

Ref:  
AB1

**ARGYLL AND BUTE COUNCIL**  
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OFFICIAL USE

23/6/10

Date Received

**NOTICE OF REVIEW**

Notice of Request for Review under Section 43(a)8  
of the Town and Country Planning (Scotland) Act 1997 and the Town and  
Country Planning (Schemes of Delegation and Local Review Procedures  
(Scotland) Regulations 2008

**Important** – Please read the notes on how to complete this form and use  
Block Capitals. Further information is available on the Council's Website.  
You should, if you wish, seek advice from a Professional Advisor on how to  
complete this form.

A

(1) APPLICANT FOR REVIEW

Name

Address James Blair and Mrs  
Veronica Blair

Achnadriane

Postcode Tayinloan

Tel. No.

Email

PA29 6XG

jblairmacfyne@aol.co  
m

(2) AGENT (if any)

Name

Address John Campbell

Oracle Chambers

Postcode Catcune Steading

Tel. No. Gorebridge, Midlothian

Email

EH23 4RN

01875 825364

jcampbellqc@oraclech  
ambers.com

(3) Do you wish correspondence to be sent to you  or your agent

(4) (a) Reference Number of Planning Application 08/00231/OUT

(b) Date of Submission

28 January 2008

(c) Date of Decision Notice (if applicable)

23 March 2010

(5) Address of Appeal Property

Land south of Achnadriane, Tayinloan,  
Argyll PA29 6XG

(6) Description of Proposal

Proposed erection of two small scale  
residential dwellinghouses

(7)

See Paper Apart No 1

## Paper Apart No 1

Please set out the detailed reasons for requesting the review:-

The Town and Country Planning (Scotland) Act 1997 provides by s. 25 that determinations made under the Planning Acts must be made in accordance with the development plan, unless material considerations indicate otherwise.

The development plan in the present case consists of the Argyll and Bute Structure Plan 2002, and the Argyll and Bute Local Plan 2009. The relevant policies from those plans are set out in the Planning Officer's report dated 10 March 2010, and his letter dated 8 March 2010. There is no need (nor room) to rehearse them here.

Starting with a presumption *in favour*, the site is within a Rural Opportunity Area which favours small scale development, subject of course to access and servicing and other provisions of the DP. [See STRAT1 and LP HOU 1].

The question then comes to be whether the site(s) are appropriate. The presumption *in favour* is met with a presumption against in Very Sensitive Countryside [VSC] and Countryside Around Settlements [CAS] and (perhaps) in Sensitive Countryside [SC].

The sites are (just) in an Area of Panoramic Quality [APQ] and thus Policy LP ENV 10 is engaged. The essence of an APQ is that it provides wide panoramic views. That policy (ENV 10) neither presumes against, nor does it presume in favour of small scale residential development, but says that it will be resisted only where there is a *significant adverse impact on the character of the landscape*. Where that occurs, the policy requires a compensating social or economic benefit and conformity with Appendix A.

Appendix A sets out well understood siting and design principles for housing generally, and for housing in the countryside. The ability to comply with it is not in issue in this case.

**The key test, it is therefore submitted, is that of *significant adverse impact on the APQ*.**

The Planning Officer has declared himself satisfied that the development sites would be "well screened" from the view of the public highway. It is thought that perhaps means "views *from* the public highway" since the remainder of the sentence talks about views *from* the shore line. In other words, views *in* are more important than views *out*. Those words do not demonstrate any impact on the APQ.

The difficulty which has arisen is that the entire assessment is predicated not upon policy, but upon the North and South Kintyre Landscape Capacity Study's [NSKLCS] demarcation between 'red' and 'orange' designations.

There is no reference at all to the NSKLCS in the policy that has been used to justify refusal of permission, namely LP HOU 1.

Policy LP/DCZ 4 is engaged since it deals with Rural Opportunity Areas. But it sets only general indicative parameters, and is not criteria-based. Applications in an APQ are to be considered premature until a Landscape Capacity Study has been approved, and until then (so development is not ruled out entirely), development proposals are to be treated as if they were in 'Sensitive Countryside'. That descriptive phrase is one of the DCZs, and on page 54, it clearly articulates a presumption *in favour* of small scale development in close proximity to existing buildings. This development proposal qualifies for that description. It also articulates the case for an operational need, which does *not* apply in this case.

The Roads Department's objection has been withdrawn, and is subject to a junction improvement, which can itself be the subject of a *Grampian* condition. There are no other internal objections from Council departments.

The Applicants for Review are accordingly aggrieved, and seek review of the decision dated 23 March 2010 because

- 1 they received early assurances from officers as to the compatibility of their proposals with the ten planning framework. They accept, however, that such informal advice cannot bind the Council unless given in writing. Nevertheless, they raise expectations, and were accompanied by reasoning which protected all known and established local interests (such as neighbor-impacts, traffic, and junction design).
- 2 Policy LP HOU 1 is the determinative Housing Policy. The essential predicate for permission for small scale residential development is the occurrence of a **significant adverse effect** on the APQ. Neither the Planning Officer's letter of 8 March, nor the Report to members dated 3 and 10 March 2010 conduct any analysis of the effect on the APQ, other than by making one comment on the visibility of, or from the seashore. In any event, those observations are only partially correct, and take no account of the potential for screening and planting.
- 3 Absent *any* assessment of the effect of the development on the APQ, or of its significance, the decision is fundamentally flawed, since the policy test has not been addressed
- 4 The decision is instead predicated on the NSKLCS, which is not, repeat not, a policy document. Its use is not required by LP HOU 1, nor is it listed in the list of confirming policies on page 54. What is expected by LP DCZ/4 is *consistency* with the NSKLCS. It is submitted that the sites are consistent with the NSKLCS in that the sites are close the orange area where development potential is identified, and that in any event the red area is not a prescriptive exclusion -- all that it does is to delineate areas where development is "generally unacceptable". Given

the acknowledgement that screening can be achieved to and/or from the established interests of the shore line and the highway, it is submitted that two small houses could easily be accommodated at this location. In any event the NSKLCS is described only as "technical guidance" which is a recognition of its non-prescriptive character.

- 5 Simply for reasons of scale, the Proposal Map which is part of the Local Plan is unclear as to the precise delineation at this location between 'red' and 'orange' areas. Any doubt should be resolved in favour of the applicant, provided that he can satisfy the siting and design requirements in Appendix A.
- 6 Finally, the refusal of this application denies an opportunity (though small) for local economic growth. The health and viability of rural Argyll depends, at the least, on the population remaining static, and then growing. Growth is not only an aspiration for settled communities. The maintenance of schools and rural services depends on the ability of an area to attract more people with earning and economic potential into an area. The Local Plan encourages rural growth, and should be read as permissive of additional rural housing where any constraints, reasonably expressed, can be overcome.

John Campbell  
Oracle Chambers  
Gorebridge  
Midlothian  
22 June 2010  
[jcampbellqc@oraclechambers.com](mailto:jcampbellqc@oraclechambers.com)

(8) If the Local Review Body determines that it requires further information on "specified matters" please indicate which of the following procedure you would prefer to provide such information :-

- (a) Dealt with by written submission
- (b) Dealt with by Local Hearing
- (c) Dealt with by written submission and site inspection
- (d) Dealt with by local hearing and site inspection

*NB It is a matter solely for the Local Review Body to determine if further information is required and, if so, how it should be obtained.*

(9) Please list in the schedule all documentation submitted as part of the application for review ensuring that each document corresponds to the numbering in the sections below:-

**Schedule of documents submitted with Notice of Review (Note 3 paper copies of each of the documents referred to in the schedule below must be attached):**

No.	Detail
1	Application dated 25 January 2008
2	First report to Committee dated <del>20 March 2010</del> 3 Sept 2008
3	Second report to Committee dated 3 and 10 March 2010
4	Refusal Notice dated 23 March 2010
5	Two (2) drawings
6	Planning Officer's letter of 8 March 2010
7	
8	
9	
10	

If insufficient space please continue on a separate page. Is this attached?  (Please tick to confirm)

Submitted by  
(Please Sign)



Dated

22 June 2010

**Important Notes for Guidance**

1. All matters which the applicant intends to raise in the review must be set out in or accompany this Notice of Review
2. All documents, materials and evidence which the applicant intends to rely on in the Review must accompany the Notice of Review UNLESS further information is required under Regulation 15 or by authority of the Hearing Session Rules.
3. Guidance on the procedures can be found on the Council's website – [www.argyll-bute.gov.uk/](http://www.argyll-bute.gov.uk/)
4. If in doubt how to proceed please contact 01546 604331 or email [localreviewprocess@argyll-bute.gov.uk](mailto:localreviewprocess@argyll-bute.gov.uk)
5. Once completed this form can be either emailed to [localreviewprocess@argyll-bute.gov.uk](mailto:localreviewprocess@argyll-bute.gov.uk) or returned by post to *Committee Services (Local Review Board), Kilmory, Lochgilphead, Argyll, PA31 8RT*
6. You will receive an acknowledgement of this form, usually by electronic mail (if applicable), within 14 days of the receipt of your form and supporting documentation.

