

Statement of case; Review reference number 10/0012/LRB

I respectfully suggest that the planning department have failed to correctly assess the significance of the determining influence that the recently set precedence, the 2009 approvals for this area of Oban, should have played in determining the application.

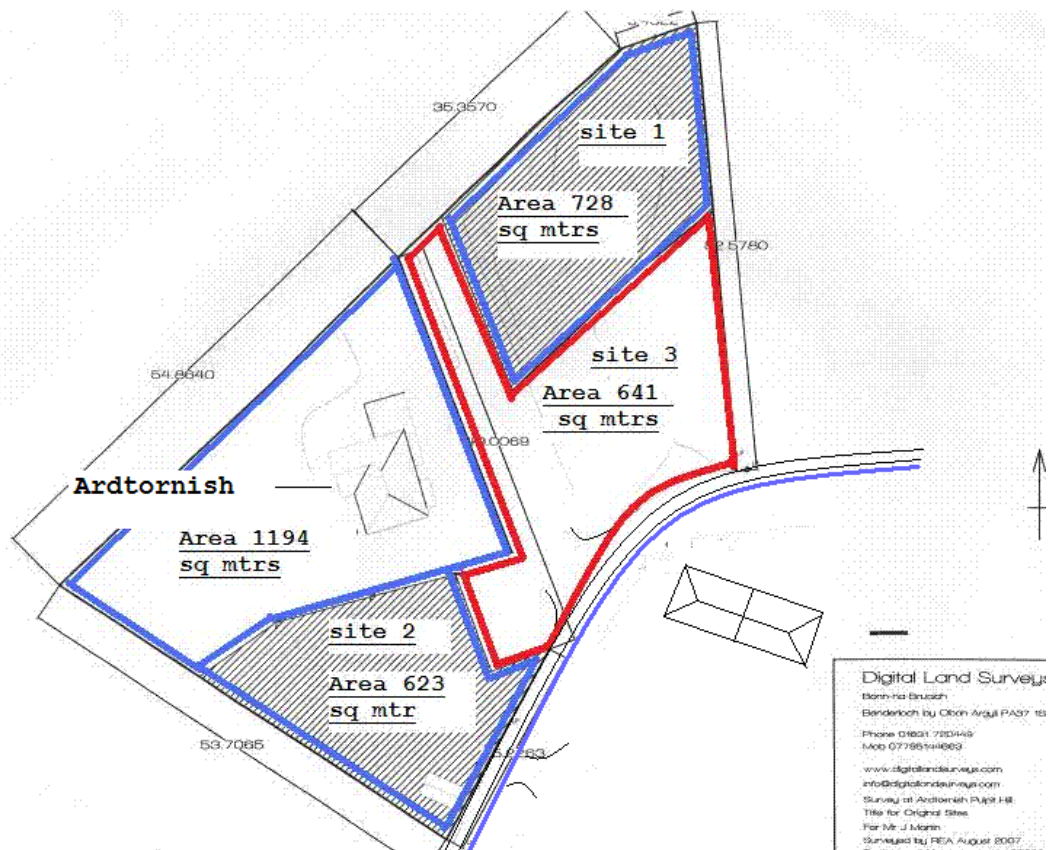
The application being reviewed is an application in principal for a single modest dwelling house, the panel are being asked to support the view that it is possible, in principal, to locate a house on the site which would be consistent with the bulk of policy and guidance and not be to the detriment of the wider community.

Planning precedence for this area of Pulpit Hill most certainly demonstrates, that notwithstanding the planning department's assertion that this application would undermine

**“the characteristics and amenity of the locality”** the application should be seen as appropriate rounding off.

We are now dealing with a gap site in a residential area created by the 2009 approvals, which sits alongside and between new and established housing on three sides and not **“open land”** as described by the planning department. The application to quote the planning department **“has not been the subject of any substantial public representation”** which I suggest reflects the more credible view that we are in fact dealing with a gap site with a presumption in favour of development.

Site 1 and Site 2 below are the 2009 approvals. It is my belief that the application site in red, Site 3, represents rounding off potential for a modest dwelling house, consistent with guidance size and scale ratios and current policy.



