

**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:** 11/00784/PP

**Planning Hierarchy:** Local Application

**Applicant:** Mr Duncan Campbell

**Proposal:** Sub-division of garden ground, erection of dwellinghouse and detached garage and formation of new vehicular access

**Site Address:** 7 Laggary Park, Rhu, Helensburgh

---

**DECISION ROUTE**

(i) Local Government Scotland Act 1973

---

**(A) THE APPLICATION**

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

- Erection of dwellinghouse
- Erection of garage
- Formation of new access
- Alterations to boundary wall
- Erection of 1.8 metre timber fence

**(ii) Other specified operations**

- Connection to existing public water supply
  - Connection to existing public sewer
- 

**(B) RECOMMENDATION:**

It is recommended that planning permission be refused for reasons given overleaf.

---

**(C) HISTORY:** C9209 – Erection of dwellinghouse (outline) – Refused 25/11/1992

---

**(D) CONSULTATIONS:**

Area Roads Engineer	27.06.2011	No objections subject to conditions.
Scottish Water	14.07.2011	No objections

Scottish Natural Heritage                      No response, time expired

Horticultural Services                        No response, time expired

---

**(E) PUBLICITY:** Listed Building/Conservation Advert (expiry date 24.06.2011)

---

**(F) REPRESENTATIONS:**

Thirteen letters of objection have been received from the following:

Stuart Graham, Laggary Cottage, Station Road, Rhu (letter dated 08/06/2011)

Miss Karen Young, 28 Laggary Road, Rhu (letter dated 17/06/2011 and email dated 21/06/2011)

K I Thompson, Laggary Lodge, Pier Road, Rhu (letter dated 15/06/2011)

Mr John and Mrs Elizabeth Reid, 29 Laggary Road, Rhu (letter dated 14/06/2011)

James and Susan Miller, 8 Laggary Park, Rhu (letter dated 13/06/2011)

Jim and Katy Findlay, 4 Laggary Park, Rhu (letter dated 21/06/2011)

Mrs JPC Whitaker, 10 Laggary Park, Rhu (letter dated 20/06/2011)

D Reid 31 Laggary Road, Rhu (letter dated 18/06/2011)

B M Petchey, 30 Laggary Road, Rhu (letter received 21/06/2011)

Michael Hamill, 9 Laggary Park, Rhu (letter dated 10/06/2011)

Alan Pyke and Alison Hatrick, Coach House, Cottage Station Road, Rhu (letter received 24/06/2011)

John J Reid and Mrs Elizabeth Reid, 29 Laggary Road, Rhu (26/06/2011)

Mrs Christine Henderson, 6 Laggary Park, Rhu Helensburgh (email dated 19/06/2011)

**(i) Summary of issues raised**

This area of ground has been neglected and left to deteriorate over the years. This may have been intentional in order to improve the possibility of gaining planning permission.

*Comment: Any application is judged on its own merits and determined against Development Plan Policies and other material considerations.*

There are road traffic issues as an opening at this location would be dangerous due to the speed of traffic and the inadequate visibility sightlines.

*Comment: The Area Roads Manager has no objections.*

It is proposed to remove 6 or 7 trees to clear the site. Most of these are in fair to good condition and amongst the tallest on site. The removal of these trees would be detrimental to the area.

*Comment: See my assessment.*

Development is restricted in this area through the deeds of each property.

*Comment: This is a civil matter.*

The stone wall contributes to the character of the conservation area and this part of station road. Its removal should be resisted.

*Comment: The proposal will reduce the height of the wall and reposition it slightly. The new wall will be built using stone duntakings from the existing wall. This will be similar in character to the dwelling next door and it is not considered that this will have a detrimental impact on the character of the area.*

There is a problem with water run-off in the area already. Should this be allowed the areas of hardstanding would increase this water run-off.

*Comment: Should the application be approved a SuDS condition would be placed on the consent to ensure that an acceptable scheme of surface water drainage was implemented.*

A previous application on this site 12-15 years ago was turned down by Dumbarton District Council.

*Comment: An application was refused in 1992 and is a material consideration in the assessment of this application. See also my assessment.*

If this is granted it could set a precedent.

*Comment: Each case is judged on its own merit.*

The development will have an adverse affect on the character and amenity of the area.

*Comment: See my assessment.*

---

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

**Summary of main issues raised by each assessment/report**

Design/Access Statement

The application site is the rear portion of garden ground located to the north-west of the main house at 7 Laggary Park, Rhu. The existing property is a sizeable detached

dwellinghouse with a total curtilage of almost 3000sqm. The application site is outwith the maintained parts of the garden ground and do not contribute to the amenity of the house in terms of useable garden ground.