If you have any queries relating to the completion of this form please contact Committee Services on 01546 604331 or email [localreviewprocess@argyll-bute.gov.uk](mailto:localreviewprocess@argyll-bute.gov.uk)

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**For official use only**

Date form issued

Issued by (please sign)



PLEASE SEND YOUR COMPLETED APPLICATION FORM TO THE AREA OFFICE CLOSEST TO THE LOCATION OF YOUR PROJECT.

For Official Use Only:	
Reference No.	
Date of Receipt	
Fee Paid	Date of Receipt
Valid Date	

**MAINSTREAM PLANNING APPLICATION FORM**

The undemoted applicant hereby makes application for express planning consent for the development described on this form and on the accompanying plans.

This form should not be used for applications for Mineral Consent, Listed Building Consent, Conservation Area Consent, Advertisement Consent, Certificates of Lawfulness or Prior Notification as separate application forms are available for these.

Note: There is a simpler 'Householder' application form for domestic extensions, garages, LPG Tanks etc.

Important: Please check whether you also require a building warrant, or permission under any other enactment in addition to planning permission.

<p>1(a) Applicant (IN BLOCK CAPITALS)          Full Name <u>MR + MRS JAMES BLAIR</u>          Address <u>ACHNADRIAN FARM,</u>  <u>TAYNLOAN,</u>  <u>ARGYLL</u>          Post Code .....          Tel. No. ....</p>	<p>1(b) Agent (see note 1)          Full Name <u>GILLIAN WRIGHT</u>          Address <u>LOCHSIDE,</u>  <u>LOW ASKOMIL,</u>  <u>CAMPBELTOWN</u>          Post Code <u>PA28 6EP</u>          Tel. No. <u>01586 553786</u></p>
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2. Description of Proposed Development (see note 2)  
2 HOUSE + GARDEN SITES

3. Site Address (see note 3) A LAND SOUTH OF ACHNADRIAN FARMHOUSE

4. Application Type (tick one box only)(see note 4)

(a) Outline Permission <input checked="" type="checkbox"/>	(d) Application to Waive/Vary Conditions <input type="checkbox"/>
(b) Approval of Reserved Matters <input type="checkbox"/>	(e) Change of Use of Land / Buildings <input type="checkbox"/>
Ref. No. of Outline Permission.....	(f) Application for Temporary Consent <input type="checkbox"/>
(c) Detailed Permission <input type="checkbox"/>	(g) Renewal of a previous Temporary Consent <input type="checkbox"/>
	Date of expiry of Original Consent.....

5. Use of Building(s)/Site (see note 5)  
 Existing FARMLAND Proposed DWELLING HOUSE

6. Site / Floor Area of Development (Complete as appropriate)(see note 5)

(a) Proposed site area of the development 0.27 ha / ..... acres

(b) Proposed external floor space of building(s) 1st Floor ..... sq.m / 2nd Floor .....sq.m / 3rd Floor .....sq.m

7. Demolition (see note 7)  
 Will any buildings or Structures be demolished in connection with the proposed development? YES  NO   
 If YES, the building/structures should be clearly identified on the submitted plans.

8. Operational Need or Special Circumstances (tick appropriate boxes)(see note 8)

(a) Is any claim of agricultural / forestry operational need being made? YES  NO   
 If YES, Form D/Agric should be submitted.

(b) Is any other claim of operational need or special circumstances being made? YES  NO   
 If YES, please give details in a covering letter or statement.

9. Registered Croft (tick appropriate box)(see note 9)  
 Does the Application Site form part of a Registered Croft YES  NO



10. Licensed Premises (tick appropriate boxes)(see note 10)
- (a) Are the existing premises used for the sale or consumption of alcohol under a licence granted in terms of the Licensing (Scotland) Act 1976 ? YES  NO
- If YES, specify type of licence presently held.....
- (b) Is it intended that the existing and/or proposed premises be used for the sale or consumption of alcohol under a licence granted in terms of the Licensing (Scot.) Act 1972 ? YES  NO
- If YES, specify type of licence to be applied for.....

<p>11. Access Arrangements (see note 11)</p> <p>No Change <input type="checkbox"/> New vehicular access <input checked="" type="checkbox"/></p> <p>Existing vehicular access to be used <input type="checkbox"/></p> <p>Existing vehicular access to be altered/improved <input checked="" type="checkbox"/></p> <p>Separate pedestrian access proposed <input type="checkbox"/></p>	<p>12. Parking Arrangements (see note 12)</p> <p>No Change <input type="checkbox"/></p> <p>Number of existing on-site parking places <u>0</u></p> <p>Number of additional on-site parking places <u>4-6</u></p> <p>Only off-site parking available <input type="checkbox"/></p>
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13. Drainage Arrangements (tick one box only)(see note 13)

Not Applicable  Connection to existing public sewer

Connection to existing private sewer/septic tank  Single septic tank proposed EACH HOUSE

Two or more septic tanks proposed  Other type of private system (specify on plans)

Please specify type of outfall for septic tank(s) SOAK-AWAY

14. Water Supply Arrangements (tick one box only)(see note 14)

Not Applicable  Connection to existing public main  Proposed connection to public main

Existing private supply to be used  Proposed private supply

Please identify proposed private water supply source, pipes and any storage arrangements on the SITE PLAN

15. Building Materials (Complete as appropriate)(see note 15) N/A - TO BE AGREED AT DETAILED STAGE.

Outside Walls: Material ..... Colour .....

Roof Covering: Material ..... Colour .....

Windows: Material ..... Movement..... Colour.....

16. Are any trees / shrubs to be cleared from the site ? (see note 16)

Not Applicable  YES  NO  If YES show details of felling / landscaping / replanting on Site Plan.

17. Are proposed buildings within 8m of overhead powerline ? (see note 17)

Not Applicable  YES  NO  If YES, has the Electricity Board been consulted ? YES  NO

18. This question should be completed for all COMMERCIAL & INDUSTRIAL Applications (see note 18)

(a) Not applicable

(b) Nature of proposed uses, operations and processes.....

(c) The arrangement for the disposal of waste materials.....

(d) Provision for loading and unloading vehicles.....

(e) Estimates of vehicle type and movements per day Existing ..... Proposed .....

(f) Gross floor space Existing ..... sq.m Proposed ..... sq.m

(g) Number of employees Existing ..... Additional.....

19. Estimates of : (see note 19)

(a) Development Costs £ 5,000

(b) Start Date A.S.A.P.R. (Detailed) (c) Completion Date A.S.T.A.P.



