

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

Reference No: 10/01656/PP

Planning Hierarchy: Local

Applicant: Mr A Fraser

Proposal: Erection of three dwellinghouses and garages, formation of vehicular access and installation of private sewage system

Site Address: Land South East of Seaside, Newton, Strathlachlan

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of three dwellinghouses;
- Bio-disc sewage systems with mound soakaways;
- Formation of vehicular access.

(ii) Other specified operations

- § Connection to public water main
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(B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission be granted as a 'minor departure' to the development plan subject to the conditions, reasons and informative notes at the end of this report.

(C) HISTORY:

Outline Planning Permission (ref: 06/00581/OUT) for the erection of a residential development at the site was refused on 4th September 2006. An appeal of this decision was allowed on 24th May 2007 but this approval lapsed in May 2010 with no reserved matters having been submitted.

An application for Planning Permission (ref: 10/00492/PP) for three dwellinghouses at the site was withdrawn on 13th July 2010.

(D) CONSULTATIONS:

Area Roads Manager (report dated 8th November 2010) - no objections subject to conditions.

Scottish Water - no comments received to date, but investigation has revealed that there is a public water main in the village but no public sewerage infrastructure.

(E) PUBLICITY:

Neighbour Notification (closing date 12th November 2010) and Regulation 20 Advert (closing date 19th November 2010).

(F) REPRESENTATIONS:

Representations have been received from a total of fourteen individuals as follows:

Michael Sheridan, Rowantree Cottage, Newton (letter dated 1st November 2010)
Sara Gibbs, Newton Cottage, Newton (letter dated 3rd November 2010)
Ian and Shauna Rodger, Seaside 2, Newton (letters received 9th November 2010 and dated 22nd January 2011)
Mr and Mrs W Johnstone, 24 Millhill Drive, Greenloaning, Braco, Perthshire (letters received 9th November 2010 and dated 22nd January 2011)
Mr and Mrs R Jackson, 63 Royal Crescent, Dunoon (letters received 9th November 2010 and dated 22nd January 2011)
Alastair MacFadyen, Tigh Na Mara, Newton (letters dated 10th November 2010 and 18th January 2011)
Eric Nicol, 49 Lawfield, Coldingham, Berwickshire (letter dated 10th November 2010)
William S Wilson, Morven, Newton (letter dated 10th November 2010)
James Slater, The Chalet, Newton (letter dated 13th November 2010)
Patricia McArthur, Bute Cottage, Newton (letter dated 16th November 2010)
Muriel Murdoch, Craigiebar, Newton (letter dated 19th November 2010)

The points raised can be summarised as follows:

- a. The proposal would have an adverse effect upon the character of the village and local environment. The site is in an area of panoramic quality where there is no justification for the adverse impact of the proposal. The design of the houses is not in keeping with the remainder of Newton.
- b. The proposal would adversely affect the wildlife within the site.
- c. The road through the main part of the village will not be able to cope with the additional traffic. Recent construction projects within the village have been of significant detriment to the standard of the road. There is inadequate visibility from the proposed access point.

Comment: These issues are addressed in the Assessment section below.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) Environmental Statement:** No
- (ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No
- (iii) A design or design/access statement:** Yes

Cameron Webster Architects (dated 28th September 2010):

On arriving at Newton, the site will contain the first buildings on the southern landward side of the road, although there are one or two detached houses between the loch and the road before this. The site is at present largely scrubby, self-seeded woodland, with one or two larger oaks. A burn runs along the eastern edge, and the rear of the site (to the south) slopes more steeply with more mature trees.

The design intention is to locate two houses close to the burn, leaving the lower land to the west of the site open and clear beside the existing access to Modhacaidh, allowing the existing stone house barn to clearly form the edge of the more densely built part of the traditional village. The third house is positioned at the higher end of the site, with views to the north over the loch, but the western elevation of this house is largely blank with one high level window, to avoid overlooking into the existing house and garden.

The houses are clad in dark-stained timber with slate tiled roof and timber windows and doors, and are planned with living spaces at upper and lower levels to take advantage of the views. The existing trees are retained, apart from one oak at the lower end of the site, and the existing scrub.

- (iv) A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** No

(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

(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
STRAT DC 2 – Development within Countryside around Settlement
STRAT HO 1 – Housing – Development Control Policy

Argyll & Bute Local Plan 2009

LP ENV 1 sets out the general considerations against which all applications will be assessed.

LP ENV 10 seeks to resist development within Areas of Panoramic Quality where its scale, location or design will have a significant adverse effect on the character of the landscape.

LP ENV 14 presumes against development that does not preserve or enhance the character or appearance of an existing Special Built Environment Area (the main terrace of houses that overlook Loch Fyne to the west of the application site).

