

**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**

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**Reference No:** 09/00385/OUT

**Planning Hierarchy:** Local application

**Applicant:** Ardkinglas Estate

**Proposal:** Erection of mixed development comprising 16 dwellinghouses, 7 commercial units, childcare centre and installation of sewage systems and access improvements.

**Site Address:** Land adjacent to Ardkinglas Sawmill, Clachan, Cairndow, Argyll

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### **SUPPLEMENTARY REPORT 3**

#### **1.0 SUMMARY**

The purpose of this supplementary report is to confirm the receipt of further representations and to note the absence of Transport Scotland at the Hearing.

#### **2.0 FURTHER REPRESENTATION**

Three further emails of objection have been received from:

- Mr. Douglas Fraser, Stagecoach Inn, Cairndow (email dated 15<sup>th</sup> October 2011);
- Mr. Ken Pound, Cairndow (email dated 18<sup>th</sup> October 2011);
- Mr. J.B. Rowlands, Old School, Cairndow (email dated 18<sup>th</sup> October 2011);

The points raised in the letters of support are summarised below:

- Mr. Fraser suggests that it has always been the "Common Sensical" view that any development would be within the confines of Cairndow village. A recent application for 12 houses and Childcare facility within the village was acceptable to planning and seemed promising – "the sensible option" until Transport Scotland objected on the village access. It has since transpired that even 3 plots will overload the access roads. So, is the sensible option to create a new village ? Especially when the access on a long fast bend on the A83 which will involve substantially more traffic. Yet it is the 'sensible option' to locate the industrial units at the proposed site. Just now the childcare facility is based in the village hall where children can walk to safely. Is it prudent to place a crèche at the Old Sawmill with commercial traffic from the Hydro Board, Bonnar Sand and Gravel and proposed industrial units ? Also has a concern over the River Fyne as there has been a noticeable lack of salmon.*

**Comment:** The proposals for the Kilmorich PDA 9/6 which Mr. Fraser refers to had unresolved siting and design issues in addition to junction improvements required by Transport Scotland. It would be inaccurate to state that the proposals were acceptable to planning in that form at that stage. Other proposals within the existing village of Cairndow will be assessed on their individual merits.

- *Mr. Rowlands comments that the development as indicated by the masterplan would create a new village some two miles away from the existing traditional and historic village of Cairndow thereby dividing the community into two separate entities.*
- *The proposed development which includes the masterplan is a major development in sensitive rural area and is in contravention of many of the requirements of both area and local plans.*
- *Supporters of the scheme have cited affordable housing in support of the scheme. They may have overlooked the fact that the applicants other site currently under construction on Pheasant Field has provision for affordable housing and homes to rent, whereas I can see no defined affordable housing in this scheme.*
- *I would add further that there is currently one empty house available for rent within walking distance of the fish farm and hatchery and there is further empty house for sale/rent within walking distance of Loch Fyne Oysters*

The further email received from Ken Pound (email dated 18<sup>th</sup> October 2011) concerning his original email of 12<sup>th</sup> October 2011 makes the following comments:

- *You have not advised why the footpath has not been included within the red line boundary on this application? The footpath must be delineated by the red line which takes the site application well in excess of the 2 hectares. The footpath is referred to in your summarised report - Supplementary Report 2. Please advise.*
- *You have stated that Scottish & Southern have been notified as owner of part of the application site - hence the red line is shown on the road owned by Scottish & Southern. I presume the Council has confirmation that the developer has permission from Scottish and Southern to up-grade the private road and access as there is a difference between applying for planning permission on land which you do not own and having permission to change/upgrade that land.*
- *The red line has not been shown on the visibility splays for either the private access (old A83) or the access on the A83 which I understood was a requirement? I would refer you to the access arrangements, Note 11 (page 7) of the Guidance Notes relevant at the time the application was submitted which stated:*
- *"Access Arrangements - If it is intended as part of the application to construct or alter a vehicular access or to use an existing access this section should be completed as appropriate. When a change is proposed to the access arrangements, full details of width, type of bellmouth and available visibility splays should be given on the application drawings".*
- *Also, in your Supplementary Report 2, you state under 'Comment' that "The visibility splays and the improvements to the junction of the access road onto the A83 required by Transport Scotland are on land either controlled by the applicant or by Transport Scotland".*
- *Firstly, the red line boundary and visibility splays have been omitted from the drawings. Can you please explain why and, secondly, I do not believe the visibility splays are "on land either controlled by the applicant or Transport Scotland".*
- *Transport Scotland have confirmed that they have control over the land on the road from parapet/fence to parapet/fence on the bridge; the applicant's blue line is to the edge of the river only (see CDA 02A dated 3 March 2009 & CDA 02B revised 26 April 2010) and the land within the visibility splays - including the island in the middle of the river - is owned by the estate of Achadunan, an objector to this application so perhaps you could clarify.*

- *With regards to the recent letter of support from The Tree Shop, you should note that The Tree Shop is owned by the developer so it is tantamount to sending a letter of support for your own development.*

**Comment:** The footpath adjacent to the access road and internal development is included within this application. The footpath connecting the LFO site and application site is not. Whilst it is shown on CDA04B it is clearly outside the redline boundary and therefore is not considered part of the application. The applicant has stated that a Deed of Servitude is in place between SSE and Ardkinglas Estate providing unrestricted access rights and right to carry out any necessary improvements to road. The creation of visibility splays are not usually classed as development and therefore do not require to be within the redline area. They can be secured via Section 75 agreement or suspensive condition if the land is within the applicants control – as in this case. If the visibility splay does constitute development as an engineering operation then a separate application must be submitted for the splay itself. The applicant has confirmed that he, SSE and trunk roads possess title over all the land required to obtain appropriate visibility splays.

Whilst the content of these letters does not alter the department's recommendation, the planning related views made by the objectors are material considerations in a determination of the proposal.

### **3.0 Consultees**

It should be noted that the department invited Transport Scotland to attend the Hearing but they have declined owing to staff shortages but feel that their letter and submissions dated 6<sup>th</sup> October 2011 provides a full explanation to their earlier response dated 25<sup>th</sup> August 2011.

### **4.0 RECOMMENDATION**

It is recommended that Members note the content of this supplementary report and planning permission be refused.

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**20 October 2011**