I believe it is not unreasonable to suggest, that such a closely neighbouring and similar application to the recently approved development on Site 1, would be considered on the face of it, to be compliant with the bulk of policy and guidance.

The introduction of the opinion, that development on the application site would tip the balance of character and amenity of the area, seems contrary to the well established, diverse and mature nature of the area.

The issued refusal notice begins by describing the development site...

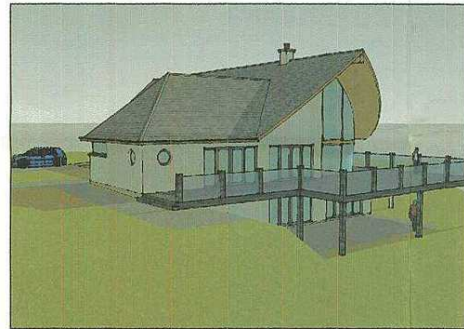
“The site which is subject of this application slopes steeply down towards the public Gallanach Road and any development of the site would require either significant excavations or a dwellinghouse with a large area of underbuilding.”

I believe the precedence for... “either significant excavations or a dwellinghouse with a large area of underbuilding.” has been firmly set and in fact defended against objection by the planning department in the shape of the 2009 approvals.

## Statement from the 2009 approvals notice...

“Considerable ground works will be required to accommodate a house on this plot along with the required vehicle manoeuvring space but this practice is evident in existing development situations.”

The resulting dwelling houses approved, setting the physical interpretation of policy and guidance are illustrated below...

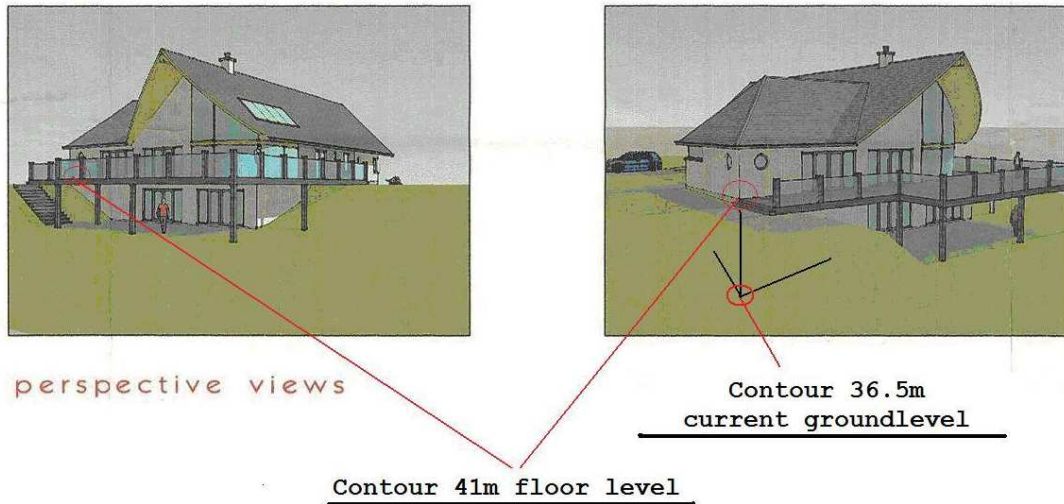


perspective views

Site 1



A more detailed picture of the extent of excavations, underbuilding and infill approved for this area is more evident from Site 1 below...



The 2009 approvals obviously challenge the case officer's opinion that steep slopes cannot accommodate dwellings.

### **Statement from the 2009 approvals...**

“The wider residential area within which the site is set has a considerable diversity of plot/garden size ratio and in this particular area there is no clearly defined settlement pattern. Buildings are placed on both steeply sloping and relatively level ground. The upper portion of the site will accommodate a small dwelling with parking provision; the incline on the remainder of the site is generally too steep to accommodate development.”

The area described in the underlined portion of the statement above, later became the under-built frontage of Site 1's detailed approval, illustrated above. The opinion expressed at the time, “the site is generally too steep to accommodate development.” was proven to be wrong then, and I respectfully suggest it is wrong now, with regard to Site 3.