LP ENV 19 requires developers to execute a high standard of setting, layout and design where new developments are proposed.

LP HOU 1 promotes 'small scale' housing development within 'minor settlements' unless there is an unacceptable environmental, servicing or access impact, but presumes against housing development in the 'countryside around settlement' development control zone.

LP SERV 1 recommends connection to public sewer where possible.

LP TRAN 4 seeks to ensure that new accesses are constructed to incorporate the minimum standards to function effectively and safely.

- (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.**

Not applicable

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

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

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

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

(O) Requirement for a hearing (PAN41 or other):

The application is being recommended for approval as a 'minor departure' to the Development Plan. Whilst there have been representations from a total of fourteen sources, it is not considered that a discretionary hearing is warranted in this particular case having regard to the location of the vast majority of the site within the "settlement zone" of Newton; the relatively recent planning history of the site, where many of the main issues were debated at appeal and that appeal was allowed; and the absence of any technical issues that are not capable of resolution.

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

Full Planning Permission is sought for the erection of three dwellinghouses on a site measuring 0.35 hectares located at the eastern entrance to the village of Newton on the landward side of the road. A new vehicular access is to be formed onto the existing road. A new private sewerage system is proposed for each dwellinghouse and connection is to be made to the public water main.

The majority of the site is within the '*settlement zone*' of Newton whilst the use of timber as the main wall finish, the use of slate as the roof covering, the location of two of the dwellings to the rear of the site and the generous re-planting that is proposed would allow the proposed small-scale development to integrate with the entrance to the village. Given its physical characteristics and its distance from the main terrace of dwellings, it is not considered that the proposal would be of detriment to Newton's Special Built Environment Area. A portion of one of the rear curtilages extends beyond the '*settlement*' boundary delineated in the local plan into an area designated as '*countryside around settlement*'. This is not significant in the context of the development as a whole particularly as it is not an area where building will take place, but would amount to a '*minor departure*' to the development plan.

No significantly adverse road safety or infrastructure issues have been raised during the processing of the application that would merit a recommendation of refusal.

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

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

The proposal accords with policies LP ENV 10, LP ENV 14, LP ENV 19 and LP TRAN 4 of the 'Argyll and Bute Local Plan' (2009) and can be justified as a '*minor departure*' to policies STRAT DC 2 and STRAT HO 1 of the 'Argyll and Bute Structure Plan' 2002 and LP HOU 1 of the 'Argyll and Bute Local Plan' 2009, and the proposal raises no other material consideration which would justify refusal of permission.

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

The majority of the application site is located within the '*settlement zone*' of Newton as identified in the 'Argyll and Bute Local Plan' 2009. The rear curtilage of the southernmost dwellinghouse is within '*countryside around settlement*' but this area is not to be physically built upon.

On the basis that the proposed development would not result in building within '*countryside around settlement*' and that all structures would be within the '*settlement zone*', it is considered that the proposal can be justified as a '*minor departure*' to the Development Plan.

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

Author of Report: Steven Gove

Date: 23/2/2010

Reviewing Officer: David Eaglesham

Date: 23/2/2010

**Angus Gilmour
Head of Planning**

CONDITIONS AND REASONS RELATIVE TO APPLICATION: 10/001656/PP

1. That the development to which this permission relates must be begun within three years from the date of this permission.

Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997.

2. The development shall be implemented in accordance with the details specified on the application form dated 28th September 2010 and the approved drawing reference numbers: 110.1; 101; 103; 106; 107; 108; 109; 110; 111; 112; 113; 114; 115; 116; 117; 118; 119; 120; 122; 123; 124; 125; 126; and 127, unless the prior written approval of the planning authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.

3. A landscaping scheme shall be submitted to the Planning Authority prior to any works being first undertaken at the site. This scheme shall specifically include full details of the age, species and location of all existing trees and vegetation proposed to be retained and those to be removed together with full details of proposed planting. Specifically the landscaping scheme shall provide for native tree planting along the boundary of the site with the existing property known as 'Modhacaidh'.
 - i) The landscaping scheme, as may be approved, shall be fully implemented no later than the first planting and seeding season following the commencement of the development and thereafter shall be maintained to the satisfaction of the Planning Authority for a period of five years. Any losses of plant species to be included in the landscaping scheme, through disease, weather exposure, neglect or damage, shall be replaced with equivalent species within one growing season.
 - ii) Prior to any works being first undertaken at the site, and upon the written approval of the landscaping scheme, each tree to be removed shall be clearly indicated (*tagged*) on site using a coloured identification and each tree to be retained shall be clearly indicated (*tagged*) on site using a separate coloured identification. Such measures shall be put in place for the written approval of the Planning Authority before any felling/lopping commences.
 - iii) During the course of construction those trees that are to be retained (*as indicated and approved in writing by the Planning Authority as ii above*), shall be protected by suitable fencing not less than one metre in height that shall be erected around the extremities of the crowns of these trees, or as may be agreed in writing with the Planning Authority. No material, spoil or fires shall be placed within such protected areas during any construction works.

