

**STATEMENT OF CASE**

**FOR**

**ARGYLL AND BUTE COUNCIL  
LOCAL REVIEW BODY**

**REFUSAL OF PLANNING PERMISSION IN  
PRINCIPLE FOR ERECTION OF DWELLINGHOUSE  
WITHIN GARDEN GROUND OF ARDTORNISH,  
CRANNAG A' MHINISTEIR, OBAN**

**PLANNING PERMISSION REFERENCE NUMBER  
10/01144/PPP**

**29 DECEMBER 2010**

## **STATEMENT OF CASE**

The Planning Authority is Argyll and Bute Council ('the Council'). The appellant is Elizabeth Martin ('the appellant').

Planning Permission in Principle Reference Number 10/01144/PPP for erection of a dwellinghouse within the garden ground of Ardtornish, Crannag A' Mhinisteir, Oban ("the appeal site") was refused under delegated powers on 14 September 2010.

The planning application has been appealed and is subject of referral to a Local Review Body.

### **DESCRIPTION OF SITE**

The site is located within the eastern section of the garden ground of the donor house Ardtornish adjacent to the public road.

There have been two permissions recently granted for dwellinghouses within the garden ground of Ardtornish, one to the northeast and one to the south.

The site subject of this application slopes steeply down towards the public Gallanach Road and, due to its restricted size and the levels involved, is not considered suitable for development with a dwellinghouse as it would require major excavations or a building with a significant area of underbuilding, and furthermore, would be unlikely to provide sufficient useable garden ground resulting in a development with poor levels of amenity contrary to current policy. Additionally, the undeveloped nature of the site makes a contribution to the mix of development relieved by green space which is characteristic of the immediate locality. The development of the site proposed would, cumulatively with the loss of other open land to the development (as a result of permission having previously been granted for two dwellings within the grounds of Ardtornish), result in the loss of undeveloped land to the point at which the characteristics and amenity of the locality would be undermined by the extent of built development unrelieved by green space.

As the application is for Planning Permission in Principle only, no details of a how a dwellinghouse could be accommodated within the site were submitted in support of the application.

### **SITE HISTORY**

10/00721/PPP

Site for erection of dwellinghouse – withdrawn – 30/06/10

09/00938/DET

Erection of dwellinghouse to northeast of Ardtornish – Granted: 19/11/09

09/00991/DET

Erection of dwellinghouse to south of Ardtornish – Granted: 19/11/09

## **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 or not a dwellinghouse on the site would result in the loss of an open area which contributes to the amenity of the area, or in a development with poor levels of amenity, both of which matters would render the application contrary to the Development Plan.*

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.

## **REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING**

It is considered that no new information has been raised in the appellant's submission. Relevant issues were assessed 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 not been the subject of any substantial public representation, it is not considered that a Hearing is required.

## **COMMENT ON APPELLANT'S SUBMISSION**

The appellant contends that the planning department has failed to correctly assess the significance of the recent approvals in the vicinity, and these should have been afforded more weight in the determination of this current application. The appellant considers that such a closely neighbouring and similar application to the recently approved developments complies with policy and represents a suitable opportunity for rounding off potential for a modest dwellinghouse consistent with guidance, size and scale ratios and current policy.

*Comment: The previous approvals were taken into consideration in the assessment of the application and it was determined that the development of the site proposed would, cumulatively with the loss of other open land around the development site (as*

*a result of permission having previously been granted for two dwellings within the grounds of Ardtornish), result in the loss of undeveloped land to the point where the balance of developed land to open space, which is one of the strong characteristics of the existing high amenity locality, would be tipped to a point where that character was undermined by the extent of built development unrelieved by green space, contrary to the requirements current policy.*

*Whilst the acceptability of the principle of infill development within this area of Oban is established by current policy, and by nearby approvals of two plots within the grounds of Ardtornish, this is qualified by the requirement to avoid inappropriate densities or the loss of valuable open areas. It is considered the provision of a third plot within the grounds of the donor house involves an inappropriate density of development, taken cumulatively with adjacent developments, where the open space is lost and as such was deemed unacceptable.*