The site measures 30m x 36m, has a small stream running through it and is located at the north-west corner of Station Road. At 1109 sqm, being within an established residential area and having scope for a separate vehicular entrance, it is deemed appropriate to consider the formation of a new house plot.

The aim is to sub-divide the rather isolated and under used section of their rear garden, to remove some of the overgrown trees and scrub growth and to open up the area along side Station Road, and to introduce a new family sized house in a way that externally reflects the traditional scale and character of the better properties within the locality, it will look attractive and well maintained without detracting from the privacy of the main house or other neighbouring properties and as such it will generally enhance the overall residential and visual amenity of the locality.

In terms of external materials and finishes, a series of roof planes will add visual interest and character, clad in natural slate, with rendered walls and window/door openings offering a strong vertical emphasis. The house design is

The house and garage positions have been established in conjunction with the findings of the Tree Survey to ensure the suggested Construction Exclusion Zones can be adhered to. The site is fairly flat and there will be no need for significant underbuilding. In so doing these design criteria, in conjunction with re-built natural stone walling to either side of the entrance with appropriate replacement landscaping, will ensure clear visibility of cars or pedestrians travelling along Station Road whilst also offering a greater sense of privacy to occupants of the proposed house.

In order to comply with roads guidelines the existing wall will be taken down and re-built to provide the required visibility splays. The access will bridge over the underground stream. There will be sufficient scope for 2 or more vehicles to enter, turn and leave the property in forward gear and without encroaching on the public highway.

With regards to other landscaping works upon completion it is proposed to create grassed lawns around the house with the trees and bushes around the perimeter being protected by fencing during the period of construction and thereafter retained. In this way they will continue to offer a mature landscape screening between the existing and proposed houses.

The services are on site and readily available. The surface water will be routed for attenuation to new drainage/soakaway channels introduced around the proposed house.

---

**(H) PLANNING OBLIGATIONS**

(i) **Is a Section 75 agreement required:** No

---

**(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 9 – Historic Environment and Development Control  
STRAT FW 2 – Development Impact on Woodland

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment  
LP ENV 7 – Impact on Tree/Woodland  
LP ENV 14 – Conservation Areas and Special Built Environment Areas  
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

- (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)

---

**(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):** Although 13 letters of representation have been submitted permission for the development of this site has previously been refused and is recommended for refusal again. As such it is not considered that a hearing is required in this instance.

---

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

Planning permission is sought for the erection of a dwellinghouse and garage within the lower garden area of 7 Laggary Park, Rhu. This is a detached dwellinghouse within the Rhu Article 4 Conservation Area and the site also has a Tree Preservation Order in place. The proposal is to subdivide the plot with the northern part being used for the new dwellinghouse. This would give the proposed new dwellinghouse a direct road frontage onto Station Road. The formation of the access would involve the reduction in height of the existing stone boundary wall in order to allow the required sightlines.

The plot is large enough to accommodate a new dwellinghouse and the design is considered acceptable. However, the proposal would result in the loss of seven mature trees as well as numerous mature shrubs including rhododendron and cherry laurel which are important to the character and appearance of this part of the Conservation Area. As originally submitted, the proposal would also have resulted in the loss of two other mature trees. Although amended plans have indicated that the trees will remain on site, the proximity of the proposed dwellinghouse to these trees could mean that they might become a nuisance, could have their root system undermined and could potentially result in their loss as well. The loss of the trees and shrubs and their replacement with a dwellinghouse, hard standing and other associated suburban development would be visually intrusive, visually discordant and would not maintain or enhance the character of the area. Moreover, sub-dividing the plot and siting a new house, however well designed, set back at an angle from the adjoining road and outwith the building line of the long established properties to the north, would undermine the established character and settlement pattern of this area.

An application for the same plot (although for outline consent) was refused in 1992. The reasons for refusal were that the development would have a detrimental impact on the amenity and landscape quality of Rhu Conservation Area as it would intrude on the area of woodland which is an important aspect of Laggary Park and establishes the character and amenity of this part of the village; that a structure in this area would significantly detract from the streetscape of the area; and that the development could set a precedent. While this refusal was a number of years ago, it is still considered a material consideration in the determination of this application and that the underlying principle against development remains.

