

**STATEMENT OF CASE**

**FOR**

**ARGYLL AND BUTE COUNCIL  
LOCAL REVIEW BODY**

**REFUSAL OF PLANNING PERMISSION FOR THE  
TEMPORARY ERECTION OF A STORAGE SHED  
FOR A PERIOD OF 5 YEARS (RETROSPECTIVE) AT  
LAND SOUTH WEST OF LOCH AWE HOUSE,  
EAST LOCHAWESIDE, ARGYLL AND BUTE.**

**PLANNING APPLICATION REFERENCE NUMBER  
11/01009/PP**

**25 NOVEMBER 2011**

## **STATEMENT OF CASE**

The planning authority is Argyll and Bute Council ('the council'). The appellant is Mr Edan Kenneil ("the appellant").

Planning permission reference number 11/01009/PP for the temporary erection of a storage shed for a period of 5 years (retrospective) at Land south west of Loch Awe House, east Lochaweside ("the appeal site") was refused planning permission on 18.08.2011.

There were six reasons for refusal:

1. The siting of a storage shed is contrary to Argyll & Bute Structure Plan 2002 policy STRAT DC 5, because it is not small scale infill, rounding off, redevelopment or a change of use of an existing building, as defined in Argyll & Bute Local Plan 2009. Those are the only types of development generally supported within allocated Sensitive Countryside within which the development is located.
2. The proposal is contrary to Argyll & Bute Local Plan 2009 policy LP ENV 1 because it conflicts with the established undeveloped character of the countryside, does not comply with Structure Plan policy STRAT DC 5, and fails to make adequate access and parking provision to safely serve the development.
3. The proposal is contrary to Argyll & Bute Local Plan 2009 policy LP REC 1 because the development fails to comply with Structure Plan policy STRAT DC 5, fails to respect the landscape character and amenity of the area, is not readily accessible, and is not sited close to where people live.
4. The proposal cannot be supported as a departure to the Local Plan under the auspices of Argyll & Bute Local Plan 2009 policy LP DEP 1 as there are no material considerations which justify it.
5. If approved, the storage shed would establish a precedent for further sporadic development on small parcels of undeveloped land along the shores of east Loch Awe, which would further undermine the special character of the area and the allocation of the site as Sensitive Countryside in the adopted Development Plan.
6. The storage shed would generate vehicular traffic to utilise the building and equipment proposed for storage therein. No provision has been made for vehicular access or parking arrangements and using the passing place on a corner of the public road for this purpose represents a clear road safety hazard.

## **DESCRIPTION OF SITE**

The site is bound to the north and west by the shoreline of Loch Awe and to the east and south by the public road.

This site is within land classified as Sensitive Countryside in the Argyll and Bute Local Plan Proposals Map 2009.

## **SITE HISTORY**

There is no planning history for the site.

## **STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED**

Section 25 of the Town & Country Planning (Scotland) Act 1997 provides that where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise. This is the test for this application.

## **STATEMENT OF CASE**

The determining issues in relation to the case are as follows:

1. *Whether there is sufficient justification to site the shed in an area of Sensitive Countryside contrary to Structure Plan policy STRAT DC 5 and Local Plan policies LP ENV 1 and LP REC 1*
2. *Whether there is sufficient justification to site the shed considering its impact on road safety by virtue of the use of the passing place on a corner for parking associated with the use of the shed.*

The Report of Handling (Appendix 1) sets out the planning assessment of the application in terms of development plan policy and other material considerations.

## **REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING**

It is considered that the local review body will have all the information they need to determine the case. Given the above and that the proposal is small-scale, has no complex or challenging issues, and has not been the subject of any substantial public representation, it is not considered that a hearing is required.

