

**STATEMENT OF CASE**

**FOR**

**ARGYLL AND BUTE COUNCIL  
LOCAL REVIEW BODY**

**REFUSAL OF OUTLINE PLANNING  
PERMISSION FOR ERECTION OF 3  
DWELLINGHOUSES SOUTH OF DARLA,  
GLENCRUITTEN, OBAN, ARGYLL**

**APPLICATION FOR PLANNING PERMISSION IN  
PRINCIPLE REFERENCE NUMBER  
09/01260/PPP**

**15<sup>th</sup> December 2009**

## **STATEMENT OF CASE**

The planning authority is Argyll and Bute Council ('the Council'). The appellants are Lindon Properties ('the appellants').

The application for Planning Permission in Principle, reference number 09/01260/PPP, for the erection of dwellinghouses at site south of Darla, Glencruitten, Oban, Argyll ("the appeal site") was refused under delegated powers on 28 October 2009. The planning application has been appealed and is subject of referral to a Local Review Body.

### **DESCRIPTION OF SITE**

This site lies to the east of Oban at Glencruitten Road immediately west of Glencruitten Golf Club. The area is contained within an area which stretches from Mossfeild playing fields eastwards along the southern side of Glencruitten Road to include the golf course. The application site comprises an area of waste ground not used by the Golf Course. The site is heavily overgrown and shows signs of abuse with some fly tipping being apparent. The site is level and bounded to the north by an open water course and would be accessed by an improved access off Glencruitten Road. The proposal whilst seeking planning permission in principle illustrates the erection of 3 detached dwellings with open aspects south over the adjacent Golf Course.

### **SITE HISTORY**

None relevant

### **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 proposal complies with the Argyll and Bute Local Plan's settlement strategy. In terms of the settlement strategy, area is contained within an area allocated as an 'Open Space Protection Area' to which Policy LP REC 2 applies where there is a general presumption against development.

- “PROP SI - Oban investment and expansion potential” of the approved Structure Plan provides for Development Road provision and associated housing expansion. This area comprises a number of Development Roads Actions and also Potential Development Areas which together will cater for the phased expansion of Oban.

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

## **SAFEGUARDING OF RECREATIONAL LAND AND IMPORTANT OPEN SPACES**

Policy LP REC2 Safeguarding of Recreational Land and Important Open Spaces applies, where there is a general presumption against development in areas recognised as an Open Space Protection Area. There are certain exceptions where there would be no loss of amenity and alternative provision of equal community benefit and accessibility would be made available, and there is a clear long term excess of pitches, playing fields, and public open space in the wider area, taking into account long term strategy and recreational and amenity value.

The settlement pattern along this section of Glencruitten Road comprises residential development on the northern side of the road with frontage development only in the vicinity of the application site. Whilst there are 2 modern dwellings immediately west of the application these are the exception and also comprise frontage properties. All other development on the south side of Glencruitten Road relates to open space uses, playing field facilities or club house.

## **OBAN INVESTMENT AND EXPANSION POTENTIAL**

Although this application is not directly affected by road improvements “DRA/6 (Oban – Glencruitten Golf Course route to Soroba Road)”. The Development Roads Allocations and the Potential Development Area referred to above were all subject to objections which were heard during the Public Local Inquiry into the Local Plan. The Reporters findings into the objection to the DRA’s confirmed that the Council had approached this undertaking entirely correctly.....by reserving potential road lines in the plan.

The Reporters went further in respect of the adjacent PDA’s and stated

*“it is accepted that an element of justification for Potential Development Areas 5/4 and 5/5 rests on the line of the Oban Development Road while Potential Development Areas 5/3 and 5/7 will be contained by the Oban Relief Road.....we consider that this is an area which should be the subject of a master plan, informed by an environmental appraisal”*

The Council have agreed following the review of the Reporters findings into the Local Plan Inquiry that this should be undertaken through a Master Plan exercise.

## **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. 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 been the subject of two representations, it is considered that a Hearing is not required.

