

**PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
16 FEBRUARY 2011**

UPDATE ON RECENT SCOTTISH GOVERNMENT PLANNING DECISIONS

A) INTRODUCTION

This report advises of two recent appeal decisions by the Scottish Government Directorate for Planning and Environmental Appeals relative to the cases set out below

B) RECOMMENDATION

Members are asked to note the contents of the report.

C) DETAILS OF APPEAL DECISIONS

**PLANNING APPEAL DECISION – P/PPA/130/2018 – Dismissed
Erection of detached house and improvements to vehicular access
Land at Renfield House, Eccles Road, Hunters Quay, Dunoon, Argyll PA23 8LB**

Planning application 10/00007/PPP for the erection of a detached house and improvements to vehicular access was refused by the Planning, Protective Services and Licensing Committee on 16th June 2010 on the grounds of:

- Impact of the proposed dwellinghouse on Renfield House, or its successor building;
- Proposed dwellinghouse, sited in such a prominent position would be ungainly and at odds with the character of the established settlement pattern of the area and would constitute an alien and incongruous feature resulting in the over-development of the site;
- Visual impact on the adjacent ‘Special Built Environment Area’ and existing two-tier settlement character;
- Proposed dwellinghouse would be overlooked by Renfield House or its successor building. Dimensions and location of site would mean that an acceptable standard of residential amenity could not be achieved;
- No information submitted in respect of surface water drainage proposals (SuDS).

An appeal against the decision was submitted to Scottish Ministers during September 2010.

The Reporter was satisfied that the site could be developed with a modest, single-storey property without harm to the living conditions of local residents and in a manner that ensured adequate amenity standards for future occupants of the development. He was also content that SUDS-compliant drainage arrangements could be secured by planning condition. However, he felt that these positive aspects of the scheme did not compensate for the development plan conflict and the harm to townscape character and generally concurred with the department’s case and concluded that for reasons of an unacceptable

impact on the Special Built Environment Area, poor integration with the existing settlement character and pattern of development (including the relationship to Renfield House), the proposal did not meet the terms of local plan policies LP ENV14 and LP ENV19. He therefore dismissed the appeal.

CERTIFICATE OF LAWFUL USE APPEAL DECISION – P/PPA/130/2018 – Dismissed
Use of land for the storage and recycling of scrap metals
Land south west of former Claddoch House, Moss Road, Ardmore, Cardross G82
5HG

An application for a Certificate of Lawful Use 09/01615/CLAWU for the use of land for the purposes of storing and recycling scrap metal (*sui generis* use) was refused as not proven by the Planning, Protective Services and Licensing Committee on 16th June 2010 on the grounds that the applicant had submitted insufficient evidence in order to satisfy the council that the use of land for these purposes was probable or lawful.

An appeal against the decision along with a claim for expenses was submitted on 29 September 2010. In his consideration of the case, the Reporter noted the existence of an enclosed contractor's compound which appeared to have been in existence for over a decade since the construction of the waste water treatment works. He took the view that this now formed a separate planning unit. He also noted the absence of a secure boundary fence around the wider site and the lack of a weigh bridge at the site entrance.

He considered that the most important issue was whether the site had been abandoned and assessed the evidence against the four recognised tests for abandonment:

Physical Condition: He considered that the long standing compound was a distinct planning unit. He also considered that the presence of three small skips of scrap metal did not look like a yard used for the storage and recycling of scrap metal.

Passage of Time: He considered that the presence of the compound and the up-filling of large sections of the land pursuant to a previous planning permission were consistent with a considerable time lapse since scrap metal was stored and recycled. He took the view that the claimed use faded away around 1996 and that subsequent metal handling was incidental to the importation of inert material onto the site.

Evidence of Intervening Use: The presence of the longstanding contractor's compound means that this test is passed and eliminates the scope to grant a certificate for the site with the boundaries shown on the application. In addition, although the golf driving range is an incomplete development the Reporter felt that the evidence suggested that the associated major operations extinguished any previous use from the greater part of the site.

Evidence of Owners' Intentions: This test of abandonment is also met as major work started after 1996 on raising ground levels pursuant to the planning permission for a golf driving range. In addition the compound, which could not have been authorised without the consent of the owner, physically obstructs access to the site for which a Certificate of Lawful Use is sought.

An appeal for expenses was also dismissed. The Reporter did not find that the Council acted in an unreasonable manner, and in particular, noted that he did not find it unremarkable that the Head of Service choose to refer a complex, sensitive or high profile case to Members. He also did not think that that it was out of the ordinary that the Council could not trace documents dating back to the 1960s and felt that would have been in the owner's interests or successors in title to maintain their own records. Finally, the Reporter felt that it was not unusual for Council officials to be divided over the way an application should be determined and felt that this was a good reason, among others, for referral to committee.

D) IMPLICATIONS

Policy: None

Financial: None

Personnel: None

Equal Opportunities: None

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24th January 2011