

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: 09/00564/OUT
Planning Hierarchy: Local
Applicant: Mrs. Lynne Clark
Proposal: Erection of dwelling-house and alteration of access
Site Address: Land south west of Mudheireadh, Baluachrach, Tarbert

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of dwelling house
- Alteration and upgrading of access

(ii) Other specified operations

- Connection to public sewer
 - Connection to public water main
 - Provision of revised access to Mudheireadh
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(B) RECOMMENDATION:

It is recommended that the application be refused for the reason stated in this report.

(C) CONSULTATIONS:

Area Roads Manager (responses dated 25.05.2009, 6.3.2012 and 10.4.2012): The geometry of the existing access makes it unsuitable to sustain further development. The public roads in the vicinity are narrow and heavily parked with resident's vehicles. This also restricts the ability of this area to sustain further development.

Scottish Water (response dated 5.6.2009): No objections subject to condition; also advice note.

Paths Officer (response dated 12.3.2012): No objection.

Strathclyde Fire Brigade: No response to date

(D) HISTORY:

94/00463/DET001: Erection of dwelling - granted 1994 (being the dwelling, Mudheireadh, as built; this new proposal being sought within part of the garden ground of that dwelling).

09/00912/DET: Erection of two dwelling-houses north of Mudheireadh - granted 7 September 2009. Both now substantially complete and occupied.

(E) PUBLICITY:

Article 9 (Vacant Land): period for representations expired on 29.05.09

(F) REPRESENTATIONS:

(i) Representations received from:

- Ron and Anne Fraser, Uppertown Cottage, Baluachrach, Tarbert on 06.05.09;
- Stuart Allen and Judith Drewery, Ladysmith Cottage, Baluachrach, Tarbert on 07.05.09 & 12.05.09;
- Rose Rivendale, South Cottage, Baluachrach, Tarbert on 28 February 2012 and 7 March 2012 (13 e-mails)
- Carol Higgins 7 Viewbank Avenue Calderbank Airdrie Lanarkshire ML6 9TJ on 6 March 2012.
- Dr Richard Burton 15 Lansdowne Crescent Glasgow G20 6NQ on 5 March 2012
- Mr Paul McCabe on 5 March 2012
- Mary C Baxter Strathord Cottage Tullybleton Perthshire PH1 4PT on 6 March 2012
- Dr J Wallace Hinton 19 Maple Avenue Milton Of Campsie G66 8BB on 5 March 2012
- Fiona Sinclair on 13 March 2012

(ii) Summary of issues raised:

- The neighbour notification undertaken by the applicant (as relevant in the Spring 09) did not reveal the details of the access arrangements.

Comment: Procedurally this was correct.

- Further courtesy neighbour notification to other properties would be helpful.

Comment: Procedurally this was not necessary.

- Access is inadequate with vehicles having to undertake a 170 degree turn outside 1 Brucehill, and as emergency vehicles cannot undertake that manoeuvre they will have to undertake a further 400 yards (vital minutes) to undertake the required turn.
- Fire service vehicles cannot access Ladysmith Cottage, South Cottage and the land beyond it, and this development would also jeopardise the accessibility of Mudheireadh (the applicant's dwelling) to emergency access

- The proposal will add to the congestion in this area of single track roads serving over 50 dwellings and the Tarbert Academy.
- The proposed development, taken together with other proposed developments in the area (planning permission has previously been given to the same applicant for two other dwellings nearby served off the same shared access) increases the risk posed to any emergency access, no turning circle being available for a fire engine.

Comment: The Area Roads Engineer's latest response is that the geometry of the existing access makes it unsuitable to sustain further development. No response has been received from Strathclyde Fire Brigade

- The lack of detail (height of dwelling, its specific location, orientation and footprint) do not enable proper assessment.
- Whilst it is an Outline application, and in the absence of detail, there are concerns about overlooking, privacy, loss of amenity, and loss of light in relation to up to 4 properties and which may adversely impact on value of property.