THIS SECTION MUST BE COMPLETED IN EVERY CASE (see note 21)

Ownership Certificates Under Article 8 Of The Town & Country Planning  
(General Development Procedure)(Scotland) Order 1992

I HEREBY CERTIFY THAT 21 DAYS BEFORE THE DATE OF THE APPLICATION: (Tick one box only)

Certificate 1 The applicant OWNS all of the land involved in the application site (see (a) Below).	<input type="checkbox"/>
Certificate 2 The applicant DOES NOT OWN all the land involved in the application site, but has given a copy of the requisite NOTICE NO.1 to the owner(s) (see (a) below) of any part of the application site, who are listed below.	<input checked="" type="checkbox"/>
Certificate 3 The applicant OWNS all of the land involved in the application site (see (a) below). However, part or all of the Site constitutes or forms part of an AGRICULTURAL HOLDING (see (b) below) and the applicant has sent a copy of the requisite NOTICE NO.1 to the AGRICULTURAL TENANT(S) who are listed below.	<input type="checkbox"/>
Certificate 4 The applicant DOES NOT OWN all the land involved in the application site, but has given a copy of the requisite NOTICE NO.1 to the owner(s) (see (a) below) of any part of the application site, who are listed below. Part or all of the site ALSO constitutes or forms part of an AGRICULTURAL HOLDING (see (b) below) and the applicant has sent a copy of the requisite NOTICE NO.1 to the AGRICULTURAL TENANT(S) who are listed below.	<input type="checkbox"/>

Those Notified in terms of Article 8 of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992 are:

Name of Owner	Address	Date Notified
	TIGHNADROCHIT, TAYINLOAN	26/1/08
MR + MRS I. LOGAN	BEIN VIKEN	" " "
MRS S. STEEL	KENNAIG, BY TAYINLOAN	

DECLARATION

I hereby certify that I, the applicant/applicant's agent, have given correct and complete information and given the requisite notices to all parties who have a notifiable interest in terms of Article 8 and Article 9 of the Town & Country Planning (General Development Procedure)(Scotland) Order 1992.

SIGNED

*Cillian Wright*

DATE

25/1/08

PERSONAL INFORMATION

Please note that any information included in the application form, including your name, address and phone number is public information in terms of the Freedom of Information Act and will be copied and made available to any member of the public on request and will be published on the Council's Website.

If you do not wish the information within Section 1(e) to be made available you should use a professional agent for your application. Please note, all other information in the application and any other supporting information will be made available to any member of the public, on request, and published on the Council's Website.

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Reference Number: 08/00231/OUT  
Applicants Name: Mr. & Mrs. James Blair  
Application Type: Outline  
Application Description: Site for the erection of two dwellinghouses  
Location: Land South of Achnadriane Farm by Tayinloan

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**(A) THE APPLICATION**

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

- The erection of two dwellinghouses with associated garden ground, with specific siting and design reserved for future consideration;
- The improvement of an existing access onto the public road;
- The provision of a single septic tank for each dwellinghouse.

**(ii) Other specified operations.**

- The connection of each dwellinghouse to a proposed private water supply.
- 

**(B) RECOMMENDATION**

That Members be appraised of the situation regarding the current status of this application following the recent report of the Scottish Government Reporter's Unit in regard to the Public Local Inquiry with respect of the 'Argyll and Bute Local Plan' (Modified Finalised Draft) and that it be agreed to continue the consideration of this application until such time that the matters raised by the Reporter's recommendations have been considered by the Council.

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**(C) SUMMARY OF DETERMINING ISSUES AND MATERIAL CONSIDERATIONS**

**(i) Development Plan Context – with Particular Regard to the Findings of the Scottish Government Reporter's Unit Report into the Recent Local Plan Inquiry:**

The application site is located within a proposed 'Rural Opportunity Area' within the emerging 'Argyll and Bute Local Plan' (Modified Finalised Draft), June 2006 in which Policy HOU 1 would normally offer a general presumption in favour of small scale housing development which accords with the prevailing landscape character and settlement pattern. This emerging policy accords with the provisions of the adopted 'Argyll and Bute Structure Plan' November 2002, specifically in regard to Structure Plan Policy STRAT DC 4, which seeks to give encouragement to small scale developments on suitable sites which, in terms of siting and design will visually integrate with the landscape and settlement pattern; this may include small scale housing development within the open countryside.

The adopted 'Kintyre Local Plan' (1<sup>st</sup> Review and Alteration) 1988 gives a presumption in favour of single or small scale residential development in the

countryside (Policy STRAT 4) subject to examination in terms of infrastructure and servicing implications, together with careful consideration of the design, setting and scale of development within designated scenic areas (Policy STRAT 4A). Proposals for development within such designated scenic areas will further be required to be justified against a set of criteria – environmental impact; locational /operational need; economic benefit; and infrastructure and servicing implications (Policies RUR 1 and RUR 2).

The site the subject of this application falls within an area of open countryside and within a proposed 'rural opportunity area' but is also within a designated 'Area of Panoramic Quality' (formerly an 'Area of Regional Scenic Coast').

The Local Plan Reporter has recently recommended (amongst other things) that all of the proposed rural opportunity areas which fall within either National Scenic Areas, or (as in this case) Areas of Panoramic Quality be deleted, and that the land in question be reclassified as areas of 'sensitive countryside'; in which there is an initial presumption against development unless restricted to appropriate small scale residential development in close proximity to existing buildings in infill, rounding-off, change of use of building and redevelopment sites.

The Council's response to this recommendation by the Reporter is, as yet, unknown. There is therefore uncertainty over the eventual status of the affected areas of land and it remains possible that the general presumption in favour of development within these proposed rural opportunity areas as afforded by the draft plan, may be removed and replaced by an initial presumption against development.

In view of this uncertainty it is wholly inappropriate and would be prejudicial to the local plan process to determine existing or future planning applications within the affected land designations until such time that these fundamental policy issues have been resolved.

**(ii) Representations:**

One representation has been received – from Iain and Kathryn Logan, the owner / occupiers of a neighbouring dwellinghouse 'Benview' by Tayinloan. This letter raises issues with the proposal and requests that a series of conditions should apply to any planning permission for the proposed development. The particulars of this representation do not fall to be examined at this time, but will be a material consideration as such time as the matter is reported for determination.

**(iii) Consultations:**

- Area Roads Manager (03.03.08) – Recommends refusal of application because there is insufficient visibility from the existing access to the south and that the land required to improve this visibility is outwith the Applicant's control. Also the existing connection to the public road requires improving and the land required for these improvements is outwith the Applicant's control.

*Comment: It is not appropriate to consider the highway merits of the application at present in the absence of a confirmed policy position in respect of the local plan settlement strategy.*

- West of Scotland Archaeology (13.02.08) – No objection.

- Area Environmental Services Manager (13.02.08) – No objection subject to condition requiring a hydrologist's report to demonstrate the suitability of the proposed private water supply.

**(iv) Site History:**

07/00132/OUT – Site for the erection of two dwellinghouses, Land South of Achnadriane – application withdrawn.

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

Not applicable.

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

Not applicable

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

No.

**(viii) Does the Council have an interest in the site:**

No.

**(ix) Need and Reason for Notification to Scottish Ministers.**

Not applicable.

**(x) Has a sustainability Checklist Been Submitted:**

Not appropriate for this scale of development.

*Angus J. Gilmour.*

**Angus J Gilmour  
Head of Planning  
15<sup>th</sup> August 2008**

**Author:** Tim Williams (01546 604084) **Date:** 13<sup>th</sup> August 2008  
**Reviewing Officer:** Richard Kerr (01546 604080) **Date:** 14<sup>th</sup> August 2008

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

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Reference No: 08/00231/OUT  
Planning Hierarchy: Local  
Applicant: Mr & Mrs James Blair  
Proposal: Site for the erection of two dwellinghouses  
Site Address: Land South of Achnadriane Farm, by Tayinloan

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#### DECISION ROUTE

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

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#### (A) THE APPLICATION

- (i) **Development Requiring Express Planning Permission**
- The erection of two detached dwellinghouses
  - The alteration of an existing vehicular access onto a classified road
  - The installation of a single septic tank for both dwellings
- (ii) **Other specified operations**
- Connection to a proposed private water supply
- 

#### (B) RECOMMENDATION:

That permission be Refused subject to the reasons contained in this report.

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#### (C) CONSULTATIONS:

Area Roads Mid Argyll Kintyre And Islay	26.02.2010	No objection subject to conditions.
Archaeologist	13.02.2008	No objection.
Environmental Services Mid Argyll	13.02.2008	No objection subject to condition.