Reason: In the interests of visual and residential amenity, the overall integrity and setting of the development within the area and to ensure that no damage is caused to trees during development operations.

4. Prior to the commencement of any construction works on the dwellinghouses, samples of all external finishes and roof coverings shall be submitted for the prior written approval of the Planning Authority. Unless otherwise agreed in writing with the Planning Authority, the dwellinghouses shall be constructed in accordance with the approved details.

Reason: In the interest of visual amenity and to help integrate the proposal within its surroundings.

5. Prior to the commencement of development on the site, visibility splays of 42.0 metres x 2.5 metres in both directions shall be formed from the centre line of the proposed access and shall, thereafter, be kept clear of all obstructions over 1.05 metres in height above the level of the adjoining carriageway unless the prior written consent of the Planning Authority is obtained for variation.

Reason: In the interests of road safety.

6. Prior to the occupation of the first dwellinghouse, the access shall be constructed in accordance with the Council's Drawing SD 08/006 unless otherwise agreed in writing with the Planning Authority.

Reason: In the interests of road safety.

7. Prior to the commencement of works on the proposed access, details of the culverting of the existing ditch shall be submitted to and approved in writing by the Planning Authority. Unless otherwise agreed in writing with the Planning Authority, the access shall be constructed in accordance with the approved details.

Reason: In the interests of road safety.

8. Notwithstanding the provisions of Article 3 and Class 1 (*the extension, enlargement, improvement, alteration of the dwelling*) and Class 3 (*building, enclosure, pool, incidental to the enjoyment of the dwelling and maintenance, improvement, alteration thereof*) of Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, or any equivalent provisions following the revocation and re-enactment thereof, with or without modifications, no development shall take place within the curtilages of the dwellinghouses hereby permitted without the prior written consent of the Planning Authority.

Reason: In the interests of visual amenity and in order to protect the privacy and amenity of adjacent residential properties from developments normally carried out without Planning Permission, these normally being permitted under Article 3 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992.

NOTES TO APPLICANT

In order to comply with Section 27A(1) of the Town & Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.

In order to comply with Section 27B(1) of the Town & Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was complete.

The Area Roads Manager has advised of the following:

- i. The works in association with the formation of the vehicular access shall require a Road Opening Permit;

- ii. The new access shall have a positive system of surface water drainage to prevent water running onto the public road;
- iii. The “*children*” sign presently within the frontage of the site shall be re-positioned in discussion with the Area Roads Manager.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 10/01656/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

Full Planning Permission is sought for the erection of three dwellinghouses on a site measuring 0.35 hectares located at the eastern entrance to the village of Newton on the landward side of the road. A new vehicular access is to be formed onto the existing road. A new private sewerage system is proposed for each dwellinghouse and connection is to be made to the public water main.

In terms of the principle of developing the site for residential purposes, the vast majority of the site (with the exception of the rear curtilage of the southernmost dwelling which is not to be physically built upon and which is located in 'countryside around settlement') is located within the 'settlement' of Newton as identified in the 'Argyll and Bute Local Plan' 2009. In this respect, it represents the development of a rounding-off site located at the eastern entrance to the small village

The proposal is considered to be a 'minor departure' from Policy STRAT DC 2 and STRAT HO 1 of the Structure Plan and Policy LP HOU 1 of the 'Argyll and Bute Local Plan' 2009.

B. Location, Nature and Design of Proposed Development (Including Impact upon Built Environment)

The application site is located on the southern side of the single track public road as it enters Newton from the east. The main part of the village, which is characterised by a terrace of traditional cottages (a Special Built Environment Area), is located on the southern side of the public road to the west of the site. There are five dwellings to the north of the site, between the public road and the shore of Loch Fyne. The site is comprised of wooded scrub, which continues beyond the eastern and southern boundaries of the site.

At the time of the application for Outline Planning Permission in 2006/2007, the Council refused permission for two reasons:

- i. On the grounds that the proposal "*would introduce buildings into a previously undeveloped landscape which significantly contributes to the character and integrity of the historic village of Newton*" contrary to various Development Plan policies; and
- ii. In the interests of road safety in that insufficient detail had been provided to demonstrate the proposal would have adequate visibility splays.

