of some presence, set in an elevated position within an open field, and which would have assimilated into the landscape because of woodland backcloth, presence, and similar elevation/siting and setting characteristics to other notable properties within the wider landscape of West Loch Tarbert. It was also recognised that there was appropriate visual separation between other properties which offered similar beneficial presence within the landscape. Accordingly it was able to be approved as being consistent with the relevant policies applicable at that time.

The present, alternative proposal, seeks consent for a contemporary rather than traditional design. It too is a substantial dwelling. The proposal is a Huf Haus design, being a two storey property with the first floor provided in a substantial grey tiled roof span. That roof, which is gabled, is orientated so that the rear sloping roof presents itself toward the north, and the only position where there will be a limited sighting of the property at distance from the public road. The front sloping roof faces toward Dunmore House, but with intervening topography and trees, little will be seen of the property from that location as explained in more detail below. The elevations of the dwelling like all Huf designs will primarily be glass with some minor rendered infill panels, all engineered within a visible grey stained timber framework.

Unlike the original scheme, and intentionally given the innovative nature of the design, the location of the development has now moved out of the open elevated field and into a neighbouring clearing to the immediate south, within an elevated essentially flat concealed area of ground containing many trees. Whilst the West Loch and the loch-side public road all lie to the south-east of the development (over 250 metres) there is no inter-visibility between the two because of high wooded hill ground between. Still much higher wooded hill lies to the north-west of the site.

The pertinent consideration in terms of the integration of the dwelling within the general landscape, is how it sits when seen from the public road, from a distant position some 650 metres away (and only for only a short distance) to the north east. In choosing a position some 80 metres beyond the open field and some 20 or more metres beyond the rising ground within a wooded context, I am confident that the visibility of this dwelling will be restricted, being partly being hidden and with its impact softened because of intervening trees and topography. The precise siting of the property from this direction has been critical to enable its acceptance within the general landscape and any potential movement of the property in a northerly direction over the lip of the rising ground (as suggested by the one objector) would make the property have more prominence from the only available public viewpoints.

In assessing this proposal I have given consideration light that will emanate from the substantially glazed elevations during winter months and the consequence of this on the available albeit distant views from the public road. I am satisfied that it will only be the upper elements of the glazed wall that will be visible above the crest in the landscape and that the intervening, even leafless trees, will soften the impact to an acceptable level.

The success of this Huf house proposal lies in that it is positioned in a private and essentially concealed location within a wooded context, where glazing can be used to advantage, with surrounding trees affording screening of the outside and enhancement of the interior.

C. Built Environment

Whilst the proposal is for a dwelling within the countryside, it will neighbour at, in my opinion, an acceptable distance, the notable Grade B listed Dunmore House which lies to the south west. It will be noted that Historic Scotland have not expressed any concerns in relation to this proposal although it must be recognised that for this grading of building it is essentially for this Council to assess any impact upon its setting. Dunmore House lies some 230 metres away from the proposed dwelling; the proposed garage is a little closer by 14 metres. The proposed curtilage is inset within the applicant's area of ownership by some 80 metres from the common boundary of the two ownerships.

Dunmore House sits on much lower ground than the proposed site, and between the two, outside of the curtilage but in the area of ground owned by the applicant, there is marginally higher topography than the application site. This lip in the topography as it rises from Dunmore House benefits the proposal significantly, as it will prevent any view of the proposal at all from ground level, and from the higher floors within the tower, all but the upper part of the roof.

The applicants have undertaken a survey and cross-section of this relationship which has been judged to be correct following inspection of the site and its surroundings. The details of this survey are as follows. The development site sits some 16m above the ground level of Dunmore House. The topography between the two rises by a further 2 metres or thereabouts. At ground level at the base of Dunmore House the intervening topography prevents any sight of the proposed dwelling. At a position 8 metres high within the listed Tower (should it be restored ... it presently does not have any floors at this level because of fire damage) then only the top 1.25 metres or so of the roof of the proposed dwelling will be visible through the gaps in the intervening trees. At a position 9 metres high within the Tower the top 2.5 metres of the roof of the dwelling would appear through the same trees.

The dwelling has an eaves height of 3m and a ridge height of 7.4m, which means at an 8m height within the Tower, less than the top third of the height of the roof will be potentially visible at a distance of some 230 metres. It is recognised that this roof plane has a significant 2 x 6 m glazing panel within it, but as this sits more than 1.25 metres below the ridge height it

will not be visible at a height 8 metres within the Tower; it could only be visible in part from high positions.