## **COMMENT ON APPELLANTS' SUBMISSION**

The appellants contend that Reason 1 for refusal is unclear and not 'directly relevant' to the development. Planning Advice Note 40 Development Control states that reasons should be precise, specific and relevant.

Policy PROP S1 of the adopted Structure Plan is clear; it recognises the need for and the opportunity to allow the overall expansion of Oban. The facilities to allow this to happen, a combination of Development Roads and allied 'enabling' developments, were incorporated into the Argyll and Bute Local Plan in the form of Development Road Actions (DRA's) and Potential Development Areas (PDA's).

During the course of the Public Inquiry into objections to these elements the Reporters found that the Council were correct to reserve potential road lines in the plan but the Reporters went further in respect of the adjacent PDA's and stated that as an element of justification for Potential Development Areas rests on the line of the Oban Development Road and the Oban Relief Road the area should be the subject of a master plan, informed by an environmental appraisal. The reason for refusal did not 'imply' any direct impact upon any road line rather that the development should have regard to the wider area and therefore be part of a master plan consideration.

There are exceptions, where there would be alternative provision of equal community benefit and accessibility and there is a clear long term excess of pitches, playing fields, and public open space in the wider area. No such alternatives have been demonstrated in this case.

The "wider area" referred to in the reason for refusal is that described by the Reporters into the Inquiry to the Local Plan where the Oban Development Road and the Oban Relief Road justified Potential Development Areas as part of the overall expansion of Oban.

It is considered that Reason 1 fulfils the requirements imposed by PAN 40 as it is both specific and relevant to the areas importance as an integral part of the overall expansion opportunity of Oban.

Whilst the precision of the reason may be questioned insofar as it relates to the direct impact upon the Oban Development Road, it is made clear in the delegated report (see Appendix 1) that the site does not impact upon the road line, rather it is part of the 'wider area' for which a holistic master plan approach has been recognised as a the proper way forward.

In respect of reason 2 the appellant recognises that Policy LP REC2 is in 2 parts,

Part (A) states that there is a clear presumption against development in OSPA's;

Part (B) states that there may be exceptions to this where,

(i) "The retention or enhancement of the facilities can best be achieved by the redevelopment of part of the site which will not compromise its sporting potential and its amenity value;"

It is accepted that given the current appearance of the site will be improved. The site is not in use by the golf course and the proposal does not impact upon the sporting potential of the site. It is considered however that the amenity value of the site is the contribution it makes to the wider OSPA. The settlement pattern along this section of Glencruitten Road comprises residential development on the northern side of the road with frontage development only in the vicinity of the application site. Whilst there are 2 modern dwellings immediately west of the application these are the exception and also comprise frontage properties, all other development on the south side of Glencruitten Road relates to open space uses, playing field facilities or club house.

(ii) "There would be no loss of amenity and alternative provision of equal community benefit and accessibility would be made available, and there is a clear long term excess of pitches, playing fields, and public open space in the wider area, taking into account long term strategy and recreational and amenity value."

There is no alternative provision of equal community benefit and accessibility being made available.

The Open Space Protection Area was not designated to protect the facility of the Golf Course but to protect the open space nature of the area in its wider sense as the OSPA extends beyond the limits of the Golf Course. The issue of protecting the Golf Course facility has been addressed in the Local Plan by the package of DRA's and PDA's referred to above which recognises that the Golf Course will be affected by the Oban Development Road but that the related PDA's allow for compensatory enabling developments.

Whilst the application is supported by the Golf Course the applicants have certified that they are the owners of the site and therefore there is no superficial connection between the application and the future of the Golf Course.

Conclusion:-

The application was refused as contrary to Policy LP REC2 within which there is a clear presumption against development where no alternative facilities are being promoted, furthermore the application was refused as contrary to Structure Plan Policy PROP S1 which identifies the area as part of the area available for the expansion of Oban and to which a number of Development Road Actions and Potential Development Areas area allocated. The Development Road is one of the Council's key strategic objectives. These RDA's and PDA's together are integral to the delivery of the Development Road. A Master Plan approach for the entire area is needed to ensure that all development proposals compliment each other; this includes the protection of the Golf Course as it will inevitably be affected.

