

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE**  
**held in the GIBSON HALL, GARELOCHHEAD**  
**on MONDAY, 18 JUNE 2012**

**Present:** Councillor Sandy Taylor (Chair)

Councillor Gordon Blair	Councillor Alistair MacDougall
Councillor Robin Currie	Councillor Robert G MacIntyre
Councillor Mary Jean Devon	Councillor Richard Trail

**Attending:** Charles Reppke, Head of Governance and Law  
Richard Kerr, Principal Planning Officer  
Sandra Davies, Planning Officer  
Campbell Divertie, Roads and Amenity Services  
Nick Wright, Applicant's Agent  
John Smith, Applicant  
Lisanne Smith, Applicant  
Colin Smith, Community Council  
Councillor George Freeman, Objector  
Ron Fletcher, Objector  
Lesley Forrest, Objector  
Grant Ross, Objector

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Colville, Freeman, Hall, Kinniburgh, MacMillan, McNaughton and McQueen.

**2. DECLARATIONS OF INTEREST**

Councillor George Freeman had declared a non-financial interest in the application prior to the meeting as he was objecting to it; he had also submitted his apologies to the meeting to allow him to speak as an objector.

**3. MR AND MRS JOHN SMITH: ERECTION OF DWELLINGHOUSE, INSTALLATION OF PRIVATE SEWAGE TREATMENT FACILITY AND FORMATION OF NEW ACCESS: LAND NORTH WEST OF FINNART FARMHOUSE, FEUINNS ROAD, PORTINCAPLE (REF: 12/00818/PP)**

The Chair welcomed those present to the meeting and asked the Committee to make introductions. He invited Mr Reppke to outline the procedure that would be followed during the meeting.

Mr Reppke outlined the procedure and then asked those who wished to speak to make themselves known to the Committee.

Richard Kerr, Principal Planning Officer, advised that the application had been considered by the Committee at their meeting on 31 May 2012. It had been referred to the Committee due to the number of representations received and had been continued by the Committee to a PAN41 Hearing as the application was recommended for approval subject to a minor departure from the Local

Plan. Mr Kerr advised that the Members of the Committee had visited the site earlier that morning.

Sandra Davies, Planning Officer, advised that the application was for the erection of a single dwellinghouse, installation of private sewage treatment facility and formation of new access at land North West of Finnart Farmhouse, Feuins Road, Portincaple. She showed some slides to the Committee which showed the land designation in accordance with the Local Plan and the site over these designated areas. She advised that 7% of the site was within a Countryside around Settlement area. Sandra then described the development, which would be a 3 bedroom dwelling over 2 levels, and described the materials that would be used. She advised that because the development was on the slope there would be some underbuilding required which would be balanced by the elevations of the house and which satisfied LP ENV 19. Sandra then showed some photo montages that had been submitted by the applicant which showed the site from a number of different locations. Sandra then advised that as 7% of the garden ground was in Countryside around Settlement area, a planning condition had been put in place to ensure that this garden ground remained undeveloped should the application be approved. Sandra advised that the site was in an area of panoramic quality of open moor like character. She advised that SNH were aware that this area was sensitive to change but had no objection to the application. Sandra told the Committee that there were a large number of objections to the application relating to the positioning of the house, impact on panoramic views, traffic, drainage, environment and nature. In terms of traffic she advised that the roads department had no objection to the proposal and the Flood Alleviation Officer was satisfied with drainage proposals. Apart from the 7% of the site which was in the Countryside around Settlement area, the proposal was in accordance with the Local Plan and therefore she advised that they were recommending approval of the application subject to conditions.

Nick Wright, agent for the applicant introduced himself to the Committee. He began by showing slides which demonstrated the zone for development and the surrounding Countryside around Settlement zone. He advised that 93% of the site fell within the development zone. He advised that the design of the house fitted in with the Local Plan and was in accordance with the Councils Detailed Design and Sustainable Design Guidance. He advised that the Planners had been satisfied by the design that had been submitted; that they had been through a rigorous design process to fit this house in with other houses in Argyll and it would be built of sustainable materials. He showed some slides showing different elevations of the house and a number of photo montages of how the house would be seen from different angles, with and without foliage. He advised that he was aware that there had been a number of objections raised due to the site being in an area of panoramic quality due to the views across the loch towards Portincaple but added that the Local Plan allowed for development in these areas as long as it fitted in with planning guidance, which the application did. With regard to traffic and drainage, he advised that both the Councils' roads engineer and its flooding engineer had no objection to the proposal. He told the Committee that previously Councillor Freeman had raised concerns over the first application regarding flooding but these issues had been resolved in consultation with the Flood Alleviation Officer. With regard to the 7% of the site that was within the Countryside around Settlement area he advised that a condition had been put in place by planners to address this. Mr Wright quoted part of the Scottish Government Planning Policy 2010 which advised that a Development

Plan should support small scale housing development and added that he believed the Argyll and Bute Development Plan supported this and so did the application. He asked that the Committee stand by Planning Policy and approve the application.