Comment: The original objectors have been advised of illustrative details but no further comment has been received

- The proposed dwelling would be surrounded by properties on all four sides which would have a direct view of the property.

Comment: The garden of the proposed dwelling will be overlooked. See assessment below

- The development will overlook the primary school playground.

Comment: This is not a relevant planning concern.

- The development is in the vicinity of a scheduled monument – Tarbert, mediaeval Burgh and environs – and the proposal occupies what would have been the central common area of the clachan of Baluachrach, or Uppertown as it became known. This is a historic landscape and whilst some modern development has taken place on the periphery, a new property proposed within the middle of the landscape will destroy what little remains of Tarbert's history.

Comment: There is merit in retaining an open area within this group of buildings. See assessment below.

- The developer has already carried out the culverting of the earlier open watercourse to enable the proposed access but we are not aware of these works being registered with SEPA under the Water Environment (Control Activities)(Scotland) Regs 2005.

Comment: SEPA were made aware of these works during the consideration of the application for the neighbouring two dwellings and had no objections to planning permission in respect of the culverting / road works. Any additional requirements / compliance with regulations as may be required by SEPA are SEPA's responsibility.

- There is no reference to a SuDS drainage system in the application and concern in this regard particularly relates to the proposed access.

Comments: If permission were granted, it would need to be subject to a condition requiring the submission and implementation of an appropriate SuDS scheme.

- There is ongoing dispute over land ownership in front of South Cottage which would impair the proposed revised access to Mudheireadh.

Comments: Even if ownership was decided in the objector's favour, it would still be open to the applicant to negotiate such servitude rights of access to Mudheireadh as may be necessary to implement any permission.

- The proposal is totally out of character with the proposed site and area.

Comments: See assessment below

- There is a limit of 10 dwellings at Baluachrach which has already been reached.

Comments: There is no prescribed limit on development in this locality.

- The amount of land shown to build the development is false.

Comments: This concern is inadequately specified so cannot be addressed.

- Noise pollution and light pollution would be detrimental to health.

Comments: It is not credible that noise and light associated with a single residential property could be harmful to health.

- The access to Tarbert Castle and Kintyre Way has been blocked.

Comments: Any claimed access to Tarbert Castle and Kintyre Way has already been obstructed by previously constructed dwellings.

- Baluachrach is a croft area so development cannot be considered.

Comments: The property is not a registered croft.

- The plot is bedrock and will take a high degree of drilling. As the surrounding cottages have no modern foundations, there will be a high likelihood of further structural damage.

Comments: The submitted indicative layout suggests an excavation of 1-2m to achieve a finished floor level. Rock removal in close proximity to existing dwellings served by a sub-standard means of access could prove problematic and a source of nuisance for the duration of the extraction and disposal of the rock. In the event of permission being granted, a condition requiring a construction method statement would be required.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

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

(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 8 – Landscape and Development Control
STRAT DC 9 – Historic Environment and Development Control

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment
LP ENV 19 – Development Setting, Layout and Design
LP HOU 1 – General Housing Development
LP SERV 2 – Incorporation of Natural Features/Sustainable Drainage Systems
LP TRAN 4 – New and Existing Public Roads and Private Access Regimes
LP TRAN 5 – Off-site Highway Improvements
LP TRAN 6 – Vehicle Parking Provision

Appendix A – Sustainable Siting and Design Principles
Appendix C – Access and Parking Standards

(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.

- Planning Advice Note PAN 52 : Planning in Small Towns
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(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): No

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

The proposal seeks the development (in principle) of a new dwelling within the curtilage of Mudheireadh, a relatively modern dwelling in a group of properties in the vicinity of Baluachrach, on the southern fringe of Tarbert. The plot lies within the Settlement Zone of Tarbert where the proposal is to be assessed in the context of Structure Plan Policy STRAT DC 1 and Local Plan Policy LP HOU 1. These support infill development provided that there are no layout, density, amenity, servicing or access constraints.