In the appeal decision dated 24th May 2007, the Reporter considered that up to four houses would not be in accordance with the relevant Development Plan policies in that it would "*significantly change this entrance to the village, to the detriment of its setting*" (Paragraph 15), particularly due to the inevitable wholesale clearance of the vegetation on the site. He hypothesised whether two dwellings might be acceptable but, ultimately, without any detailed information on layout, siting, form and design, he was not in a position to determine the actual number of houses. Ultimately, he considered that "*a very limited form of residential development could be satisfactorily accommodated on the site without compromising the integrity of the character of Newton and without having a significant impact on the Area of Panoramic Quality*" (Paragraph 20).

One of the main questions which this application poses is whether the development of the three dwellinghouses currently proposed would significantly and detrimentally change the eastern entrance to the village. The scheme shows the erection of a dwellinghouse at the

north-eastern edge of the site at a roadside location; the other two dwellings are located more to the south of the site, between approximately 35 metres and 45 metres from the public road. Much of the trees to the rear of the site would be retained.

The construction of the new access drive and the dwellings would require the removal of a majority of the existing scrub and one oak tree but, in their letter dated 15th December 2010, Cameron Webster Architects have explained that it is the intention to replant with indigenous trees and shrubs such as oak, willow, ash, alder and birch. Such replanting would allow a degree of management to be undertaken within the site and this is to be welcomed.

As stated above, there is the traditional linear row of cottages that offers a distinctive central part to the village. However, there is a variety of dwellinghouse designs in other parts of the village, both at the eastern and western edges. Furthermore, there is a relatively odd assortment of buildings to the rear area of the row of cottages. One timber-clad dwellinghouse has recently been constructed (to the east of 'Ardencraig') in the western part of the village. The ethos behind the particular design that has been arrived at for the proposed development is clearly not to recreate small vernacular rendered cottages but to provide distinctive buildings within a wooded site that have elements of tradition (slate roof covering, relatively narrow gables) but with renewable materials such as timber. The type of external material that is proposed might not necessarily be an acceptable solution for every site within Argyll, but it is advocated in the Council's Design Guide 1: Small Scale Housing Development (Pages 44 and 45).

Due to the sloping nature of the rear of the site, two of the dwellinghouses have a degree of underbuilding. This underbuilding is, however, broken up by the presence of a garage door and could be further integrated through the use of landscaping (as contained in Condition 3 above).

Very importantly, given its physical characteristics and its distance from the main terrace of dwellings, it is not considered that the proposal would be of detriment to Newton's Special Built Environment Area.

Whilst the proposed dwellinghouse to the rear of the site would be within 18 metres of the gable of the dwellinghouse to the west (Modhacaidh), there is only one high level window on the west-facing elevation of the proposed dwellinghouse. Given the distance involved and the position of the window, it is not considered that the privacy of the existing dwellinghouse would be unduly affected.

Dwellinghouses normally benefit from 'permitted development' rights that allow alterations, extensions and outbuildings to be carried out without the benefit of Planning Permission subject to certain criteria being met. In the particular situation of this site, where two of the dwellinghouses are in excess of 20 metres of the road; where unsympathetic alterations and outbuildings could be of detriment to the character of the overall development; and where the rear curtilage of the southernmost dwellinghouse is within 'countryside around settlement', it is considered necessary and justifiable to remove the 'permitted development' rights of the three dwellinghouses.

Finally, the Department is not aware that the site has any classified wildlife status and, therefore, there is no compelling reason to oppose the proposal on such grounds.

On the basis of the foregoing, it is considered that the proposal would be consistent with Policies LP ENV 10, LP ENV 14 and LP ENV 19 of the 'Argyll and Bute Local Plan' 2009.

C. Road Network, Parking and Associated Transport Matters.

The application proposes the formation of a single vehicular access with three individual driveways to each dwellinghouse. Those who have objected to the scheme have almost universally shown significant concern regarding the potential impact of the proposal on the road network in Newton, both during construction work and thereafter. However, the Area Roads Manager has raised no objections to the proposal subject to conditions regarding visibility splays, the standard of the access, the provision of a passing place, the gradient of the access and the provision of parking/turning. All of these requirements can be covered by conditions.

On the basis of the foregoing, it is considered that the proposal accords with Policies LP HOU 1 and LP TRAN 4 of the 'Argyll and Bute Local Plan' 2009.

D. Infrastructure

It is proposed to connect to the public water main. No consultation response has been received from Scottish Water to date but investigation with both local representatives and their Planning Department has revealed that there is no public sewerage system within the village. A private sewerage system is proposed for each dwellinghouse and each system will be within the curtilage of the respective dwellinghouse. There is no specific policy within the Local Plan 2009 that expressly rules out separate systems as opposed to a communal system for multi-dwellinghouse site. Indeed, it could be argued that individual householders attending to their own system is preferable where, as in this instance, the proposal is not likely to result in or add to existing environmental, amenity or health problems.

On the basis of the foregoing, it is considered that the proposal accords with Policy LP SERV 1 of the Argyll and Bute Local Plan 2009.