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#### (D) HISTORY:

07/00132/OUT – Site for the erection of two dwellinghouses, Land at Achnadriane Farm by Tayinloan – Withdrawn 17.07.08 following instruction to do so in letter dated

28.01.08

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**(E) PUBLICITY:**

None required.

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**(F) REPRESENTATIONS:**

**(i) Representations received from:**

Iain & Kathryn Logan, Benview by Tayinloan

**(ii) Summary of issues raised:**

- Requests various conditions to be attached to any planning permission;
- No trees on the east bank of the farm track should be cut down;
- No development should take place until such time as the applicant has provided competent details that the proposed private water supply is acceptable;
- That works be carried out by the applicant to protect existing buried drainage pipes and service cables;
- That the roofs of the new dwellings be covered in slate;
- That no works should take place until a legally binding contract with the relevant land owners is in place to allow for the required access improvements and their continued maintenance;
- The dwellinghouses should be single storey.

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**(G) SUPPORTING INFORMATION**

Has the application been the subject of:

- |  |  |
|--|--|
| <b>(i) Environmental Statement:</b>  | No   |
| <b>(ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:</b>  | No   |
| <b>(iii) A design or design/access statement:</b>  | No   |
| <b>(iv) A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:</b> | Yes - A supporting statement has been submitted by the applicant. This is summarised in Section P below. |

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**(H) PLANNING OBLIGATIONS**

Is a Section 75 agreement required: No

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**(I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: No**

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

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

'Argyll and Bute Structure Plan' 2002

STRAT DC 4 – Development in Rural Opportunity Areas  
STRAT DC 8 – Landscape and Development Control  
STRAT DC 9 – Historic Environment and Development Control

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment  
LP ENV 10 – Impact on Areas of Panoramic Quality (APQs)  
LP ENV 17 – Impact on Sites of Archaeological Importance

LP HOU 1 – General Housing Development  
P/DCZ 4 – Rural Opportunity Areas – Areas And Boundaries

LP TRAN 4 – New and Existing Public Roads and Private Access Regimes  
LP TRAN 6 – Vehicle Parking Provision

**(ii) List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 4/2009.**

- Argyll & Bute Landscape Capacity Study – North and South Kintyre. Approved and Adopted 3<sup>rd</sup> February 2010.

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**(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: No**

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**(L) Has the application been the subject of statutory pre-application consultation (PAC): No**

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**(M) Has a sustainability check list been submitted: No**

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**(N) Does the Council have an interest in the site: No**

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**(O) Requirement for a hearing (PAN41 or other): No**

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

This outline application is for the erection of two detached single storey dwellinghouses on two separate plots, sharing the same access, on land south of Achnadriane Farm, east of the A83 some 5 km north east of Tayinloan.

The application site consists of a total land area of approximately 0.35 hectares to include the existing access off the A83 plus part of the existing Achnadriane Farm access road plus both plots and the new proposed access road serving both. Each plot measures approximately 1,300 square metres (0.3 acres). Both of the proposed plots occupy relatively level platforms within a landform which is rising from west to east. Although both of the proposed plots are elevated with respect to the public road, they would be viewed, for the most part, against a backdrop of steeply rising land.

The proposed development would require improvements to the existing access onto the A83 public road including upgraded visibility splays and revised bellmouth geometry. Each house plot would also require parking and turning facilities within its curtilage. The area roads engineer has commented that the required access improvements and parking provision can be provided within the application site boundary and has no objections to the proposal subject to suspensive conditions. There is, therefore, no conflict with Local Plan policies LP TRAN 4 and LP TRAN 6.

It is proposed to serve the two new dwellings by connection to a new private water supply. The Council's head of environmental services has commented that this is acceptable subject to a planning condition requiring the applicant to commission and obtain approval of a hydrologist's report demonstrating that the proposed supply is sufficient in terms of quantity and quality to serve the proposed development.

Although the application site is within a wider area recognised as important for the potential for archaeology, the West of Scotland Archaeology Service has commented that they have no objections to this specific proposal. The development is therefore considered appropriate in terms of policies STRAT DC 9 and LP ENV 17.

The general landform is that of rising land from west to east; gradually at first to a height of approximately 50 metres above sea level and then rising steeply into the interior of Kintyre to a height of some 200 metres 1.5 km east of the application site. Some 2.5 km east of the application site the landscape changes to that of extensive upland commercial forest plantation and the land continues to rise until it attains a height of almost 250 metres. The proposed house plots are located between the 30 and 40 metre contours; the southern plot being located at a substantially lower level than the northern plot. The A83 public road is at a height of approximately 5 metres above sea level west of the application site.

The application site is located within a 'rural opportunity area' wherein the provisions of policies STRAT DC 4 and LP HOU 1 set out a general presumption in favour of 'small scale' residential development on appropriate sites and subject to access/servicing provision and compliance with other relevant provisions of the Development Plan. However, the application site also lies within an 'Area of Panoramic Quality' wherein (in order to address concerns raised by the Scottish Government Reporters during the 2008 Local Plan Public Local Inquiry) the provisions of LP HOU 1 require applications to be determined in line with The North and South Kintyre Landscape Capacity Study. The provisions of STRAT DC 8 and LP ENV 10 would seek to resist development located within or adjacent to an Area of

Panoramic Quality which, by virtue of scale, location or design would have a significant adverse impact upon the character of the landscape.

Having specific regard to the Landscape Capacity Study, the application site is located within a larger area identified on the study maps as being unsuitable for development. Specifically the study identifies landscape capacity for further development in this locality to be on relatively flat areas of land close to the A83 public highway, in and around existing woodlands and re-development/expansion of existing building clusters. The study also advises that development is to be resisted on open, elevated sites, particularly where there is no existing woodland or topography to achieve a sense of place or shelter.

Having inspected the application site and immediate surrounds, it is the view of the Planning Department that there is a distinct difference in the character of the landscape between the areas identified by the North and South Kintyre Landscape Capacity Study as being potentially suitable for development and those not recommended for development in and around Achnadriane – the areas identified as having capacity for development being low lying, wooded land located between the public highway and the private access road to Achnadriane, where it runs below and parallel to a contour approx 20-25m above ordnance datum which marks the beginning of the open fields. Beyond this point the land rises steeply and consists of open, rough agricultural grazing land where development would require substantial modification of ground levels and where additional planting to mitigate the setting of the development would appear inappropriate. In view of this stark contrast in landscape character, it is the consideration of the Planning Department that the boundaries of land identified as being potentially suitable for development are clearly defined - this significantly reduces the ability of the Planning Department to be flexible in the interpretation of the guidance contained in the Landscape Capacity Study - in this particular instance it is very clear that the proposed development lies in an area of different landscape character to that identified as having capacity for additional development in the study.

In view of the above and in light of the revised policy/guidance position provided by the North and South Kintyre Landscape Capacity Study, it is the consideration of the Planning Department that the residential development of these elevated sites within the open countryside is contrary to the existing development pattern identified in the Landscape Capacity Study and as such detrimental to the landscape character of the Area of Panoramic Quality within which the application site lies. This proposal does not conform to the North and South Kintyre Landscape Capacity Study and so conflicts with policy P/DCZ 4 of the Local Plan which states that "Development proposals will be expected to be consistent with the findings contained within completed Landscape Capacity Studies."

In light of the above, the proposal is consequently contrary to the provisions of policies STRAT DC 4, STRAT DC 8, LP HOU 1, P/DCZ 4 and LP ENV 10.

Initially this proposal had also been the subject of objection by the Area Roads Manager who has recommended that permission be refused unless visibility and junction improvements can be secured in the interests of road safety. The Area Roads Manager has subsequently provided an undated comment which advises that since his previous consultation response the Council's visibility standards have been reduced. Consequently, the road safety objections which have previously prevented determination of this application have now been removed subject to the imposition of suspensive planning conditions requiring the upgrade of the junction of the private road serving the development and the A83 public highway. These improvements

include for an enlarged bellmouth and provision of a service lay-by; the land necessary for these improvements is included within the application site and may therefore be addressed by suspensive planning condition preventing the commencement of development until such time as the improvements are provided.