The application has been accompanied by an illustrative layout which shows a dwelling to be located at right angles to the host property and presenting a gable to the adjacent terraced cottages. Such orientation would be necessary to overcome overlooking of those existing dwellings. The design is shown to be a small single storey dwelling. Access is to be repositioned from its existing location at the south end of the garden to a second arm of the private access to the west of the site opposite the terraced cottages, where it would comprise separate access points to serve the existing and the proposed dwellings.

This cluster of buildings is the remnant of a former small crofting community on the outskirts of Tarbert, which has over the years been subsumed within the village by the encroachment of more recent development. It does, however, still retain small dwellings and an informal clustering of buildings, including some undeveloped land and narrow unmade access tracks, which is untypical of the more recent planned development in the surrounding area.

Planning permission has previously been granted for two dwellings to replace a derelict dwelling on the edge of this cluster and these have recently been completed. Permission is now sought to insert a further building within the cluster within the garden ground of the applicant's home. Whilst the site is of a size that could potentially accommodate a small dwelling whilst maintaining a curtilage for the existing property which would not be untypical of those nearby, this could only be achieved by setting the new building at right angles to the applicant's property and to neighbouring dwellings, and by the use of a narrow access immediately adjacent to existing cottages, which already serves 5 dwellings and which would be required to serve 2 more properties as a result of this proposal. The Area Roads Engineer finds the geometry of the existing access makes it unsuitable to sustain further development. The existing public roads in the immediate vicinity are narrow and heavily parked with resident's vehicles. This also restricts the ability of this area to sustain further development. Furthermore, additional use of the private access would cause increased disturbance and have adverse amenity consequences for the occupiers of those existing cottages which front immediately onto that track.

Although the application site forms a side garden to a dwelling, it performs an additional function in maintaining an element of open land and spacing between buildings, which is an important characteristic of this cluster of cottages and small dwellings, and a remnant of their origins. To develop this garden as proposed would result in the infilling of the last remaining space of any consequence within this group

of buildings and would erode the residential amenity of the surrounding dwellings overlooking this area in the process. The site itself largely comprises a rock outcrop, which historically probably dictated that it remained undeveloped. It would require rock extraction to bring the site down to a level suitable to accommodate a dwelling. Given the proximity of adjoining dwellings and the sub-standard approach roads to the site, such operations in a confined location would, in themselves, be likely to give rise to adverse amenity considerations, albeit over a limited period.

Overall, the fact that the dwelling has to be orientated at right angles to the existing dwelling in order secure an acceptable level of privacy for existing residents, the shortcomings of the convoluted and sub-standard access, and the loss of the last open area of any significance within this cluster, conspire to produce a form of development which, when all these factors are considered together, would have adverse consequences for the residential amenity of surrounding properties and would not secure a form of infill development which is sympathetic to its surroundings.