Campbell Divertie, Roads and Amenity Services, advised that the proposed driveway joined the Feuins Road on an approximately 250m straight section of road. He advised of various widths at different points of the access road and advised that the forward visibility was well beyond the minimum requirements. Mr Divertie told the Committee that he had been involved at an early stage in the design process; with the applicant. He advised that the driveway gradients were in accordance with the Council's guidelines and that parking and turning areas were in accordance with LP TRAN 6. He advised that he had no objection to the proposal.

Colin Smith spoke on behalf of the Community Council. He advised that they were not against development in a settlement area but were opposed to the proposed development in an area of panoramic quality. He advised that the proposal would block the view of the entrance to Loch Goil and Loch Long in the only area that this could be seen. He advised that a number of vehicles regularly stop on the road at that particular spot to take in the view and to take photographs. He advised that by moving the designated settlement area down the hill it would mean that the view would not be obscured as you would see over the roofline. He added that the 33% footprint was also large for such a rural area. Mr Smith then spoke about the smell from septic tanks in the area. He advised that in the summer, when there was less rainfall, there was a smell around the burn from the septic tanks already in the area and that the ground had reached saturation point. He advised that reed beds could alleviate this problem.

Councillor George Freeman, an objector, distributed copies of notes that he had prepared. He advised that he had done some more work over the weekend which strengthened his case and informed the Committee that he had prepared a competent Motion should they be minded to refuse the application.

He began his presentation by saying that he was not anti development. He advised that in 13 years he had not had an objection to any application before him. He advised that the main issues for his objection were highlighted on the handout he had prepared. He told the Committee that although the majority of the site was within the settlement boundary, there was a slight area outwith which fell into the Countryside around Settlement, and this failed to comply with planning policies STRAT DC2 and LP HOU1 and because of this he argued strongly against the development. Councillor Freeman advised that the development would have a serious detrimental impact on the area of panoramic quality and that the proposal was inappropriate for the site. He added that even although the site was on a slope there would still be an impact, the most important views in the area towards Loch Goil and Loch Long would be destroyed which the Council has a responsibility to protect. He advised that the other houses in Portincaple are hidden from view whereby this proposal would be prominent. He added that the orientation of the house, with the gable end of the building at the road was also inappropriate as other houses in the area faced the road. Councillor Freeman quoted paragraph 3.1 of the Local Plan and advised that the proposal would fail to meet the aims within the plan. Councillor

Freeman added that the proposal also failed to comply with policy LP ENV10, which dealt with areas of panoramic quality and aimed to provide these areas with protection against damaging development. He added that any significant adverse effects on the quality for which the area has been designated should be outweighed by social or economic benefits of national or regional importance. He advised that the development would have a significant adverse impact on the area and would likely be followed by further development which would destroy the area completely. He urged the Committee to reject the application and to take responsibility to provide protection from destroying one of the most dramatic and wonderful views in Argyll and Bute.

Ron Fletcher, Objector, also distributed a hand out to the Committee which covered practical and technical issues raised by the application as shown on the Drawings, Design Statement and Drainage Report and which also commented on the Application Report dated 23 May 2012. Mr Fletcher read his handout to the Committee.

Grant Ross, Objector, began by saying that Mr Kerr had earlier confirmed in his presentation that the application was not compliant with the Local Plan. He advised that the development would be in a designated area of panoramic quality and that it was a responsibility of the Council to ensure protection of these areas. He advised that he had only lived in Portincaple for 10 years, which was a relatively short time, but was heart broken by the development proposal and was reassured by other residents that however long he had lived in the area the view was an important reference to Portincaple; the development would have an impact on the community and would be a big issue locally. He added that there were very few residents in Portincaple who were against development in general. Mr Ross quoted point 6 on page 28 of the agenda pack regarding defining a material consideration and added that his objection was not based on self interest but in the general interest of protecting the community. He added that point 6 on page 28 of the agenda pack should be considered as the key interest of the Committee.