The applicant has submitted a statement in support of his application in response to the findings of the North and South Kintyre Landscape Capacity Study. This statement is reproduced and assessed below:

*"We ask in reference to the above that the following facts please be considered.*

*1. 2006 (Summer). Mrs. Blair approached the planning department and asked for an informal visit to Achanadriane to determine if house sites were possible and if so where.*

*Mr. Tim Williams visited and advised, recommending the lower slope of the hill would be okay for two traditional style 1 1/2-storey houses. At this point the house at Tighnadrochit was not even built.*

*At no point did he mention the sites not been suitable due to settlement patterns."*

Comment: Planning Officers have indeed previously discussed this proposal with Mr Blair - at that time it was indicated that the Planning Department was supportive of the proposals. This advice was the informal, professional opinion of planning officers based upon the provisions of the relevant policies at that time which included the now superseded Kintyre Local Plan 1984 and the emerging draft Argyll and Bute Local Plan.

*"2. We submitted our planning application on 22/01/07, Ref: 07/00132/OUT. Our nearest neighbours, Mr. and Mrs Logan of Benview not only objected they created an email link which allowed anyone anywhere in the world to object by a press of a button."*

Comment: Any representations received by the Planning Department are a material consideration to the determination of a planning application. The method by which such comments are received and whether or not an objector orchestrates a campaign to increase the amount of representation to a proposal is outwith the control of the Planning Department. In any event, it should be noted that, primarily, it is the issues raised in the objections rather than the overall number received which the Planning Department must consider and address in the determination, giving material weight to the issues raised as appropriate.

*"3. 2007 (Summer) – Mr. Tim Williams and Mr. Richard Kerr met with us at the Chalmers St office, and explained they were obliged to respond to all the objectors and as that would take up an enormous amount of time and the sites had already taken up a disproportionate amount of time due to Mr. & Mrs Logan, they suggested we move the sites.*

*Mr. Tim Williams informed us he would go back to the neighbours saying we would move them if they didn't object. To accommodate the planners we agreed and discussed at some length where would be the most appropriate part of the field to move them to.*

*At no point did either Mr. Tim Williams or Mr. Richard Kerr indicate that sites in the field were unacceptable and at no point did they mention settlement patterns.*

*This decision cost us dearly when a prospective buyer for Achanadriane withdrew their offer, as they were not happy with the sites being moved."*

Comment: The original application attracted some 40+ representations and as such the determination of the application would be undertaken by the MAKI Area Committee and in all likelihood, given the volume of objection, a discretionary public hearing – in the event that the application was successful it would also have been necessary, at that time, to complete a S75 planning agreement to secure visibility and junction improvements. It is my understanding at this time that the applicant expressed his concern at the time which had already been taken to process the application and was apprised of his options which essentially consisted of i) determine the original application (as above); ii) withdraw the original application and apply for an amended site which hopefully would not attract objection and could be determined under delegated powers with a S75 agreement.

The decision to withdraw the application and resubmit an amended proposal was entirely at the discretion of the applicant and was not undertaken to address any specific concern raised by the Planning Department in respect of the details of the original application. It is however agreed that the submission of an amended application was anticipated to provide an easier determination process for all parties concerned. Again, the advice offered by planning officers at this time was based upon the relevant policies and guidance available to them.

*"4. We re-submitted our plans on 28/01/08, Ref: 08/00231/OUT - It then became apparent the road access was a problem at the time but this has since been resolved due to a change in visibility display requirements."*

Comment: As of 29.02.08 it had become apparent that the applicant was unable to obtain a S75 agreement to secure visibility and junction improvements necessary to address the Area Roads Manager's initial objection to the proposal. Subsequently, the Council's visibility standards have been reduced and the existing visibility available at the junction is acceptable; however, the Area Roads Manager is still advising that junction improvements are necessary to accommodate additional vehicular movements at this location in the interests of road safety – whilst these improvements involve land in the ownership of third parties it has been confirmed that the improved junction and lay-by could be accommodated within the application site boundary edged red (with the relevant land owners notified of their interest in the application site) and may therefore be addressed by way of a suspensive planning condition. It is noted however that a grant of planning permission would not override other matters of civil law; in the event that the applicant is unable to implement the required improvements because of land ownership issues then the provisions of the condition would prevent any development commencing on site.

*"5. August 2008 - We received a letter from Mr. Richard Kerr informing us that our planning application had not only been put on hold until the completion of the Landscape Capacity Study, but the criteria had changed for sites falling within an 'ROA' which lie within a designated Area of Panoramic Quality, which ours did.*

*So we patiently waited - a further 1 1/2 years or so.*

*At no point during this period did anyone from the planning department indicate to us that the sites were not acceptable and did not fit in with settlement patterns."*

Comment: The recommendations of the Local Plan Inquiry Reporters included for the deletion of all ROAs which were located within Areas of Panoramic Quality (as is the case in this instance) and National Scenic Areas – this in effect would have resulted in this site and all other such ROAs being amended to 'sensitive countryside' wherein there is a presumption against all development in the open countryside. In view of the uncertainty as to the status of ROAs, the Planning Department took the view that the determination of applications in the affected ROAs would be premature to the development plan process until such time as the Council had provided its response to the Reporters recommendations. The Council duly provided its response to the Reporters recommendations in Nov. 2008 by classifying all ROA within APQ/NSA designations as 'sensitive countryside' until such time as a Landscape Capacity Study had been prepared – the policy provisions of P/DCZ4 and LP HOU 4 in the Local Plan were also amended to require new development to be consistent with the Landscape Capacity Study. The North and South Kintyre Landscape Capacity Study was approved by Members on 3<sup>rd</sup> February 2010 and it is only subsequent to this point that the Planning Department has been in a position to consider determination of the affected applications. Whilst I can appreciate the applicant's disappointment at a delay in excess of 18 months it must be noted that the events which have unfolded in the Local Plan preparation process meant that it was not possible for the case officers processing this application either to predict or avoid the consequences of these events.

*"6. 23<sup>rd</sup> February 2010 – Mr. Peter Bain and Mr. Adrian Jackson-Stark meet with Mr. Blair at Achanadriane. After looking at the sites they feel they do not fit in with settlement patterns.*

*This is despite the lower site being situated next to a house at Tighnadrochit with Benview situated below, and Achanadriane located to the north/east."*

Comment: For the purpose of clarity it is noted that the application site is located at a substantially higher level than that of Tighnadrochit which sits in a sheltered bowl and is encompassed by a woodland setting.

*"This is despite the Landscape survey allowing for possible development next to Benview and in the field to the left of Benview which though it has a native woodland it also has a clearly visible open field behind it. Both these areas are directly beside the main road."*

Comment: The lower site is indeed provided a modest backdrop of gorse and scrub woodland which is of substantially lower quality and visual impact within the wider landscape setting than the more mature woodland at lower levels adjacent to the public highway and adjacent to the watercourse to the south. It is however the consideration of the Planning Department even with additional landscape planting this plot could not be readily assimilated into the landscape character of the adjoining area identified as having capacity for further development.

*"The sites in our field are not visible from anywhere on the main road due to the native woodland (which is not yet fully mature) below us and to the left of our track."*

Comment: This is correct. Views of the application site from the A83 public highway

would be well screened by roadside vegetation; it is however noted that development at this location would be visible within the context of an open field when viewed from the coast to the west. It is also noted that the recommendations contained within the Landscape Capacity Study are not solely based upon the visual impact of development but also have regard to the potential impact of development upon the key features of the landscape and, the sensitivity of the landscape to change. In this respect the study expresses a requirement to restrict new development at Achnadriane to lower lying land where development can be accommodated within a woodland setting. The study recommends against development upon the elevated, open slopes. The landscape character of the application site and the entirety of the applicant's landholding falls within the latter category. The transition in landscape character is clearly defined by the private road serving Achnadriane and a small incursion east along the river course at a similar level – The application site lies beyond this point and it is the view of the Planning Department that it is not possible to consider the proposal as being consistent with the guidance contained in the Landscape Capacity Study. The proposal is therefore contrary to the provisions of policies P/DCZ 4, LP HOU 4, STRAT DC 8 and LP ENV 10.