It will be recalled that one point of the objection is the inter-visibility of the proposal from the listed house. Given the above facts and the deciduous tree cover I am confident no inter-visibility even of the upper roof will occur within the summer months, and in the winter, whilst the top of a grey roof would be partly visible from the upper levels of the tower, should it be restored, this would not to my mind detract to any significant degree from the setting of the listed property. In coming to this conclusion I have to recognize that the long standing but still relatively recent property of Dunmore Court is clearly visible from Dunmore House at a similar distance of some 250 metres in the opposite direction, without the benefit of the shielding effect of any intervening trees or topography, without undue harm to its setting.

Residential amenity and privacy concerns are different issues to the setting of the listed building. The objector has raised matters of spacing recognizing that notable dwellings such as his, have and expect private space around them, more often than not achieved through ownership. I remain satisfied, particularly given the intervening trees to be safeguarded through condition, the separating distance and the topography that there will remain adequate space between these two dwellings, even relative to their status, and that neither residential amenity or privacy will be adversely affected in any materially significant way.

The proposed detached garage needs mention. This is some 14 metres closer to the objector's home than the dwelling. Whilst it is a double garage its roof height is significantly lower than the dwelling, by some 4 metres, even accounting for its marginally higher floor-level. I am satisfied that this aspect of the development will have no impact of any consequence on the objector's property.

The dwelling has significant glass walls primarily on the gables. The objector is concerned about a presence of light that will emanate from it in the winter months. As the gables do not face Dunmore House and given the foregoing remarks about the glazed light in the south western roof plane being shielded from view from elevated points in the tower, I am satisfied that the objector's home will not suffer from any direct light pollution. I am also satisfied that the intensity of any light coming out of the glazed gables of a domestic dwelling will be so low that any illumination of the air space above the property will be so nominal as not to be obvious or intrusive.

D. Road Network, Parking and Associated Transport Matters.

The proposal utilises the same permitted (and also unimplemented) access as the earlier consent (referenced 07/00496/DET) to be sacrificed in favour of this development. Accordingly the junction with the public road and the proposed driveway through the lower wood and open field already benefits from consent. This proposal simply requires an extension of the permitted driveway to access the site of the dwelling. This is acceptable both in highway terms and in terms of its integration into the landscape helped significantly by the particular alignment chosen and the substantial tree planting and screening measures which the applicants have already implemented within the shoreward portion of the upper open field.

E. Infrastructure

The waste water treatment facility to a total soakaway is acceptable. Additionally the private water supply element of this proposal has been thoroughly examined and found to be acceptable in terms of yield through the considerations of the earlier 2007 and previous 2002 consents and the hydrological reports undertaken for them.

F. Conclusion.

Given all these considerations I am satisfied that this innovatively designed contemporary styled dwelling can be accommodated in this particular context. In reaching this view I have had regard to the overall carrying capacity of the landscape and the cumulative impact of earlier decisions (referred to by the objector which have allowed limited roadside development at Kilnaish (two dwellings), and nearby at Dunmore (one dwelling) subject to a legal agreement to maintain loch-side trees. This proposal unlike those will be in a modestly elevated location set back from the road where individual properties are currently widely spaced. With that in mind, I am recommending that permission is only granted on the understanding that the previous consent in the field adjacent is relinquished. The applicants are agreeable to this being achieved by way of legal agreement.

SECTION 75 HEADS OF AGREEMENT:

The proposal is consistent with policy, subject to planning permission being dependant upon the prior signing of a Section 75 Agreement which ensures that this is an alternative dwelling to the one previously approved on the applicant's land (referenced 07/00496/DET). The Agreement would be so written to (a) ensure that should the earlier permission be commenced (it has not been implemented to date and the applicant has confirmed that she has no intention of so doing) the implementation of this proposal would be precluded, and (b) upon implementation of this proposal and in accordance with the above requirement, the prior permission would be rendered incapable of implementation. Such an agreement would be binding upon any successive owners of the land.

GROUNDNS FOR REFUSAL IF AGREEMENT NOT COMPLETED WITHIN FOUR MONTHS:

The proposal in conjunction with the potential of a further notable dwelling house (as yet unimplemented but benefiting from an unexpired consent ref. 07/00496/DET) in the neighbouring open upper field in the applicant's control, would give rise to an adverse effect upon the environment arising from the cumulative impact of two significant dwellings in close relationship with one another, contrary to the established development pattern of the locality which is one of widely spaced dwellings with significant separation, and which would conflict with the requirements of policies RUR 1 and RUR 2 of the adopted 'Mid Argyll Local Plan' 1985 & 1st Alteration 1989, Policy STRAT DC 4(A) of the adopted 'Argyll and Bute Structure Plan' 2002 and Policies HOU 1 and ENV 19 'Argyll and Bute Local Plan' (Modified Finalised Draft) 2006.