Lesley Forrest, Objector, highlighted that this was a defining moment whereby the decision of the Committee could change the view forever. She advised the house would be placed obtrusively in the middle of the view. She added that the residents had been unaware of any change to the Local Plan to allow development on this area of panoramic quality and that the development would not bring any social or economic benefits to the community. Ms Forrest told the Committee that the increase in traffic would cause problems. The road was difficult in snow and ice and should any vehicle have to stop on the hill to let another by then it would most definitely get stuck. She advised that there had been 55 objections to the proposal and no letters of support. Ms Forrest highlighted that the area of panoramic quality was enjoyed by visitors from all over the world and for many it was the first proper view of west of Scotland beauty. She finished by saying that other houses would follow should the application be approved and that they could say goodbye to the panorama.

The Chair invited Members to pose questions to any party who had spoken.

Councillor Trail advised that he had a question regarding the photo montages shown by the Planning Department which had been clarified when the applicant's agent had spoken.

Councillor Currie highlighted that he had heard a lot of comments from objectors regarding the house being the first of many and commented that this area had been designated as a settlement zone. Councillor Freeman replied that at the time he had agreed the Local Plan he was unaware that this area had been designated as a settlement boundary and that it should never have been included. He added that this had been a mistake and he held his hands up, that now could be a time to fix the mistake by refusing the application.

Councillor Currie asked what weight Councillor Freeman's comment regarding the fact the area should never have been designated as a settlement boundary should be given.

Richard Kerr replied by saying that the decision had been taken at the time of the Local Plan being agreed, that consultations had taken place at the time and this could now not be taken into consideration as the area was now a designated settlement zone and any decisions should be based on that fact.

Councillor Devon asked for clarification whether or not the hearing would be taking place if it wasn't for the 7% of ground that lay within the countryside around settlement area. Richard Kerr explained that they would still have recommended a discretionary hearing due to the number of representations that had been made and that it would have been at the discretion of the Committee whether they held the hearing or not. He explained that as 7% of the ground was in the Countryside around Settlement area, this was the reason a PAN 41 hearing was being held; it was due to the recommendation of minor departure from the Local Plan as well as the number of representations made.

Councillor Trail asked the Objectors if they felt the photo montages had misrepresented the views. Mr Ross advised that they had not misrepresented the views; that they had shown how close the gable end of the house would be to the road. Ms Forrest added that a photo montage showing the house in the centre of the view looking out towards Loch Goil would have shown the Committee a completely different view of the house. Mr Ross added that anything placed on that site would spoil the view and prevent people from stopping to admire it. Councillor Freeman advised that the focus provided on the montages did not take into account the APQ and the photo that was taken across the loch and shown in their slides was more important.

Councillor Blair asked for confirmation of how many septic tanks there were in the area that were discharging into the burn. Mr Fletcher advised that there were possibly 4 or 5 but could not be sure.

Councillor Currie asked for confirmation that Councillor Freeman had said that it was the views across the loch that were important and could they not be viewed from a different area. Councillor Freeman advised that where folk usually stood to look across the loch was right where the development would be.

Councillor MacIntyre asked for confirmation from roads regarding the visibility splays and gradients in the access were satisfactory. Campbell Divertie advised what the gradients were at different stages of the access and confirmed that everything was acceptable.

Councillor Blair asked if tourists parking on the road to admire the view had caused problems. Mr Fletcher advised that normally they parked in a small widening in the road at the top of the hill. Ms Forrest added that the extra traffic could be a problem as the top of the hill was the only place on the road to turn.

Councillor Taylor asked for clarification on assertions made by the Objectors relating to APQs and the social and economic benefits that should outweigh the impact of a development on the area; that had been mentioned by Councillor Freeman. Richard Kerr replied by saying that there had been a misinterpretation of the policy. If a development is proposed on an APQ then planners must consider whether the development would have a significant impact on the landscape, only if the answer was yes, then the benefits would be taken into consideration. He added that he did not believe that the proposed development would have such significant impact that benefits would need to be taken into consideration.

The Chair invited all parties to sum up.

Sandra Davies, Planning Officer, reaffirmed that 93% of the site was within the settlement boundary and that the Plan was in support of the application. With regard to the APQ and the amount the house would impinge on the view she advised that the view would not be blocked entirely by the development and could be viewed from either side of the house. She recommended approval of the application.

Mr Wright, Agent for the applicant summed up by replying to a number of issues that had been raised by Objectors. He highlighted the impact of the development on the views across the water as an important issue and advised that the development would not block the view and that it would sit down from the road. In response to the comments made regarding the proposal failing to comply with policy, he agreed that it did fail, but only by the 7% that was outwith the settlement boundary. In response to Ms Forrest's comments regarding the decision over the development being a defining moment in the history of Portincaple he replied by saying that the place had evolved over time and therefore the erection of the other houses in Portincaple had surely also been defining moments and if this application was to be refused then surely the others should be also. He advised that he understood the concerns over drainage and smell but added that the applicant intended to live in the property and would not like a smell either. In response to comments made that the area should never have been placed in the settlement zone, he replied that it was included in the local plan and that Members should be in support of the Local Plan. He then made reference to the number of objections that had been received and according to his calculations, only half of the 67 households in Portincaple had objected. He concluded by adding that he felt it was unfair that the opposition had produced further information on Friday night that they had no had the opportunity to comment on.