## **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 an Open Space Protection Area, where there is a general presumption against development which would result in the loss of an amenity and where no alternative provision of equal community benefit and accessibility has been made available. Therefore the development is contrary to the provisions of PROP SI of the Approved Argyll and Bute Structure Plan 2002 and Policy LP REC2 of the Adopted Argyll and Bute Local Plan 2009. Taking account of the above, it is respectfully requested that the appeal be dismissed.

## Appendix 1

### Argyll and Bute Council Development Services

**Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle**

---

**Reference No:** 09/01260/PPP

**Planning Hierarchy:** Local Development

**Applicant:** Lindon Properties Limited

**Proposal:** Site for the erection of 3 No. dwellinghouses

**Site Address:** Site South of Darla, Glencruitten, Oban, Argyll

---

#### **DECISION ROUTE (delete as appropriate)**

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

---

#### **(A) THE APPLICATION**

(i) **Development Requiring Express Planning Permission**

- Erection of 3 No. dwellinghouses
- Improve/alter existing vehicular access

(ii) **Other specified operations**

- Connection to public water supply
  - Connection to public drainage system
- 

#### **(B) RECOMMENDATION:**

Refuse for the reasons below.

---

#### **(C) HISTORY:**

There is no history relevant to the application site.

---

**(D) CONSULTATIONS:**

Area Roads Manager

No response at time of report.

Scottish Water

Letter dated 16/09/09 – advise no objections subject to conditions.

West of Scotland Archaeology Service

Letter dated 02/10/09 – advise no known archaeological issues.

---

**(E) PUBLICITY:**

The proposal has been advertised in terms of Regulation 20 (1) Advert Statement, closing date 08/10/09 with 2 representations having been received.

1 email of support  
1 letter of objection

---

**(F) REPRESENTATIONS:**

Scott & Helen Jordan, Darla, Glencruitten Road, Oban  
Christine Roberts

**(i) Summary of issues raised**

- Open space protection area, contravenes local plan
  - Increased traffic and noise
  - Impact on natural environment
  - Light nuisance and overshadowing other property
- 

**(G) SUPPORTING INFORMATION**

**Has the application been the subject of:**

**(i) Environmental Statement:**

**No**

**(ii) An appropriate assessment under the Conservation**

**No**

**(Natural Habitats) Regulations 1994:**



(iii) **A design or design/access statement:**

**No**

(iv) **A report on the impact of the proposed development**

**No**

**e.g. retail impact, transport impact, noise impact, flood risk,  
drainage impact etc:**

---

**(H) PLANNING OBLIGATIONS**

(i) **Is a Section 75 agreement required:**

**No**

---

(I) **Has a Direction been issued by Scottish Ministers in terms of**

**No**

**Regulation 30, 31 or 32:**

---

(J) **Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application**

(i) **List of all Development Plan Policy considerations taken into account in assessment of the application.**

Argyll and Bute Structure Plan 2002

STRAT SI 1 – Supports the sustainable development avoiding the loss of recreational or amenity open space adversely affecting the landscape setting of settlements.

PROP SI 1 - Oban investment and expansion potential

STRAT DC8 – Supports development which protects conserves or enhances existing landscape.

Argyll and Bute Local Plan 2009

LP ENV 1 – Requires that all development should protect, restore or where possible enhance the established character and local distinctiveness of the local landscape in terms of location and scale.

LP ENV 19 – Development shall be sited and positioned so as to pay regard to the context within which it is located.

Policy LP REC 2 Safeguarding of Recreational Land and Important Open Spaces

- (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 4/2009.**

The Town & Country Planning Act (Scotland), 1997

The Planning etc. (Scotland) Act, 2006

National Planning Framework, 2004 & Monitoring Report 2006

SPP1 The Planning System (Nov 2002)

NPPG 11 (Sport, Physical Recreation and Open Space)

SPP11: Open Space and Physical Activity 2007

- 
- (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 (PAN41 or other):**  
**No**

---

**(P) Assessment and summary of determining issues and material considerations**

This site lies to the east of Oban at Glencruitten Road immediately west of Glencruitten Golf Club. The area is contained within an area allocated as an 'Open Space Protection Area' which stretches from Mossfeild playing fields eastwards along the southern side of Glencruitten Road to include the golf course; the open space protection area is also defined by Oban Glasgow railway on its southern boundary.