## **COMMENT ON APPELLANT'S SUBMISSION**

The appellant's submission dated 09 November 2011 is acknowledged. After careful consideration the service's response is as follows:

1. The service disagrees that the proposal can be treated as a special case in accordance with Structure Plan policy STRAT DC 5. Any economic benefit to the local community would be so marginal that it could not justify a special case exception. Any positive community benefit is questionable considering the objections of several local property owners and also the local community council.
2. It is acknowledged that there are a number of historic static caravans and sheds along the Loch Awe shoreline however their existence is not justification for additional sporadic development. Prior to the shed being sited, the established character of the site was undeveloped countryside. The site does not relate visually to any established caravans or sheds.
3. The shed is visible from the road and is considered to be intrusive and incongruous with the loch side rural location. Photographs taken when surrounding trees are in leaf are attached to this statement; they clearly show that the shed is visible from the road. Local Plan policy LP REC 1 encourages recreational development which is close to where people who will use it live, the proposal does not comply with this policy.

4. The service disagrees that the material considerations put forward by the appellant – leisure and educational facilities – are adequate justification for the erection of a shed within allocated sensitive countryside.
5. Argyll and Bute Council would find it more difficult to defend an appeal against a refusal in sensitive countryside in the future if this proposal was granted planning permission. Furthermore, if this appeal was allowed it would undermine the allocation of sensitive countryside throughout Argyll and Bute.
6. There will be times when vehicles will be required at the shed. During construction phases the passing place was taken up by a pick-up truck and a trailer; during operations vehicles are likely to be required for delivery of equipment, servicing of equipment, emergencies, maintenance of shed etc, and patrons accessing the store will need to arrive and depart in some manner. If patrons only access the site via the loch, there would be no reason to have the store for canoes (etc) at the site, as users of the equipment would have to collect it elsewhere in order to use the loch. The proposal will create a demand for some vehicular access.

## **CONCLUSION**

Section 25 of the Town and Country Planning Act 1997 requires that all decisions be made in accordance with the development plan unless material considerations indicate otherwise.

Taking account of the above, it is considered that the review should be dismissed on the basis that the proposal is contrary to the development plan and that there are no significant material considerations that would merit either a special case exception or a departure from the development plan.



Stephen Fair  
Area Team Leader  
Oban, Lorn & the Isles

## APPENDIX 1 – DELEGATED REPORT OF HANDLING

Argyll and Bute Council  
Development Services

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:** 11/01009/PP

**Planning Hierarchy:** Local Development

**Applicant:** Mr Edan Kenneil – Schools and Skills Foundation per Robin Dixon and Son Ltd, Barfad Farm Office, School Road, Tarbert, PA29 6UL

**Proposal:** Temporary erection of a storage shed for a period of 5 years (retrospective)

**Site Address:** Land south west of Loch Awe House, east Lochaweside, Argyll

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### DECISION ROUTE (delete as appropriate)

(i) Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997

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### (A) THE APPLICATION

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

- Erection of a storage shed (retrospective) (temporary for a 5 further years)
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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 refused for the reasons attached to this report.

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### (C) HISTORY:

10/00427/ENOTH2 - enforcement enquiry – erection of a shed – opened 25.11.2010

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### (D) CONSULTATIONS:

SNH

Email dated July 11 2011. No objections or further comments

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**(E) PUBLICITY:**

The proposal has been advertised in terms of Regulation 20, closing date 28.07.2011.

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**(F) REPRESENTATIONS:**

Five letters of objection have been received against the application

1. Glenorchy and Innishail Community Council  
C/o John Kerr, Arichastlich, Glen Orchy, Dalmally
2. Mrs Isabella Crawford  
Blarghour House, by Dalmally
3. Mrs Catriona O'keeffe  
Blarghour Farm, South Lochaweside, by Dalmally
4. Mr Robert Russell  
Sonachan View, Portsonachan, Dalmally, PA33 1BJ
5. Mrs Carol Russell  
Sonachan View, Portsonachan, Dalmally, PA33 1BJ