## **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.

Whilst the acceptability of the principle of infill development within this area of Oban has been established by current policy, this is qualified by the requirement to avoid inappropriate densities or the loss of valuable open areas. This site only has a limited level area at road level and then slopes away steeply. Its location adjoining the road frontage is such that it makes a contribution to the mix of development relieved by green space which is characteristic of the immediate locality. It is not considered that the site is suitable for the development of a dwellinghouse as it would result in a development which would require major excavations or a building with a significant area of underbuilding, would entail the loss of an open area contributing to the amenity of the area thereby creating an inappropriate density of development taken cumulatively with the two plots already approved within the ground of the donor house, and would result in a development with poor levels of amenity contrary to current Development Plan policy.

Taking account of the above, it is respectfully requested that the application for review 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**

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**Reference No:** 10/01144/PPP

**Planning Hierarchy:** Local Development

**Applicant:** Mrs Elizabeth Martin

**Proposal:** Site for erection of dwellinghouse

**Site Address:** Ardtornish, Crannag A' Mhinisteir, Oban

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## DECISION ROUTE

**Section 43 (A) of the Town and Country Planning (Scotland) Act 1997 (as amended)**

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### (A) THE APPLICATION

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

- Site for erection of dwellinghouse
- Upgrade of existing vehicular access

#### (ii) Other specified operations

- Connection to public water main
  - Connection to public drainage system
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### (B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that Planning Permission in Principle be refused for the reasons appended to this report.

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### (C) HISTORY:

No history relevant to this particular site, however two permissions within the garden ground of Ardtornish have recently been granted.

10/00721/PPP

Site for erection of dwellinghouse – withdrawn – 30/06/10

09/00938/DET

Erection of dwellinghouse to northeast of Ardtornish – Granted: 19/11/09

09/00991/DET

Erection of dwellinghouse to south of Ardtornish – Granted: 19/11/09

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**(D) CONSULTATIONS:**

Area Roads Manager

Report dated 01/09/10 advising no objection subject to conditions.

Scottish Water

Letter dated 19/08/10 advising no objection but providing advisory comments for the applicant.

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**(E) PUBLICITY:**

The proposal has been advertised in terms of Regulation 20 procedures, closing date 09/09/10.

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**(F) REPRESENTATIONS:**

Two representations have been received regarding the proposed development.

Mr C. MacNiven, 1 Burnbank Terrace, Oban, PA34 5PB (07/06/10)

Lorne MacLeod, Orasaig, Crannag a' Mhinisteir, Oban (31/05/10)

**(i) Summary of issues raised**

- The cumulative impact of this site, together with the previous approvals require to be considered when determining this application.
- Any development on this site will have an adverse impact on the visual amenity of the area.
- The application shows the access included within the site edged red which is a legal right of access for the adjacent plot.
- The proposal will represent overdevelopment of the garden ground of Ardtornish.
- The site contains a surface water drainage pipe and any disruption to this pipe could result in flooding of neighbouring properties.
- The proposal is out of keeping with the amenity of the area.
- The proposal will result in an increase in vehicular activity.

- The proposal has the potential to result in the loss of water and wastewater network services to neighbouring properties.

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**(G) SUPPORTING INFORMATION**

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

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|-------|--|-----------|
| (i)   | <b>Environmental Statement:</b>  | <b>No</b> |
| (ii)  | <b>An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:</b>   | <b>No</b> |
| (iii) | <b>A design or design/access statement:</b>  | <b>No</b> |
| (iv)  | <b>A report on the impact of the proposed development e.g. retail impact, transport impact, noise impact, flood risk, drainage impact etc:</b> | <b>No</b> |

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**(H) PLANNING OBLIGATIONS**

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| (i) | <b>Is a Section 75 agreement required:</b> | <b>No</b> |
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- |     |   |           |
|-----|---|-----------|
| (I) | <b>Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:</b> | <b>No</b> |
|-----|---|-----------|
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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 1 – Development within the Settlements