Although this application is not directly affected by road improvements "DRA/6 (Oban – Glencruitten Golf Course route to Soroba Road)". This area forms part of wider area to which Structure Plan Policy "PROP SI 1 - Oban investment and expansion potential" applies. This area comprises a number of Development Roads Actions and also Potential Development Areas which together will cater for the phased expansion of Oban.

The Development Roads Allocations and the Potential Development Area referred to above were all subject to objections which were heard during the Public Local Inquiry into the Local Plan. The Reporters findings into the objection to the DRA's confirmed that

*"the council has approached this undertaking entirely correctly.....by reserving potential road lines in the plan"*

The Reporters went further in respect of the adjacent PDA's and stated

*"it is accepted that an element of justification for Potential Development Areas 5/4 and 5/5 rests on the line of the Oban Development Road while Potential Development Areas 5/3 and 5/7 will be contained by the Oban Relief Road.....we consider that this is an area which should be the subject of a master plan, informed by an environmental appraisal"*

This application site forms a small part of a planned extension of Oban the development of this site has to be considered in conjunction with other parts of this extension and in the context of the final roads layout for the By-pass and any possible relief road. The Council have agreed following the review of the Reporters findings into the Local Plan Inquiry that this should be undertaken through a Master Plan exercise. This proposal as submitted is premature and would prejudice the proper planning of the area.

Notwithstanding the wider issue of the development potential of the area, the settlement pattern along this section of Glencruitten Road comprises residential development on the northern side of the road with frontage development only in the vicinity of the applications site. Whilst there are 2 modern dwellings immediately west of the application these are the exception and also comprise frontage properties, all other development on the south side of Glencruitten Road relates to open space uses, playing field facilities or club house.

The application site comprises an area of waste ground not used by the Golf Course. The site is heavily overgrown and shows signs of abuse with some fly tipping being apparent. The site is level and bounded to the north by an open water course and would be accessed by an improved access off Glencruitten Road. The proposal whilst seeking planning permission in principle illustrates the erection of 3 detached dwellings with open aspects south over the adjacent the Golf Course.

If developed the site would introduce development into the open space area in a manner which would conflict with existing settlement pattern to the detriment of the overall amenity of the area and

---

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

**No**

---

**(R) Reasons why planning permission or a Planning Permission in Principle should be granted**

N/A

---

**(S) Reasoned justification for a departure to the provisions of the Development Plan**

N/A

---

**(T) Need for notification to Scottish Ministers or Historic Scotland:**

**No**

---

**Author of Report: Andrew Swain      Date: 22 October 2009**

**Reviewing Officer: Howard Young      Date: [click here]**

**Angus Gilmour  
Head of Planning**

## **REASONS FOR REFUSAL RELATIVE TO APPLICATION REF. NO. 09/01260/PPP**

- 1 The Adopted Argyll and Bute Local Plan has identified this site as being part of the Oban settlement area, within which Policy PROP S1 of the approved Structure Plan provides for Development Road provision and associated housing expansion. This site lies within an Open Space Protection area through which Development Road Allocation (DRA5/6) passes, the development road is an integral component of the overall expansion of Oban. This application would result in the loss of part of this protected area without regard a long term strategy for the remainder of this area which is integral to the wider planning of the area as a recognised expansion opportunity for Oban.
- 2 The Adopted Argyll and Bute Local Plan has identified this site as being part of an open space protection area and subject to Policy LP REC2 Safeguarding of Recreational Land And Important Open Spaces. This application would result in the loss of part of this protected area without regard a long term strategy for the remainder of this area which is integral to the wider planning of the area as a recognised expansion opportunity for Oban.
3. For the purpose of clarity it is advised that this decision notice relates to the details specified on the application form dated 31/08/09 and the refused drawing reference numbers Location Plan 1:1250 and 0601/10C Outline Proposals scale 1:500.