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

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

Not applicable

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

Author of Report: David Eaglesham **Date:** 11.04.2012

Reviewing Officer: Richard Kerr **Date:** 11.04.2012

Angus Gilmour
Head of Planning & Regulatory Services

REASONS FOR REFUSAL RELATIVE TO APPLICATION 09/00564/OUT

1. This application relates to land within a cluster of dwellings originally forming part of a small crofting community on the outskirts of Tarbert. Whilst this has now been subsumed within the settlement due to the encroachment of adjoining development, it does, however, still retain small dwellings and an informal clustering of buildings, including some undeveloped land and narrow unmade access tracks, which is untypical of more recent planned development in the surrounding area. Whilst some development has recently been completed on the margins of this cluster, further development as proposed would infill the last remaining open area of any significance within this cluster and would involve additional vehicles using sub-standard single width access tracks, involving in particular, additional use of the access passing immediately in front of adjacent terraced cottages by vehicles associated with the applicant's existing dwelling and the proposed dwelling, and increasing the number of properties served by that access to seven. Such level of usage at close quarters and having regard to the sub-standard width and geometry of the access and the lack of off-street parking to serve the existing dwellings would be to the detriment of the residential amenity of the occupiers of those dwellings. The shortcomings of the access regime, together with the loss of this open area to infill development, which would necessarily have to be sited uncharacteristically at right angles to adjacent buildings so as not to compromise privacy, would conspire to produce a form of development which, when these factors are considered together, would have adverse consequences for the residential amenity of adjacent properties. The development does not secure an acceptable relationship with adjacent properties and does not constitute a form of infill development which is sympathetic to its surroundings, and therefore fails to satisfy development plan policies STRAT DC 1, LP HOU 1 or LP ENV 19.
2. The geometry of the existing access makes it unsuitable to sustain further development. The existing public roads in the immediate vicinity are narrow and heavily parked with resident's vehicles. This also restricts the ability of this area to sustain further development. The proposed development would therefore represent an unacceptable intensification of use of a substandard private access regime, contrary to policy LP TRAN 4 of the Argyll and Bute Local Plan.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 09/00564/OUT

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The proposal lies within the 'settlement' zone of the local plan classified 'small town' of Tarbert, where appropriate infill development may be supported under Local Plan Policy LP HOU 1 unless there is an unacceptable environmental impact. Such development has to be "appropriate", which includes, amongst other factors, the need to be satisfied that the proposal does not result in 'settlement cramming' and satisfies all other material aspects of the Development Plan. (Structure Plan Policy STRAT DC 1 (B) (D) and (E)).

Having regard to the site specific considerations reviewed below, the proposal is considered inappropriate unsympathetic infill development which is not consistent with the provisions of Policy STRAT DC 1 of the Structure Plan or LP HOU 1 of the Argyll and Bute Local Plan

B. Location, Nature and Design of Proposed Development

The proposal seeks the development (in principle) of a new dwelling within the existing side garden of Mudheireadh, a relatively modern property in a cluster of predominantly small scale single and one and a half storey dwellings in the vicinity of Baluachrach, on the southern fringe of Tarbert. The proposed site area for the intended dwelling and its curtilage is some 0.05 ha. Sketch plans submitted for illustrative purposes show a single storey, two-bedroom property of traditional appearance. The proposed access arrangements (existing and proposed) are described and discussed in section "1" below.

The southern garden area of Mudheireadh forms part of a curtilage which is notably larger than that of surrounding properties (some 37 metres x 17 - 25 metres). Much of it is elevated by reason of bedrock outcropping on the site, which rises by approx 3m from west to east. The proposal is to divide this garden area so that the northern portion of it (averaging some 12 x 17 metres) would be retained as garden ground to Mudheireadh, whilst the remainder (approx. 25 x 22 metres) would become the curtilage of the proposed dwelling.

Whilst the balance of the site area that would be retained for Mudheireadh is adequate in terms of private amenity space for that dwelling, and whilst a 0.05 hectare site is not uncharacteristic of the generally small curtilages roundabout, its relationship with neighbouring development does present a constraint in terms of privacy standards. This is due to the fact that the adjacent dwellings of Uppertown Cottage, Ladysmith Cottage and South Cottage all have elevations looking south across the plot at relatively close quarters. Accordingly, the applicant has had to propose a building sited uncharacteristically at right angle to her own property and the facing cottages in order to avoid conflict between facing windows.

The indicative floor plan suggests a finished floor level slightly higher than the cottages to the west, which would entail reducing the ground level by up to 2m in the centre of the site. This would clearly entail rock excavation to achieve a developable platform. Whilst, with some contrivance in terms of layout and some excavation of rock, it could be possible to infill this site with a small dwelling, such development would be at the expense of the amenity of the adjacent cottages and the cluster of buildings as a whole, given that this rocky open area is a key environmental feature of this group of buildings. To develop it would not be consistent with the provisions of Policy LP ENV 19 of the Argyll and Bute Local Plan, insofar as it would not secure an appropriate relationship with its surroundings.