It is worth noting at this point that the variance of ground levels which accommodates the house footprint for sites 1 & 2 are as follows;

Site 1... High point contour 41m – Low contour 36.5m...  
variance in levels 4.5m(15feet).

Site 2... High point contour 50m – Low contour 47m...  
variance in levels 3m(10feet).

Site 3(indicative) High point contour 40m – Low contour 37.5m  
variance in levels 2.5m(8feet).

**It would appear that the planning department’s main  
assertion for refusal...**

“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.”

This interpretation of policy is at best tenuous and at worst a shameful attempt at “planning spin”, using an applicant’s worst nightmare, “interpretation of policy” to support a tenuous opinion.

Interpretation; *an explanation of something that is not immediately obvious*; in order to be credible has to have some basis in fact.

The more credibly defined and demonstrated characteristics of the Pulpit Hill area are...

**As described in the 2009 approvals...**

“This is a long established residential neighbourhood where there is considerable diversity in the scale, design and positioning of existing dwellings.”

“There is no clearly discernable pattern to the development on this area of Pulpit Hill apart from a loose orientation overlooking Oban Bay.”

“The wider residential area within which the site is set has a considerable diversity of plot/garden size ratio and in this particular area there is no clearly defined settlement pattern. Buildings are placed on both steeply sloping and relatively level ground.”

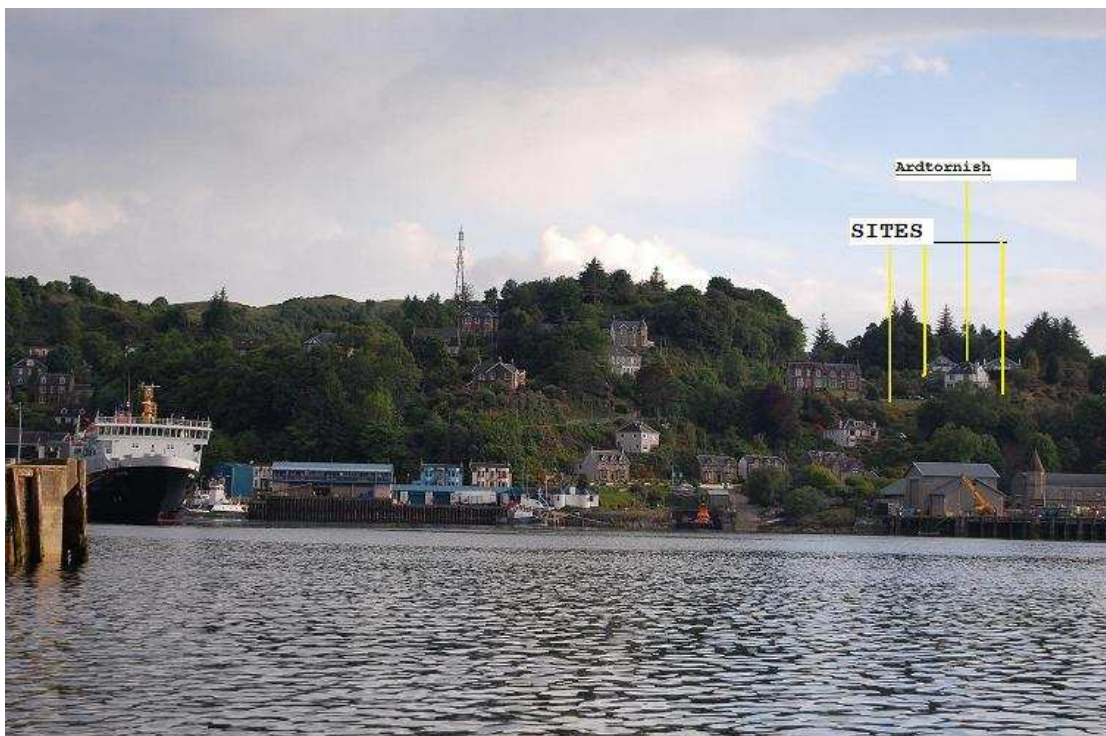
These comments in conjunction with the photographs below I would respectfully suggest are a factual description of the characteristics of the area.



## Clustered development to the left of Pulpit Hill



**Below, Development Sites 1, 2 and 3 to the right of Pulpit Hill** with the dominant green areas being the undevelopable very steep areas which offer considerable natural undeveloped relief to the locality...