---

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

---

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

---

**(S) Reasoned justification for a departure to the provisions of the Development Plan**  
N/A

---

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

---

**Author of Report:** Stephanie Glen

**Date:** 31/08/2011

**Reviewing Officer:** Howard Young

**Date:** 02/09/2011

**Angus Gilmour    Head of Planning & Regulatory Services**

## **GROUNDS OF REFUSAL RELATIVE TO APPLICATION REF. NO. 11/00784/PP**

The site is located in the rear garden area of 7 Laggary Park. The existing character of Laggary Park is of substantial dwellings set within large garden areas around Laggary House, an imposing Category B Listed Building. The proposed dwellinghouse is sited on a wooded area of garden ground which is covered by a Tree Preservation Order and is within the Rhu Article 4 Conservation Area. The application site forms part of the setting of the Laggary Park development and has amenity value in the immediate area and wider Conservation Area due to its mature tree cover and woodland appearance successfully integrating and softening the impact of existing residential development into its wider landscape setting. The proposed development would result in the loss of seven mature trees as well as numerous mature shrubs including rhododendron and cherry laurel which are important to the character and appearance of this part of the Conservation Area. As originally submitted the proposal would also have resulted in the loss of two other mature trees. Although amended plans have indicated that these trees will remain on site, the proximity of the proposed dwellinghouse to these trees could mean that they might become a nuisance, could have their root system undermined and could potentially result in their loss as well. The loss of the trees and shrubs and their replacement with a dwellinghouse, hard standing and other associated suburban development would be visually intrusive, visually discordant and would not maintain or enhance the character of the area. In addition, the existing character of Laggary Park is of large dwellings set within large garden areas around Laggary House, a Category B Listed Building. Along this area of Station Road, the only other existing houses are long established, are associated with Laggary House and run parallel with the adjoining road. Sub-dividing the plot and siting a new house, however well designed, set back at an angle from the adjoining road and outwith the building line of the long established properties to the north would undermine the established character and settlement pattern of this area. It would be visually intrusive, visually discordant and would not maintain or enhance the character of the area. The proposal is therefore contrary to Policies STRAT DC 9 and STRAT FW 2 of the Argyll and Bute Structure Plan and Policies LP ENV 1, LP ENV 7, LP ENV 14, LP ENV 19, LP HOU 1 and Appendix A of the Argyll & Bute Local Plan. These require, inter alia, that proposals provide a high standard of building and landscape design, prevent the loss of trees, contribute to environmental quality and maintain or enhance the amenity of the surrounding area. Proposals which unacceptably detract from the character or appearance of Conservation Areas or their setting will be resisted.

## **NOTE TO APPLICANT**

For the purpose of clarity it is advised that this decision notice relates to the details specified on the application form dated 16/05/2011 and the refused drawing reference numbers Loc Rev A, 01 Rev. B, 02 and 03.

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

### **A. Settlement Strategy**

The site is within the settlement boundary of Rhu as defined by the adopted Local Plan. The site is also within the Rhu Article 4 Conservation Area and is covered by a Tree Preservation Order. Within the settlement boundary there is a presumption in favour of development subject to site specific criteria being met. In this instance, the development must maintain or enhance the character and appearance of the Conservation Area and it must not have an adverse impact on trees within the site.

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

The site is located in the rear garden area of 7 Laggary Park. The existing character of Laggary Park is large dwellings set within large garden areas around Laggary House, an imposing Category B Listed Building. The curtilage of 7 Laggary Park is large measuring approximately 2950 square metres. The proposed house plot is an unused area at the bottom (north-west) of the applicant's garden measuring approximately 1150 square metres. It is bounded by Station Road to the north-west and on all other sides by residential properties and would therefore have a direct road frontage. There is a mix of house types in the area, with Laggary House, a listed building to the east and ex local authority housing to the west of the site.

The proposed house would be located towards the rear of the plot at an angle with the road. As originally submitted it was also intended to erect a double garage 7 metres south-west of the dwelling. However, amended plans submitted for discussion indicate the garage removed. The dwellinghouse itself will be 1½ storeys, with a central gable feature with dormer windows to either side of this. The windows will have a vertical emphasis with mullions between the windows to the front elevation and the house will be finished in wet dash render with smooth banding around the window and door openings and it will have a natural slate roof.