C. Natural Environment

Given that this is garden land, there is nothing of note within the site or in the immediate area in terms of natural environment interests.

D. Built Environment

This small enclave in the vicinity of Baluachrach constitutes what was originally a small clachan sitting above and to the south of Tarbert harbour, relatively close to the Castle. It would have comprised a former crofting community. The original development pattern is still evident, although most of the original croft houses have now been replaced with more recent or adapted homes. However, the layout of the buildings and the predominantly small scale of the dwellings reflect historic land ownership, and the ad hoc loosely knit character is one of a grouping of buildings around a central open area. That area presently forms the side garden of the applicant's dwelling, Mudheireadh, and is likely to have remained free from development hitherto due to the outcropping of bedrock across the site.

Whilst an undeveloped side garden can present an opportunity for infill development capable of reinforcing the established density and pattern of development, and is supported in principle by development plan policy, there are circumstances where it is important to maintain open areas in the interests of the character and amenity of the surrounding area, and this is one of those instances. Any dwelling sited on this plot would need to be small and necessarily be located at right angles to the applicant's dwelling and the terrace of cottages adjacent to the site (as the applicant's illustrative scheme shows). The development of a dwelling utilising this central undeveloped portion of the former clachan would remove the existing open space which provides relief to the surrounding buildings and would be to the detriment of the amenity of this loose cluster of buildings in general, and that of the immediately adjacent dwellings in particular.

It would fail to secure a form of development which satisfies the requirements of local plan policies LP HOU 1 or LP ENV 19.

E. Road Network, Parking and Associated Transport Matters.

The vicinity of the site is accessed via the public road past Tarbert Academy and then along the somewhat contrived and congested road access serving flats and houses to the south of the site (and then on towards the castle), before leaving the public road via a difficult to negotiate hairpin onto a private unmade and unadopted single vehicle width access track, currently serving 9 properties in total. This then splits in the vicinity of the current access point into the site, to serve 5 properties and 4 properties respectively.

The current entrance to Mudheireadh is from the arm of unmade track passing along the southern boundary. The proposed entrance to the plot and the necessarily repositioned access to Mudheireadh would be formed from the second arm of the track running up the western boundary of the plot. This access already serves 5 dwellings, including the 2 recently completed properties. It runs immediately in front of 3 existing cottages and the margin of the track is required for parking in connection with those cottages without off-street parking space. Adequate on-site parking and turning space for both the proposed plot and Mudheireadh are shown in the illustrative sketch scheme.

The Roads Engineer is of the view that the geometry of the existing access makes it unsuitable to sustain further development. The existing public roads in the immediate vicinity are narrow and heavily parked with resident's vehicles. This also restricts the ability of this area to sustain further development. While the condition of the access could be improved by surfacing, this would not benefit the usability of the hairpin entrance into the private access system from the public road. Furthermore, it would not overcome any conflict with existing parking along the margins of the private access, and would lead to additional traffic passing at close quarters to the terraced properties adjacent to the plot, as this arm of the access would then come into use for both Mudheireadh and the proposed additional dwelling, bringing the total number of dwellings using this access to 7 which, given its proximity to the buildings, would lead to disturbance and be to the detriment of the residential amenity of the existing occupiers.

It is noted that a representation mentions fire safety because of the inadequate access arrangements. However, despite consultation, no response has been received from Strathclyde Fire and Rescue on this point.

As the proposed intensification of use of the existing sub-standard access regime is considered to present adverse consequences for residential amenity, the legalities of the applicant being in a position to surface the existing unmade access have not been explored. Nonetheless, its additional usage would present unacceptable road safety and amenity consequences for the occupiers of neighbouring properties contrary to local plan policy LP TRAN 4.

F. Infrastructure

The proposal would be connected into the adopted foul drainage and public water main systems, to which no objections have been raised by Scottish Water.