**(i) Summary of issues raised**

- It is an inappropriate use of the site  
*Comment: The Planning Service agrees that it is an inappropriate use of the site, which is contrary to the adopted Development Plan.*
- The sales particulars state that the land is for amenity use only and that there shall be no vehicle parking, nor shall it be used for caravanning, camping or similar. Title restrictions are contravened by the development.  
*Comment: Sales particulars and title restrictions are not relevant planning considerations. The erection of a storage shed does require planning permission, which is being sought by the current application.*
- The shed fails to meet any criteria of the local plan  
*Comment: The Planning Service agrees that the development is contrary to the Local Plan allocation of the site as Sensitive Countryside.*
- The shed has been constructed on an area of land susceptible to flooding  
*Comment: There are signs of a tide line nearer the road than the shed at the site, but flood risk is not proposed for in depth investigation as the development is being resisted.*
- The use of the shed will result in the passing place being used to the detriment of road users. There is no access from the road.  
*Comment: The Planning Service agrees that accessing the shed will require vehicular transport of some sort. No provision for access has been made,*

and it is therefore likely that the passing place would be blocked to facilitate parking of such vehicles. The site is very remote from any population centre where walking may be a more realistic access option. Given the storage use applied for, it is reasonable to assume patrons would be transported by vehicle and then use the canoes etc, which are proposed to be stored at the site, rather than access the site via canoes using Loch Awe.

- No bio-diversity survey to conclude the impact on flora and fauna has occurred  
*Comment: The Planning Service agrees with this statement. The matter is not being further investigated at this time because the application is being resisted.*
- Retrospective application should be discouraged, bypassing conventional procedures.  
*Comment: Retrospective planning applications are assessed through the same procedures as a normal planning application. This is not a suitable reason for refusal.*
- Proposed use has already changed twice  
*Comment: This assessment is based on the use as applied for. Any previous descriptions are not relevant to the application currently under consideration.*

The above represents a summary of the issues raised. Full details of the letters of representation can be viewed on the Council's public access system by clicking on the following link <http://www.argyll-bute.gov.uk/content/planning/publicaccess>.

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## **(G) SUPPORTING INFORMATION**

**Has the application been the subject of:**

- |                                                                                                                                                             |           |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| <b>(i) Environmental Statement:</b>                                                                                                                         | <b>No</b> |
| <b>(ii) An appropriate assessment under the Conservation</b>                                                                                                | <b>No</b> |
| <b>(iii) A design or design/access statement:</b>                                                                                                           | <b>No</b> |
| <b>(iv) A report on the impact of the proposed development<br/>e.g. retail impact, transport impact, noise impact, flood risk,<br/>drainage impact etc:</b> | <b>No</b> |

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## **(H) PLANNING OBLIGATIONS**

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|------------------------------------------------|-----------|
| <b>(i) Is a Section 75 agreement required:</b> | <b>No</b> |
|------------------------------------------------|-----------|

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- |                                                                                                       |           |
|-------------------------------------------------------------------------------------------------------|-----------|
| <b>(I) Has a Direction been issued by Scottish Ministers in terms of<br/>Regulation 30, 31 or 32:</b> | <b>No</b> |
|-------------------------------------------------------------------------------------------------------|-----------|

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**(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 5 – Development in Sensitive Countryside

Argyll and Bute Local Plan 2009

LP ENV 1 – Impact on the General Environment

LP REC 1 – Sport, Leisure and Recreation

LP DEP 1 – Departures to the Development Plan

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

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

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

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

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**(O) Requirement for a hearing (PAN41 or other): No**

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

Retrospective planning permission is sought for the siting of a timber shed at land south west of Loch Awe House, East Lochaweside, for a temporary period extending to a further five years.

The land is classified as Sensitive Countryside in the Argyll and Bute Local Plan 2009.

Structure Plan policy STRAT DC 5 only encourages small scale infill, rounding-off, redevelopment and change of use of building development. It is considered that the erection of the shed in this location does not meet any of these criteria and is



therefore contrary to this policy. The undeveloped narrow edges of Loch Awe sandwiched between the public road and the shore contribute to the beauty and character of the area. Using such land for building development is contrary to the aims of the Development Plan.

Local Plan policy LP ENV 1 assesses a development's impact on the natural, human and built environments. It is considered that the proposal has an unacceptable impact on the amenity of the area and also the established character and the distinctiveness of the countryside landscape. It is also considered that no access provision has been made to the shed and there is insufficient parking to facilitate the use of the shed. The proposal is therefore contrary to policy LP ENV 1 and also generates a road safety hazard.