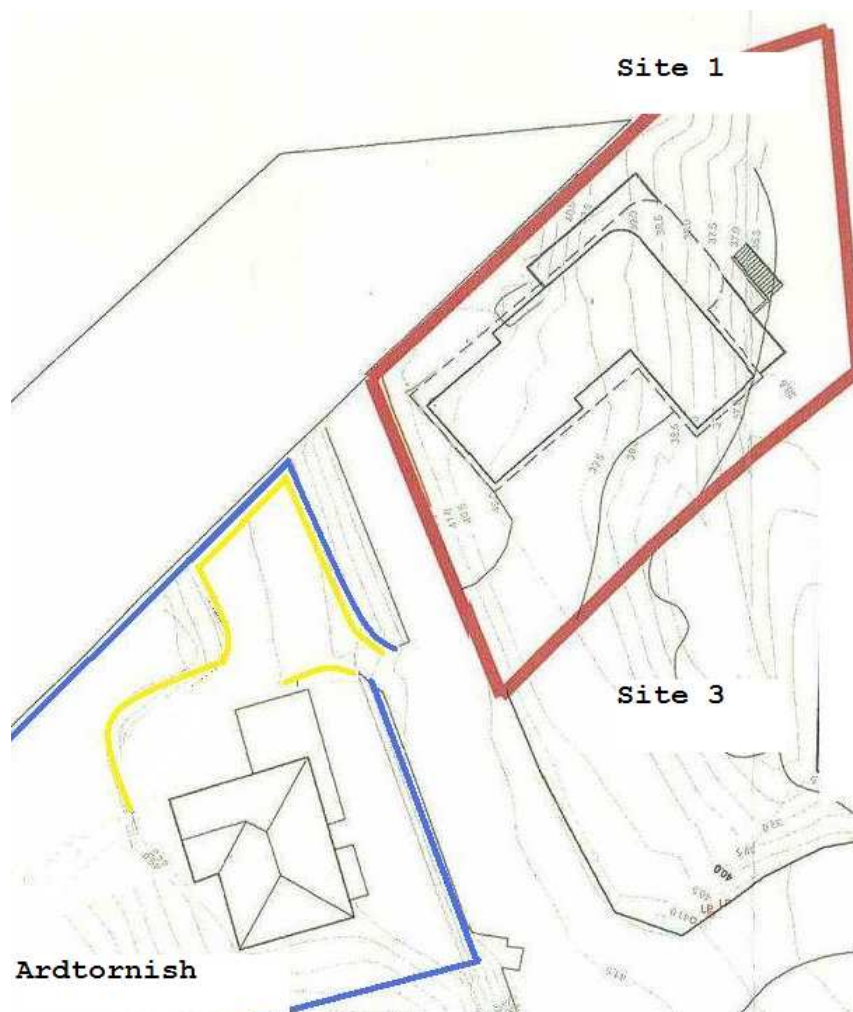


## The refusal notice goes on to comment...

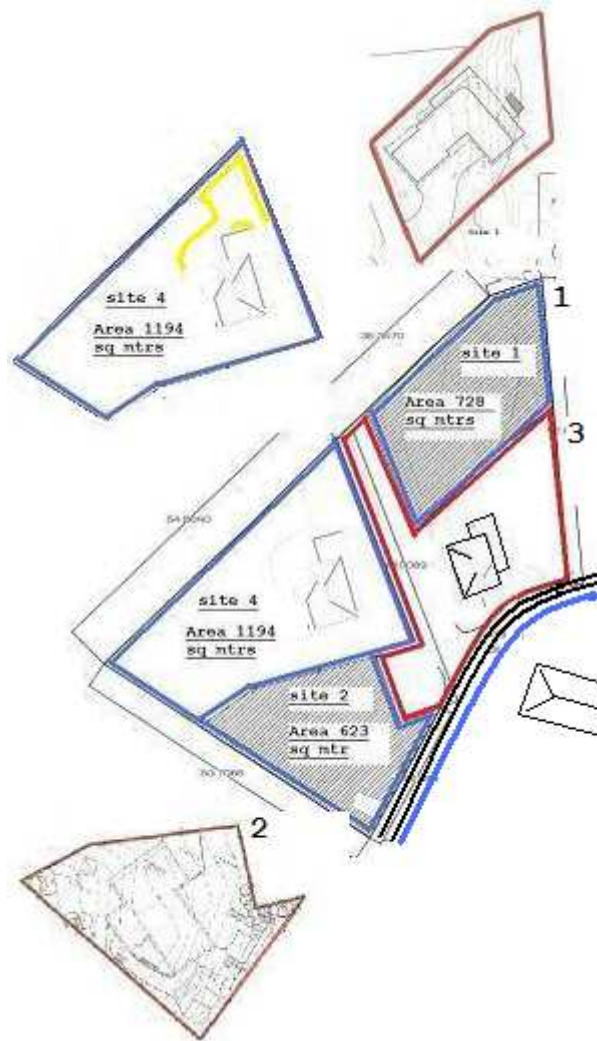
“The development of the site proposed would, cumulatively with the loss of other open land to the development (as a result of permission having previously been granted for two dwellings within the grounds of Ardtornish), result in the loss of undeveloped land to the point at which the characteristics and amenity of the locality would be undermined by the extent of built development unrelieved by green space,”

It is worth noting at this point that Site 1 and 3 are not and never were in the original grounds of Ardtornish as stated in the refusal notice.

The area occupied by Site 1 and 3 was purchased by the Martin’s some considerable time later as a potential development opportunity, the drawing below also shows in yellow the original turning and parking area for Ardtornish.



This turning and parking area for Ardtornish will be reinstated when the new boundaries detailed below are set on the conclusion of a successful review.



### **The refusal notice concludes...**

“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.”



From the plan above it is clear to see that all three sites offer similar levels of private amenity space, the reinstating of the original turning and parking area at Ardtornish leaves a considerable area to work with to accommodate turning and parking for Site 3 and the locating of a modest dwelling house.

It is worth also mentioning that the most significant amenity of a house located in this area of Oban is the open space outlook from the elevated position on the hill side. The differing levels at which houses are located has also ensured that even with an additional three houses there has been little if any loss of outlook to existing properties nearby, the new dwellings will simply fit in with the location.

The suggestions for refusal I would strongly suggest are clearly against recent and historical precedence, which is for all to see in the physical interpretation of current policy, the 2009 approvals and the physical historic evidence of a town built on the hills overlooking Oban bay.

The 2009 approvals defended vigorously against objection by the planning department and with the certainty of precedence are not open to the uncertainty of “interpretation of policy”.

