
ARICHUAN, SILVERCRAIGS, LOCHGILPHEAD, ARGYLL, PA31 8RX
REQUEST TO AMEND THE PROVISIONS OF S75 AGREEMENT PERTAINING TO THE
ERECTION OF A DWELLINGHOUSE AT SILVERCRAIGS, LOCHGILPHEAD –
PLANNING PERMISSION REF. 98/00027/DET

1. SUMMARY

Detailed planning permission was granted in October 1998 for the erection of a dwellinghouse on a 'bareland croft'. In order to comply with the provisions of the Council's Settlement Strategy policies at that time, the ownership of the permitted dwellinghouse was tied to the associated 'bareland croft' holding by a S75 Agreement.

In view of the revised policy provisions of the 'Argyll and Bute Local Plan' 2009 a request under the provisions of S75A(2) of the Act has been submitted by the croft owners, Mr & Mrs R. Graham, to have the S75 agreement rescinded to allow the separate sale of the dwellinghouse from that of the associated 'bareland croft'.

2. RECOMMENDATION

Recommend that the S75 Agreement be rescinded as the principle requirement for entering into such an agreement has been removed with the revision of the Council's Settlement Strategy as set out in the adopted Argyll and Bute Local Plan 2009.

3. PLANNING HISTORY

Detailed planning permission ref. 98/00027/DET was approved by the Mid Argyll, Kintyre and Islay Area Committee in May 1998 and issued on 2nd October 1998 following the conclusion of an agreement under the provisions of S75 of the Town and Country Planning (Scotland) Act 1998 which tied the ownership of the dwellinghouse to that of the associated 'bareland croft' holding.

In determining the above application regard was had to the provisions of the Strathclyde Structure Plan 1990 and the Mid Argyll Local Plan 1993 against which it was determined that the proposed dwellinghouse was located within the Lochgilphead/Ardrishaig Catchment Area wherein the presumption against development was removed; the proposal was however supported by a recognised operational need in respect of the ongoing management of a parcel of land which was considered to meet the requirements of the Council's 'bareland croft' policy at that time.

4. POLICY CONSIDERATIONS

'Argyll and Bute Structure Plan' 2002

STRAT DC 4 – Development Within Rural Opportunity Areas
STRAT DC 8 – Landscape and Development Control

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Development Impact on the General Environment
LP ENV 10 – Development Impact on Areas of Panoramic Quality
LP HOU 1 – General Housing Development

Argyll and Bute Council – Landscape Capacity Study – Mid Argyll and Inveraray – MA27

Scottish Government's Circular 1/2010 – Planning Agreement

5. ASSESSMENT

The subject dwellinghouse is a modern bungalow that is situated some 3 miles to the east of Lochgilphead within a dispersed grouping of buildings at Silvercraigs which lies to the south of the A83 public highway.

At the time of determination of the original application (ref. 98/00027/DET) the applicable provisions of the Development Plan at that time set out a general presumption against development on this particular location. The application was however supported by a claim of a locational/operational need which established that there was a valid claim for a new dwellinghouse at this location to ensure the continued management of a 'bareland croft' holding. In order to underpin the locational/operational justification the ownership the dwellinghouse was tied to the associated 'bareland croft' by means of a S75 agreement upon the title of the property.

However, the provisions of the current Development Plan set out a much more favourable settlement strategy with the inclusion of this property and associated 'bareland croft' land within a Rural Opportunity Area wherein the provisions of policies STRAT DC 4 and LP HOU 1 set out general support for the principle of 'small scale' housing development in the countryside. The site also lies within an Area of Panoramic Quality wherein such presumption in favour of new development is restricted to those areas identified within the Mid Argyll and Inveraray Landscape Capacity Assessment. The existing dwellinghouse and associated 'bareland croft' land are located within ROA MA 27 within the LCS and includes land which has been identified as having capacity to accommodate additional residential development.

The amended 'settlement strategy' set out in the Argyll and Bute Local Plan 2009 no longer requires new development at this locality within the open countryside to be justified by a valid locational/operational need – in this respect the principle requirement for the S75 agreement is no longer necessary and fails to satisfy the tests relating to the need for a planning agreement as set out in Circular 1/2010. The removal of the S75 agreement would also eliminate a fundamental impediment to the land owners realising the potential of limited additional capacity for residential development at Silvercraigs as identified in the Council's Landscape Capacity Study for Mid Argyll and Inveraray.

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