Local Plan policy REC 1 establishes a presumption in favour of new sport and recreation facilities. However, this supportive policy is qualified by a requirement that proposals must respect the character and the amenity of the area in which they are sited. Proposals must also comply with STRAT DC 5, which the current proposal does not. The proposal neither respects the character or the amenity of the area and does not accord with STRAT DC 5 and therefore does not merit support under policy LP REC 1.

Local Plan policy LP DEP 1 allows departures to the development plan to be approved in exceptional circumstances. The current application is deemed contrary to the development plan and it is not considered that there are material considerations to justify the proposal as a departure.

In summary, the proposal represents isolated and sporadic development on a narrow undeveloped piece of the shore of Loch Awe. No access or parking provision has been made. The storage shed is contrary to policy STRAT DC 5, LP ENV 1 and finds no support under LP REC 1. If approved, the building would establish a precedent for further developments on small parcels of land along the shore of Loch Awe, which would cumulatively undermine the special character of the area, which includes the undeveloped nature of large sections of the shore that underpins the lands status as Sensitive Countryside in the adopted Development Plan. Insufficient supporting information has been submitted to justify a departure from the provisions of the adopted Development Plan.

Whilst not a relevant planning consideration, the evidence of the objectors indicates the purchaser would have known in advance that development of the site would be difficult, if not impossible, due to the signals given through the sales particulars and title restrictions.

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

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**(R) Reasons why planning permission should be refused:**

See recommendation below

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

N/A

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

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**Author of Report:** Daniel Addis

**Date:** 10 August 2011

**Reviewing Officer:** Stephen Fair

**Date:** 17/08/11

SF

**On behalf of**  
**Angus Gilmour**  
**Head of Planning**

## **GROUNDINGS OF REFUSAL RELATIVE TO APPLICATION REF. NO. 11/01009/PP**

1. The siting of a storage shed is contrary to Argyll & Bute Structure Plan 2002 policy STRAT DC 5, because it is not small scale infill, rounding off, redevelopment or a change of use of an existing building, as defined in Argyll & Bute Local Plan 2009. Those are the only types of development generally supported within allocated Sensitive Countryside within which the development is located.
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8. The storage shed would generate vehicular traffic to utilise the building and equipment proposed for storage therein. No provision has been made for vehicular access or parking arrangements and using the passing place on a corner of the public road for this purpose represents a clear road safety hazard.

## APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **11/01009/PP**

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- (A)** Has the application been the subject of a non-material amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing.

**No**

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- (B)** The reason why planning permission has been refused.

As detailed in the reasons for refusal.

## CHECK SHEET FOR PREPARING AND ISSUING DECISION

Application Number	11/01009/PP
Decision Date	17/08/11
<b>Issue Latest Date</b>	<b>19/08/2011</b>
Decision	Refuse

Date signed by ATL

Don't Issue Decision	Tick if relevant	Action (tick)	Date sent
Notification to Scottish Ministers			
Notification to Historic Scotland			
Section 75 Agreement			
Revocation			

Issue Decision		Tick	Standard Conditions/Notes to include					
Tick	Dev/Decision Type	Time Scale*	Initiation	Completion	Display Notice			
			Only use if PP/AMSC & Granted					
	Local – Sch.3 – Delegated							
	Local – Delegated	<b>N/A - REFUSAL</b>						

\*standard time condition not required if application retrospective.

Include with Decision Notice	
Terms of Section 75	
Summary of Variations made	
Notification of Initiation Form	
Notification of Completion Form	
Notice for Display	
Roads Schedule/standard drawing	
Archaeology Guidance	
Scottish Water Consultation response	
Pre-commencement conditions sheet	
Other:	

Notify of Decision	
Objectors/Contributors	
Roads	
Ongoing Monitoring – priorities:	
Other:	

Total residential units FP3 (uniform)			
Houses		Sheltered	
Flats		Affordable	