*"Both our sites are situated in what was an ROA when we submitted our plans. The higher site is situated in line with Achnadriane and as far to the side of the field as possible without going into what was originally a sensitive area."*

Comment: This is correct having regard to the approximate set back distance from the public highway. However, the upper site is located at significantly higher level in the landscape than Achnadriane. The upper site is an open site on a convex slope, exposed to its immediate surrounds on all sides and is not nestled within the wider landscape setting in the same sheltered manner that the grouping of buildings at Achnadriane are accommodated.

The outcome of the Local Plan Inquiry Reporters recommendation was to question the disposition of ROAs within scenic designations – i.e. to raise the question whether it was actually appropriate to promote development within these areas without first having assessed the capacity of the landscape in detail to acceptably accommodate such change. Previously when officers have provided advice they have done so on the basis that a presumption in favour of small scale residential development exists within the ROA and that the boundary between the ROA and sensitive countryside was based upon an informed assessment of landscape capacity. The Local Plan Public Inquiry Reporter queried the methodology which had been employed by the Council in the designation of ROAs in the Local Plan, at which point it was disclosed that the designation of the ROA boundaries was not informed by a detailed assessment of landscape capacity to accommodate new development and to which the Reporter raised serious concern as to whether it was acceptable to promote new development within scenic designations without first having carried out a detailed landscape capacity assessment. In effect the Landscape Capacity Study identifies more limited areas of capacity for new development within the ROAs which were originally intended by the Council to be a larger area of search.

*"In conclusion we feel we have tried to work with the planning department seeking and following their advice from the very beginning but it is impossible to keep up when the goal posts keep changing. Our sites complied with the original criteria and if they had not I can only assume the planners would have advised us otherwise at the time."*

*As we understand it the Landscape study it is not a stand-alone document and its recommendations are as yet not laid in stone but open for feedback. This*

would allow the planning department scope for considering the merits of individual representations.

*Taking into consideration the length of time this process has taken, the fact the sites are not visible but screened from the road, the fact that the lower site is next to an existing house and the fact that a traditional one storey stone clad house on the higher site could be easily absorbed into the landscape, particularly as to the east is a stone dyke, to the south gorse bushes and a burn - landscape traditionally chosen for the siting of croft houses.*

*If we are to keep rural areas alive and our rural schools open then rural housing is desperately needed to attract families to the area. Our own situation is having brought our own family up here we wish to continue to live and work in the area. When our financial difficulties forced us to sell Achanadriane along with three acres of land, we were led to believe we would be able to build and live in a new home in our field where we intended to create a small holding. The alternative is we will be forced to move away. Is Kintyre to see another round of 'clearances' as locals are forced to move away due to the lack of affordable housing making room for only the wealthy and the retired?"*

Comment: Mr. Blair is correct. Effectively the goal posts have moved whilst the application has been processed. The change in circumstances has entirely been outwith the control of planning officers who have been required to amend their assessment of the acceptability of the proposal in line with the evolving policy position of the Argyll and Bute Local Plan and associated technical guidance. Mr. Blair is also correct in stating that landscape capacity is only part of the planning assessment which requires to be undertaken. - However, in this respect regard is had to the provisions of the Government's Scottish Planning Policy (SPP) which sets out that planning decisions must be made in accordance with the Development Plan unless material considerations indicate otherwise. Material considerations should be related to the development and the use of the land. Whilst there is a degree of sympathy for Mr. Blair's position, it is the view of the Planning Department that (i) his personal financial circumstances, (ii) the fact that he has been the subject of a lengthy delay in the processing of his application and, (iii) earlier provision of informal advice from officers which now conflicts with the current policy/guidance position of the Council are not related either to the nature of the impact of the proposed development or the use of the land and, as such, are not sufficient justification to set aside the provisions of an approved and adopted Development Plan - it should also be noted that prior to finalising its decision, the Planning Department has taken the time to revisit the site to reassess the development in light of the Local Capacity Study and establish whether or not the boundaries of the Landscape Capacity Study were ambiguous or flexible in any way which would have allowed consideration of development within the 'red' area, and have also ascertained the extent of Mr. Blair's landholding to identify if alternative development opportunities existed.

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

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

It is the consideration of the Planning Department that the residential development of these elevated sites within the open countryside is contrary to the recommendations of the North and South Kintyre Landscape Capacity Study and as such would be



detrimental to the landscape character of the Area of Panoramic Quality within which the application site lies. This proposal does not conform to the North and South Kintyre Landscape Capacity Study and so conflicts with policy P/DCZ 4 of the Local Plan which states that "Development proposals will be expected to be consistent with the findings contained within completed Landscape Capacity Studies."

In light of the above, the proposal is consequently considered contrary to the provisions of Development Plan policies STRAT DC 4, STRAT DC 8, LP HOU 1, P/DCZ 4 and LP ENV 10.

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

N/A

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**(T) Need for notification to Scottish Ministers or Historic Scotland: No**


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**Author of Report:** Tim Williams

**Date:** 3<sup>rd</sup> March 2010

**Reviewing Officer:**

**Date:** 10<sup>th</sup> March 2010



**Angus Gilmour  
Head of Planning**

**REFUSAL REASONS RELATIVE TO APPLICATION REF. NO. 08/00231/OUT**

1. It is the consideration of the Planning Department that the residential development of these elevated sites within the open countryside is contrary to the recommendations of the North and South Kintyre Landscape Capacity Study and as such would be detrimental to the landscape character of the Area of Panoramic Quality within which the application site lies. This proposal does not conform to the North and South Kintyre Landscape Capacity Study and so conflicts with policy P/DCZ 4 of the Local Plan which states that "Development proposals will be expected to be consistent with the findings contained within completed Landscape Capacity Studies."

In light of the above, the proposal is consequently considered contrary to the provisions of policies STRAT DC 4, STRAT DC 8, LP HOU 1, P/DCZ 4 and LP ENV 10.

## APPENDIX TO DECISION APPROVAL NOTICE

Appendix relative to application 08/00231/OUT

- (A) Has the application required an obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended): **No**

**If Yes: The terms of the Section 75 obligation may be viewed on the Council's website at [www.argyll-bute.gov.uk](http://www.argyll-bute.gov.uk) by recalling the application reference number on the Council's Public Access Module and then by "Clicking" Section 75 Obligation under the attached correspondence or by viewing the Public Planning register located at Planning Services, Dalriada House, Lochgilphead, Argyll, PA31 8ST.**

- (B) Has the application been the subject of any "non-material" amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing. **No**

- (C) The reason why planning permission has been refused:

**It is the consideration of the Planning Department that the residential development of these elevated sites within the open countryside is contrary to the recommendations of the North and South Kintyre Landscape Capacity Study and as such would be detrimental to the landscape character of the Area of Panoramic Quality within which the application site lies. This proposal does not conform to the North and South Kintyre Landscape Capacity Study and so conflicts with policy P/DCZ 4 of the Local Plan which states that "Development proposals will be expected to be consistent with the findings contained within completed Landscape Capacity Studies."**

**In light of the above, the proposal is consequently considered contrary to the provisions of policies STRAT DC 4, STRAT DC 8, LP HOU 1, P/DCZ 4 and LP ENV 10.**

**NOTES TO APPLICANT (1) RELATIVE TO APPLICATION NUMBER 08/00231/OUT**

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended) within three months from the date of this notice. The notice of review should be addressed to the Director of Corporate Services, Argyll and Bute Council, Kilmory, Lochgilphead, PA31 8RT.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state, and it cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the landowner's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997 (as amended).

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)**  
**TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)**  
**(SCOTLAND) REGULATIONS 2008**

**REFUSAL OF PLANNING PERMISSION IN PRINCIPLE**

**REFERENCE NUMBER: 08/00231/OUT**

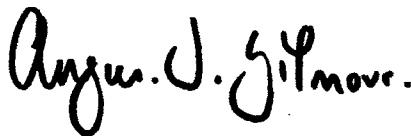
**Mr And Mrs James Blair  
Gillian Wright  
Lochside  
Low Askomil  
Campbeltown  
PA28 6EP**

I refer to your application dated 28th January 2008 for planning permission in principle under the above mentioned Act and Regulations in respect of the following development:

**Site for the erection of two dwellinghouses at Land South Of Achnadriane Farm Tayinloan  
Argyll And Bute PA29 6XG**

Argyll and Bute Council in exercise of their powers under the above mentioned Act and Regulations hereby refuse planning permission in principle for the above development for the **reason(s)** contained in the attached appendix.