Interpretation, an opinion, simply has no credibility when devoid of resonance, then it just simply feels and is wrong.

Are we seriously being asked to believe that the addition of a single modest dwelling house, to a well established, mature residential area will some how set off a devastating chain reaction of events culminating in the character assassination of this well established area and stripping it of amenity, it simply holds no resonance what so ever.

The character of the undeveloped land, the development site, was in fact created by the 2009 approvals. The planning department describe it as “open land” when it is in fact a gap site with new and existing housing on three sides.

I cannot accept that the character and amenity of Pulpit Hill, Oban Bay or the wider area are compromised in any meaningful way by the addition of a single modest dwelling house.

**In conclusion** and not withstanding the case officer's unwillingness to engage in meaningful exchange and the officer's expressed personal view which is in its self contrary to national guidance; that an officer will only advocate their own professional view in line with policy. I feel I should qualify this statement as follows:

When challenging the case officer regarding her position on excavations and underbuildings the officer expressed the view, that the 2009 applications should not have been approved, while this explains the reversal of opinion from the 2009 approvals on excavations and underbuildings, it also confirms this opinion to be a personal view questioning the validity of the 2009 approvals which has led to the suggestion the officer has not acted impartially and has in fact acted with bias in predetermining the application.

The officer's confused actions in determining this application, I would respectfully suggest, clearly lays the planning department open to the suggestion the case officer has not acted impartially and has in fact acted with bias in predetermining the application in line with held personal views.

The community as a whole depends on planning departments demonstrating consistency in interpretation of planning policy and guidance while being, and seen to be, impartial.