The site is within the Rhu Article 4 Conservation Area. In accordance with Policy LP STRAT DC 9 of the Structure Plan and Policy LP ENV 14 of the adopted Local Plan, all development must maintain or enhance this area. It is considered that the scale, design and choice of materials of the dwellinghouse is acceptable. In accordance with Policy LP ENV 19 of the adopted Local Plan, the proposed new dwelling should be sited so as to pay regard to the context in which it is located, should be of a density compatible with the surrounding area and be designed to be compatible with its surroundings. The development should not create any amenity issues to neighbours or the surrounding area by way of overlook, overshadowing, loss of daylight and so on. While the new house will not raise any amenity issues with neighbours, it is considered that the siting of the house is not in keeping with the settlement pattern of the area. While the plot itself follows the pattern of the adjacent properties to the north east of the site, these houses are traditional lodge/gate houses sited to the very front of their sites abutting Station Road. The position of the proposed house does not reflect this existing character, instead proposes the house to be at an angle within the grounds which is out of character with the area. Sub-dividing the plot and siting a new house, however well designed, set back at an angle from the adjoining road and outwith the building line of the long established properties to the north would undermine the established character and settlement pattern of this area. It would be visually intrusive, visually discordant and would not maintain or enhance the character of the area.

### **C. Impact on Woodland/Access to Countryside.**



The proposed application site is currently overgrown with shrubs and is wooded containing a number of trees. This wooded area continues along Station Road and Laggary Park forming a larger Tree Preservation Order known as No. 8 Laggary. Part of the site is also scheduled Ancient Woodlands. Policy LP ENV 7 of the adopted Local Plan states that the Council will protect trees and resist development which is likely to have an adverse impact on them.

The trees are spread over the site and because of the driveway, dwellinghouse and garage, most of the trees within the site will need to be removed to make way for the development, with just the perimeter trees remaining.

A tree survey was undertaken to determine the condition of the trees on site. Of the 13 trees identified it was considered that 6 would have to be removed to make way for the proposals, and one should be felled as it is dead. Of all of the trees to be removed, none are in poor condition and in fact all are described as in fair or good condition. It is considered that these trees are an important feature of the area and contribute towards the character and amenity of the Conservation Area. Two trees in particular are of importance, these are a 16 metre high Common Lime and a 27 metre high Beech tree. In the tree survey these trees are described as Category B1 which means that they are of moderate quality and value and are in such a condition that they can make a significant contribution. Category B1 also means that these trees may have been included in the higher category had it not been for their slightly impaired condition. Regardless of their slightly impaired condition (one has a weak fork and the other has decay affecting a main fork), these trees are still considered to be able to make a significant contribution, with a minimum of 20 years suggested.

It is considered that the removal of these trees, especially the two identified above, cannot be justified. A Tree Preservation Order was placed on the site to ensure their protection and while in some instances, it may be appropriate to allow the removal of trees and their replanting, in this instance it cannot be justified. Even taking into account the amended layout proposed, while the two largest trees will not be removed, the proximity of the proposed dwellinghouse to these trees could mean that they were a nuisance, could undermine their root system and could potentially result in their loss as well. In addition, most of the trees and shrubs on site are to be removed and their replacement with a dwellinghouse, hard standing, fences and other associated suburban development would be visually intrusive, visually discordant and would not maintain or enhance the character of the area.

#### **D. Road Network, Parking and Associated Transport Matters.**

The proposed dwellinghouse will have a frontage onto Station Road and as such will take vehicular access from this point. This part of the site is bounded by a 2 metre high stone wall which continues southwards down Station Road. This is a traditional stone wall which would have been listed had Laggary House not been subdivided prior to it being listed. In order to facilitate the sightlines required by the Area Roads Manager, this wall will have to be taken down to one metre in height and slightly relocated. The wall will then be re-built using the duntakings from the existing wall. While it is considered that the wall does contribute to the character and appearance of the area, reducing the height of it at this location would not detrimentally affect the amenity of the area as this would be of a similar manner to the adjacent property.

#### **E. Infrastructure**

Scottish Water has no objections to the proposal.

## **F. Conclusion.**

The development would result in the loss of protected trees which contribute to the character and appearance of the Conservation Area and this part of Rhu. The loss of the trees and shrubs and their replacement with a dwellinghouse, hard standing and other associated suburban development would be visually discordant and would not maintain or enhance the character of the conservation area. In addition, the existing character of Laggary Park is of large dwellings set within large garden areas around Laggary House, a Listed Building. Along this area of Station Road, the only other existing houses are long established, are associated with Laggary House and run parallel with the adjoining road. Sub-dividing the plot and siting a new house, however well designed, set back at an angle from the adjoining road and outwith the building line of the long established properties to the north, would undermine the established character, amenity and settlement pattern of this area contrary to development plan policy.