Dated: 23 March 2010

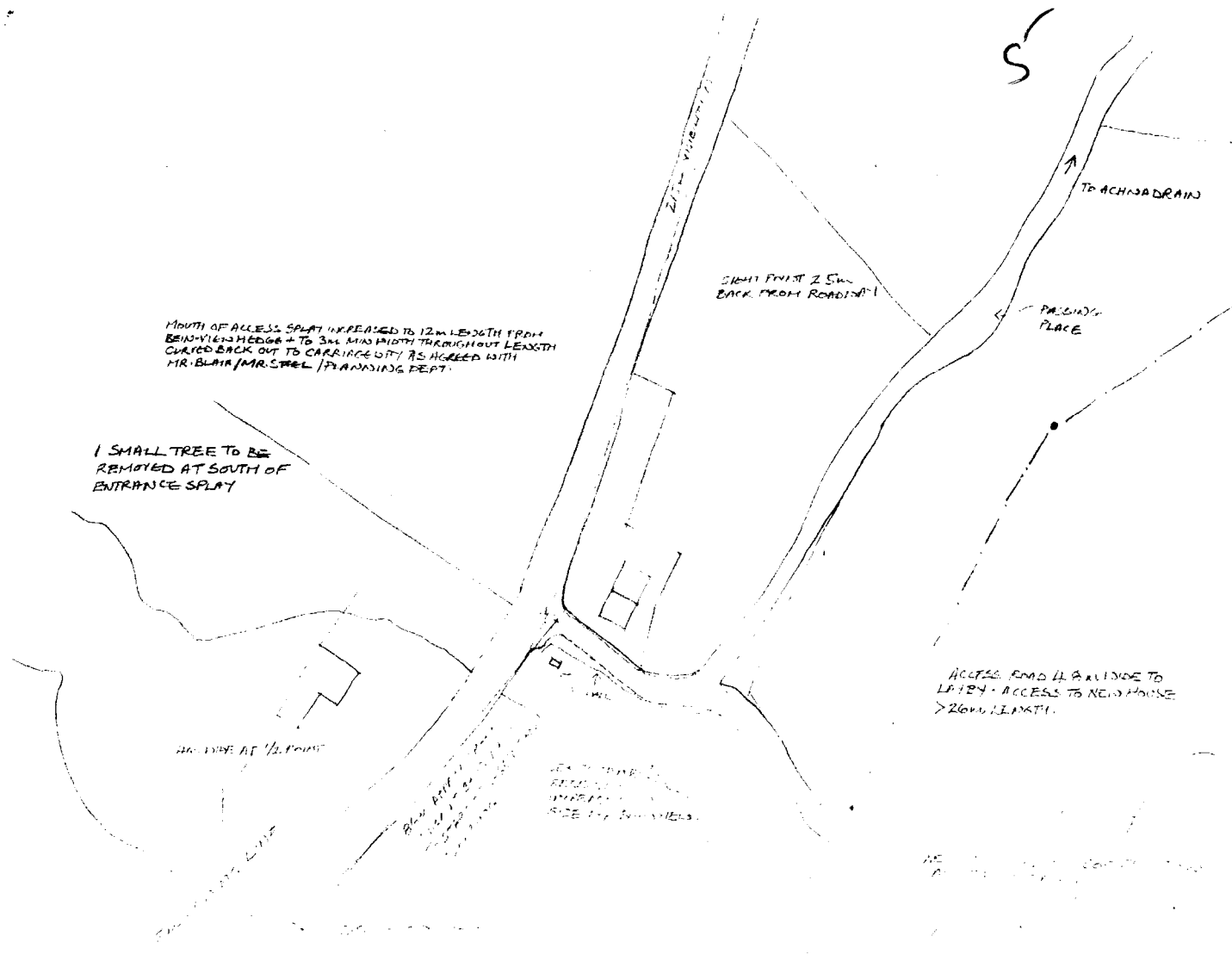


Angus J. Gilmour  
Head of Planning

[www.argyll-bute.gov.uk](http://www.argyll-bute.gov.uk)

## **NOTES TO APPLICANT (1) RELATIVE TO APPLICATION NUMBER 08/00231/OUT**

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended) within three months from the date of this notice. The notice of review should be addressed to the Director of Corporate Services, Argyll and Bute Council, Kilmory, Lochgilphead, PA31 8RT.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state, and it cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the landowner's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997 (as amended).



ARGYLL AND BUTE COUNCIL  
 Refused by PLANNING AUTHORITY  
 Relative to Application No 08/00231/001  
*Angus J. Gilmore*  
 Head of Planning Date 23.3.2010

	Argyll and Bute Council Planning Services
	Application ref no: <u>08/00231/001</u> Date received: <u>28/1/09</u>
Plan no: <u>2 of 2</u> PO. Initials: <u>EX</u>	

PROPOSED GROUND CLEARANCE AREA  
 FOR VISIBILITY SPLAYS AT ENTRANCE TO  
 HOUSE SITES AT ACHINADRAIN,  
 TAINI (LOAN 13P. IN 11'S OF BLAIR.



ARGYLL AND BUTE COUNCIL  
 Refused by PLANNING AUTHORITY  
 Relative to Application No. 08/00231/001  
 Area for Geotek  
 TRACK BEGINS AS SHOWN ON ORIGINAL APPLICATION  
 TRACK NOT INDICATED

Argue. J. Gilmore.  
 Head of Planning  
 Date: 23.3.2010

HOUSE POSITION INDICATIVE ONLY BUT AS BEST PRACTICE BUILDING LINES ACHNADRIAN + TO ACHNADRIAN DRIVE

Argyll and Bute Council  
 Planning Services

Application ref no: 08/00231/001  
 Date received: 28/1/08

Plan no: 1/1250  
 P.O. Initials: RK

SITE PLAN 1/1250

LOCATION MAP  
 SCALE 1:5000  
 + ARTICLE 9 NEIGHBOR NOTIFICATION.

PROPOSED HOUSE SITES AT  
 ACHNADRIAN FARM, TATINLOAN FOR  
 MR + MRS. J. BLAIR (OF ABOVE)





**Development Services**  
Director: George Harper

Mr and Mrs James Blair  
Achnadrian Farm  
Taylinloan  
Tarbert  
Argyll  
PA29 6XG

Development Services  
Mid Argyll, Kintyre & the Islands Area Office,  
67 Chalmers St, Ardrishaig, Argyll PA30 8DX  
Tel: 01546 604082 Fax: 01546 604081  
E-mail: Peter.Bain@argyll-bute.gov.uk  
Website: www.argyll-bute.gov.uk

Ask For: Peter Bain  
Our Ref: 08/00231/OUT  
Your Ref:  
Date: 8<sup>th</sup> March 2010

Dear Mr and Mrs Blair,

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997  
OUTLINE PLANNING APPLICATION REF. 08/00231/OUT – SITE FOR THE  
ERECTION OF TWO DWELLINGHOUSES – LAND SOUTH OF ACHNADRIAN  
FARM, TAYINLOAN**

I refer to the above-mentioned application for outline planning permission and to your site meeting of 23<sup>rd</sup> February 2010 with Peter Bain and Adrian Jackson-Stark of this Department and to your subsequent e-mail of 2<sup>nd</sup> March 2010; I am now able to confirm the Planning Department's view in respect of this application.