Campbell Divertie, Roads and Amenity Services replied to concerns regarding the parking within the development by saying that 2.5m was more than ample within the development. In response to Mr Fletcher's comments regarding any mess on the road from the construction phase he advised that this would be an offence and that there were measures to control this in place.

Mr Smith of the Community Council advised the Community Council had not been aware of any changes were being made to the Local Plan. He reiterated his point about the number of septic tank outfalls stating that there were 3 houses above the site and 5 houses below that went into the burn. Mr Smith told the Committee that as eyelevel was around 5ft above the road; the ridge of the roof would be right in the middle of the view; and because of the settlement boundary it meant that the development could not be moved. He made reference to the underbuilding and the lounge windows looking like they were floor to ceiling level. Mr Smith advised that the development would not be visible from the A814 as it would be shielded by trees; but that this did not matter as there was no way to stop on the A814 to admire the view. In response to Mt Wrights comment that if the application should be refused then surely the other houses should have been refused also; he advised that the existing houses had been built long before the Local Plan had come into operation. With regard to the mess on the road during the construction phase and Mr Divertie's comment regarding measures that were in place to control this; he questioned whether this should be included as a planning condition. He asked if removal of the 7% of land within the Countryside around Settlement Area was possible as there were other areas of land that could be used instead that were not inside this zone. In conclusion he asked that the gradients of the driveway below road level could be looked at as it would pose problems especially in winter.

Mr Ross summed up by saying that there were many reasons to object to the proposal and that it was now up to the Committee to decide. He stated that there was substantial opposition to the proposal, that he could understand why the applicant would want to settle in Portincaple but there were other sites that could be used.

Ms Forrest summed up by saying that there had been no defining moments during the evolution of Portincaple as it was not until now that a development had been proposed in the middle of the view. She referred to all the photographs that had been shown of the view that would be ruined should the development be approved and that folk could not stop on the A814 to admire the view as it was a busy road. She concluded by saying that there had been a mistake made designating this area as settlement in the Local Plan and now was the time that this could be sorted.

Councillor Freeman summed up by saying that it would make no change to the objection whether the 7% of land within the CAS zone was removed. He reiterated that if the development was approved then no tourists would stop to admire the view which could only be seen from that site. He added that the proposal did not comply with policy. He advised that the change in the Local Plan did not affect the other houses in the area that had been built and that he was not asking to change the Local Plan but that if it was taken into consideration then the Committee would refuse the application as it was not compliant. He added that the APQ would be ruined and that there were no social or economic benefits to outweigh this Councillor Freeman concluded by saying that if Members were minded to refuse the application, he had prepared a competent Motion that could be used. This was distributed to the Committee.

The Chair asked all parties present to confirm that they felt they had received a fair hearing to which they confirmed that they had.

As Councillor Freeman had declared an interest in the application he left the room before any debate took place.

Councillor Trail advised that the design, location and effect on the view seemed to be the main problems with the application. He advised that he did not feel that the design was outkeeping with other buildings in the area. With regard to the view point, he advised that the view could also be obtained from the gate at Finnart Farm and that there were already telegraph poles obscuring the view. He added that in his opinion the best point to obtain the view would be from the junction with the A814 where you would only see the roof of the development. He advised that he supported the application.

Councillor Currie advised that although he had sympathy for the objectors that the Local Plan was the most important document in Planning terms. He said that it was important that communities make their views on a Local Plan known at the consultation stage. He said that this was not the time to fix mistakes that were made when the plan was approved. He added that 93% of the application was compliant with the Local Plan, that only 7% was a departure and that was covered by a condition and because of that he advised that he supported the application.

Councillor Devon said that the obvious problem with the application was the possible impact the development could have on the view across the Loch. She said that the protection of a view was not a material consideration and that while she had sympathy for the objectors' arguments she, however, agreed with the Planners' assessment that this could be justified as set out in the report and she supported the application.

## **Decision**

Approved the application as a minor departure to development plan policy subject to conditions as detailed in the report by the Head of Planning and Regulatory Services.

(Reference: Supplementary Report 1 by Head of Planning and Regulatory Services dated 28 May 2012, submitted; Report by Head of Planning and Regulatory Services dated 23 May 2012, submitted; Handout by Councillor George Freeman, tabled; Handout by Ron Fletcher, tabled)