Argyll and Bute Local Plan 2009

LP ENV 1 – Impact on the General Environment

LP ENV 19 – Development Setting, Layout and Design

LP HOU 1 – General Housing Development

LP TRAN 4 – New and Existing Public Roads and Private Access Regimes

LP TRAN 6 – Vehicle Parking Provision

Appendix A – Sustainable Siting and Design Principles

Appendix C – Access and Parking Standards

- (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 Sustainable Design Guidance (2006)

The Town & Country Planning Act (Scotland) 1997

The Planning etc. (Scotland) Act, 2006

Scottish Planning Policy (SPP), 2010

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<b>(K)</b>	<b>Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:</b>	<b>No</b>
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<b>(L)</b>	<b>Has the application been the subject of statutory pre-application consultation (PAC):</b>	<b>No</b>
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<b>(M)</b>	<b>Has a sustainability check list been submitted:</b>	<b>No</b>
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<b>(N)</b>	<b>Does the Council have an interest in the site:</b>	<b>No</b>
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<b>(O)</b>	<b>Requirement for a hearing (PAN41 or other):</b>	<b>No</b>
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**(P) Assessment and summary of determining issues and material considerations**

In terms of the adopted Argyll and Bute Local Plan the site is situated within the Settlement Zone of Oban, within which Policy STRAT DC 1 of the approved Argyll and Bute Structure Plan gives a presumption in favour of development on an appropriate infill, rounding off and redevelopment basis, subject to developments not resulting in settlement cramming (overdeveloping valuable open space in settlements) and subject to compliance with other relevant local plan policies.

Policy LP HOU 1 gives encouragement to housing development provided it will not result in an unacceptable environmental, servicing or access impact or development underpinned by an operational need and Policy LP ENV 1 assesses applications for their impact on the natural, human and built environment.

Policy LP ENV 19 states that development shall be sited and positioned so as to pay regard to the context within which it is located and that development layout and density shall integrate with the setting of development. Developments with poor quality or inappropriate layouts, including over-development, shall be resisted.

An existing vehicular access is to be upgraded used to serve the proposed dwellinghouse with water supply and drainage via connection to the public systems.



Whilst the acceptability of the principle of infill development within this area of Oban has been established by current policy, this is qualified by the requirement to avoid inappropriate densities or the loss of valuable open areas. This site only has a limited level area at road level and then slopes away steeply. Its location adjoining the road frontage is such that it makes a contribution to the mix of development relieved by green space which is characteristic of the immediate locality. It is not considered that the site is suitable for the development of a dwellinghouse as it would result in a development which would require major excavations or a building with a significant area of underbuilding, would entail the loss of an open area contributing to the amenity of the area, and would result in a development with poor levels of amenity contrary to current Development Plan policy.

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

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**(R) Reasons why planning permission should be refused**

The proposal is contrary to Development Plan policy for the reasons for refusal recommended below.

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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: Fiona Scott Date: 09/09/10**

**Reviewing Officer: Richard Kerr  Date: 10/09/10**

**Angus Gilmour  
Head of Planning**

## **GROUNDINGS OF REFUSAL RELATIVE TO APPLICATION REFERENCE 10/01144/PPP**

1. In terms of the adopted Argyll and Bute Local Plan, the application site is located within the Settlement Zone of Oban which is subject to the effect of Policy STRAT DC 1 of the approved 'Argyll and Bute Structure Plan' 2002 and LP HOU 1 of the adopted 'Argyll and Bute Local Plan' 2009, which establish a presumption in favour of infill housing development within settlements, provided it is of a scale and form compatible with the surrounding area and does not result in inappropriate densities or the loss of valuable open areas.

The site which is subject of this application slopes steeply down towards the public Gallanach Road and any development of the site would require either significant excavations or a dwellinghouse with a large area of underbuilding. Due to its location on the road frontage, the undeveloped nature of the site makes a contribution to the mix of development relieved by green space which is characteristic of the immediate locality. The development of the site proposed would, cumulatively with the loss of other open land to the development (as a result of permission having previously been granted for two dwellings within the grounds of Ardtornish), result in the loss of undeveloped land to the point at which the characteristics and amenity of the locality would be undermined by the extent of built development unrelieved by green space, contrary to the requirements of Policy STRAT DC 1. Furthermore, it is unlikely that the site could accommodate a dwelling with its attendant access and parking requirements whilst also providing a suitable level of useable private amenity space, which would be contrary to advice contained within Policy LP ENV 19 and Appendix A, Sustainable Siting and Design Principles.