The application site is located within a 'rural opportunity area' wherein the provisions of policies STRAT DC 4 and LP HOU 1 set out a general presumption in favour of 'small scale' residential development on appropriate sites and, subject to access/servicing provision and, compliance with other relevant provisions of the Development Plan. However, the application site also lies within an 'Area of Panoramic Quality' wherein (in order to address concerns raised by the Reporters during the Local Plan Public Local Inquiry) the provisions of LP HOU 1 require applications to be determined in line with The North and South Kintyre Landscape Capacity Study. The provisions of STRAT DC 8 and LP ENV 10 would seek to resist development located within or adjacent to an Area of Panoramic Quality which, by virtue of scale, location or design would have a significant adverse impact upon the character of the landscape.

Having specific regard to the Landscape Capacity Study, the application site is located within a larger area identified in red on the study maps as being unsuitable for development. Specifically the study identifies landscape capacity for further development in this locality to be on relatively flat areas of land close to the A83 public highway, in and around existing woodlands and, re-development/expansion of existing building clusters. The study also advises that development is to be resisted on open, elevated sites, particularly where there is no existing woodland or unsuitable topography to achieve a sense of place or shelter.

Having inspected the site, the Planning Department is content that the Landscape Capacity Study satisfactorily reflects the landscape character and development pattern of the immediate surrounds and sets out a clear and definitive boundary between areas of landscape character considered to have capacity for further development and areas of landscape character where development is not recommended. The area identified as having capacity for development largely



below the 25m contour demarcated by the access track to Achnadrian and consists of low-lying, relatively level/gently sloping areas containing or bounded by mature woodland; above the 25m contour the land consists of open, elevated grazing with a convex slope. The application site contains two plots: one on a small shelf of relatively level land close to the 30m contour which is bounded to the rear (east) by gorse and very thin scrub woodland, the site lies approx. 5-6m above the level of an existing dwellinghouse to the south and, the second a site at a higher level (approx 35/37m aod) which sits on the crown of a convex slope and is exposed on all sides in its immediate context with the land rising again further to the rear (east); both sites would require an access which dissects the open field. The lower plot has more merit than the upper plot although both are certainly less preferable than the original application which was for both dwellings located at the western edge of the field on the 25m contour – development on all of the plots identified would be well screened from the view of the public highway by roadside vegetation but would be visible from the shoreside/sea views. It is however noted that having regard to the Landscape Character Study all of the potential plots lie within the same character of open, elevated landscape wherein development is not recommended; it is the consideration of the Planning Department that it is not possible to satisfactorily distinguish between the landscape character of one plot and another and neither of the plots have any realistic potential to incorporate appropriate landscape mitigation measures which would successfully assimilate both the development and access route with the character of the nearby 'orange' designation where capacity for development is identified.

**In view of the above and in light of the revised policy/guidance position provided by the North and South Kintyre Landscape Capacity Study, it is the consideration of the Planning Department that the residential development of these elevated sites within the open countryside is contrary to the existing development pattern and as such detrimental to the landscape character of the Area of Panoramic Quality within which the application site lies. This proposal does not conform to the North and South Kintyre Landscape Capacity Study and so conflicts with policy P/DCZ 4 of the Local Plan which states that "Development proposals will be expected to be consistent with the findings contained within completed Landscape Capacity Studies."**

**In light of the above, the proposal is consequently contrary to the provisions of STRAT DC 4, STRAT DC 8, LP HOU 1, P/DCZ 4 and LP ENV 10.**

Initially this proposal had also been the subject of objection by the Area Roads Manager who has recommended that permission be refused unless visibility and junction improvements can be secured in the interests of road safety. The Area Roads Manager has subsequently provided a revised comment which advises that since his previous consultation response the Council's visibility standards have been reduced. Consequently, the road safety objections which have previously prevented determination of this application have now been removed – in the event that the Planning Department were able to support the proposal then any grant of planning permission would have been subject to the imposition of suspensive planning conditions requiring the upgrade of the junction of the private road serving the development and the A83 public highway. These improvements would include for an enlarged bellmouth and provision of a service lay-by; the land necessary for these improvements is included within the application site and could therefore be addressed by suspensive planning condition preventing the commencement of development until such time as the access improvements are provided - in the event that third party land ownership interests prevent the improvements being secured then this would also prevent the implementation of the planning permission.

Having regard to your e-mail of 2<sup>nd</sup> March 2010, I can confirm that the chronology of events set out in your e-mail is essentially a correct recollection of events; I have attached a timeline, as far as I can establish, of the key dates and events in the processing of this application. The issues raised in your e-mail of 2<sup>nd</sup> March 2010 have been logged as a statement in support of the proposal and as such will be addressed in detail and recorded on the application file within the Planning Department's report of handling for the determination of this application.

For the purpose of clarity it is worth noting that advice offered informally (in respect of the acceptability of siting development at this location) by the Planning Department at earlier stages in the processing of this application was the informal, professional opinion of officers having regard to the provisions of Council policies and guidance at that time. In this particular instance the advice initially provided was based upon draft policies contained in the emerging Argyll and Bute Local Plan and was provided at a time when it was generally the understanding of Officers that the disposition of the boundaries of 'Rural Opportunity Areas' and adjoining 'Sensitive Countryside' were the result of an initial, assessment of general landscape capacity to absorb new development – and it is on this basis that Officers have previously given informal recommendations relating to all of the proposed plot locations at Achnadrian. However, in July 2008, the Local Plan Public Inquiry Reporter raised concern at the methodology which had been employed in the designation of 'Rural Opportunity Area' boundaries and subsequently, as part of the Local Plan preparation process the policies which apply to 'Rural Opportunity Areas' have been amended and additional technical guidance in the form of the Landscape Capacity Study which supplements the Local Plan has been produced by the Council. Whilst these amended policy provisions and new technical guidance conflict with advice previously provided by Planning Officers it is confirmed that they represent the most recent expression of Council policy, are material to the determination of the current application and as such cannot be set aside and consequently must supersede any previous informal advice provided by Officers.

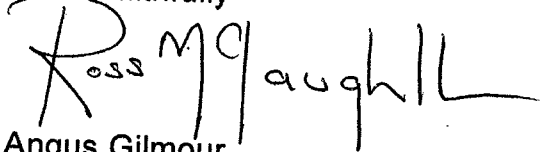
Having regard to other opportunities for development at Achnadrian, it is noted that the entirety of your land ownership is located within the 'red' area in the landscape study wherein it is recommended that development be resisted. It is however noted that Achnadrian contains a number of derelict outbuildings which have potential to be re-developed for residential use; the grouping of buildings could potentially be extended into the land immediately to the rear (east) as a rounding-off development. The potential to re-use and expand the existing grouping of buildings is however constrained by the access requirements for the site; the Area Roads Manager has indicated an acceptance of three additional dwellings (these specifically being the current applications for two dwellings at Achnadrian and one at Benview) taking access from the A83 via the existing private road provided that junction improvements are provided; the Area Roads Manager also notes that any additional development to that currently proposed would require the upgrade of the existing private road to an adoptable standard.

In view of the above, I can advise that the Planning Department is now in a position to determine this application as a 'local' scale of development under powers delegated to officers; it is the intention of the MAKI office to prepare a report and issue a certificate of refusal later this week. Where planning permission is refused, the applicant has the right within three months of determination to request that the decision is subject to a review. Such a request would be submitted to the Council's Head of Democratic Services and Governance who would arrange for a Local Review Board comprised of three Elected Members to be convened in order to consider the circumstances of the planning decision – further information in respect of this process will accompany the decision notice issued by the Planning Department.

Whilst I appreciate that the above is not the response that you were hoping for I

trust that it provides a satisfactory explanation of the current policy circumstances against which the application for planning permission must be determined and the reasons for this to be in conflict with the previous advice offered by Officers; however, should you wish to discuss this matter further then please do not hesitate to contact either myself or Peter Bain, the MAKI Area Team Leader.

Yours faithfully

The signature is handwritten in black ink. It starts with a large, stylized 'R' that loops around the word 'Ross'. The name 'Gilmour' is written in a cursive style, with a long horizontal stroke at the end.

Angus Gilmour  
Head of Planning Services

p.p.

c.c.

Cllr. John McAlpine, 10 Market Place, Tarbert, PA29 6AB

Gillian Wright, Lochside, Low Askomil, Campbeltown, Argyll, PA28 6EP (Agent)