The proposal is considered contrary to the provisions of Development Plan policies STRAT DC 1, LP ENV 1, LP ENV 19 and LP HOU 1, which collectively seek to resist housing development which will have an unacceptable environmental, servicing or access impact.

## APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **10/01144/PPP**

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- (A) 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**

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- (B) The reason why planning permission has been refused.

The proposal is contrary to Development Plan policy for the reason for refusal attached

## **APPENDIX A – RELATIVE TO APPLICATION NUMBER: 10/01144/PPP**

### **PLANNING LAND USE AND POLICY ASSESSMENT**

#### **A. Settlement Strategy**

In terms of the adopted 'Argyll and Bute Local Plan' the site is situated within the Settlement Zone of Oban within which Policy STRAT DC 1 of the approved 'Argyll and Bute Structure Plan' gives a presumption in favour of development on an appropriate infill, rounding off and redevelopment basis, subject to developments not resulting in settlement cramming (overdeveloping valuable open space in settlements) and subject to compliance with other relevant local plan policies.

Policy LP HOU 1 gives encouragement to infill housing development in settlements provided it will not result in an unacceptable environmental, servicing or access impact and Policy LP ENV 1 requires applications to be assessed for their impact on the natural, human and built environment.

Policy LP ENV 19 states that development shall be sited and positioned so as to pay regard to the context within which it is located and that development layout and density shall integrate with the setting of surrounding development. Developments with poor quality or inappropriate layouts, including over-development, shall be resisted.

Whilst the principle of infill development within this area of Oban has been established by current policy, it is not considered that this sloping site is suitable for development for a dwellinghouse as it would require major excavations or a building with a significant area of underbuilding, and furthermore, would be unlikely to provide sufficient useable garden ground resulting in a development with poor levels of amenity contrary to current Development Plan policy. Additionally, the undeveloped nature of the site makes a contribution to the mix of development relieved by green space which is characteristic of the immediate locality. The development of the site proposed would, cumulatively with the loss of other open land to the development (as a result of permission having previously been granted for two dwellings within the grounds of Ardtornish), result in the loss of undeveloped land to the point at which the characteristics and amenity of the locality would be undermined by the extent of built development unrelieved by green space, contrary to the requirements of Policy STRAT DC 1.

#### **B. Location, Nature and Design of Proposed Development**

The site is located within the eastern section of the garden ground of the donor house Ardtornish adjacent to the public road.

There have been two permissions recently granted for dwellinghouses within the garden ground of Ardtornish, one to the northeast and one to the south.

The site subject of this application slopes steeply down towards the public Gallanach Road and, due to its restricted size and the levels involved, is not considered suitable for development with a dwellinghouse for the reasons given in A above.

As the application is for Planning Permission in Principle, only no details of a how a dwellinghouse could be accommodated within the site have been submitted in support of the application.

**C. Road Network, Parking and Associated Transport Matters.**

The application proposes to utilise the existing vehicular access which currently serves the donor house and the recently approved plot to the north of the current application site. The Area Roads Manager was consulted on the proposal and advised no objection subject to conditions regarding the resurfacing of the access and the clearance of appropriate visibility splays. Parking and turning facilities for vehicles would require to be provided within the boundaries of the application site.

In this regard it is considered that the proposal complies with Policy LP TRAN 4 which seeks to ensure that developments are served by an appropriate means of vehicular access.

**D. Infrastructure**

Water supply and drainage are via connection to the existing public systems. Scottish Water was consulted and, whilst not objecting to the proposed development, has advised that augmentation at the developer's expense may be required.

In this regard, it is considered that the proposal complies with the terms of Policy LP ENV 1 which seeks to ensure the availability of suitable infrastructure to serve proposed developments.