

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: 12/00201/PP

Planning Hierarchy: Local Development

Applicant: RSM Tenon

Proposal: Discharge of a Section 50 agreement relative to planning application reference 01/09/0418

Site Address: Glenorchy Lodge, Dalmally, Argyll and Bute, PA33 1AA

(A) DETAILS OF APPLICATION:

This application is seeking planning permission to discharge an existing Section 50 Legal Agreement relative to planning permission (Our Ref: 91/00418/DET001) which prevents the separate sale of the existing dwellinghouse from Glenorchy Lodge, requiring that they are retained in the same ownership in all time coming.

(B) BACKGROUND

On 24th March 1994 planning permission 91/00418/DET001 was granted for the erection of a detached dwellinghouse within the application site which is subject to the current planning application. However, planning permission was granted subject to a Section 50 Legal Agreement which tied the approved dwellinghouse and Glenorchy Lodge together in the same ownership, the house having been justified as necessary for staff/owner accommodation for the Glenorchy Lodge. At that time, the house was accessed via a shared track with that of the hotel via a route that would have given rise to bad neighbour in reverse issues in the absence of an association with the hotel.

(C) REQUEST FOR REMOVAL OF AGREEMENT:

A discharge of the existing Section 50 Legal Agreement is now being sought as the applicant wishes to remove the restriction, because the occupancy restriction is no longer required. In support of this case, it is highlighted that several recent applications for single detached dwellinghouses within the surrounding area have been granted with no Section 75 Legal Agreement attached.

For instance, on land situated to the south west of the application site, outline planning permission (Our Ref: 04/00995/OUT) was granted for the erection of a single, detached dwellinghouse on the 14th July 2004. More recently, detailed planning permission (Our Ref: 06/00823/DET) was granted on the 9th June 2006 for the erection of a 1½ storey, detached dwellinghouse within the same application site. Similarly, on land east of the existing dwellinghouse known as Glenlyon House,

outline planning permission (Our Ref: 04/00794/OUT) was granted on the 23rd June 2004 for the erection of a single, detached dwellinghouse. More recently, detailed planning permission (Our Ref: 05/01103/DET) was granted on the 19th July 2005 for the erection of a 2 storey, detached dwellinghouse.

The Planning etc. (Scotland) Act 2006, allows for Legal Agreements to be discharged via a planning application to the Planning Authority.

Argyll and Bute Local Plan 2009 identifies the site within the development zone identified as the 'Settlement' of Dalmally, where Structure Plan Policy 'STRAT DC 1 – Development within the Settlements', gives a general presumption in favour of residential development within the development zone. Although granted with the restriction in place, the existing house is not so interconnected with the Lodge as to be indivisible from it now, particularly as policy now supports general housing development in the area. The proposal for a stand-alone dwellinghouse within this locale is acceptable and satisfies Policy 'STRAT DC 1'.

Further changes in circumstances have also occurred in the intervening years. The previously shared access track has been replaced with a dedicated access off of the C61 Dalmally Village public loop road serving the house and a neighbouring house, separately from the Lodge access. This removes the potential for conflicts between the Lodge and the house, and effectively supersedes the reasons for the original occupancy restriction. The existing access is to be unchanged. The proposal satisfies Policy 'LP TRAN 4' of the Argyll and Bute Local Plan 2009.

On request, the agent has also submitted an additional site plan illustrating the existing on-site vehicular parking and proposed dedicated residential curtilage for the house. The proposal satisfies Policy 'LP TRAN 6' of the Argyll and Bute Local Plan 2009.

Significant areas of mature vegetation between the house and the Lodge mean that the two properties are barely intervisible and they do not remain inter-dependent. The Lodge retains a private internal flat which could serve for owners accommodation and the occupants of the house no longer have any direct association with the Lodge following the owning company going into administration.

Given that current policy allocates the site as suitable for general market housing, and because the house is not physically dependant on the Lodge or inter-connected with it to such a degree as to be indivisible from it, the proposal for an unrestricted house is acceptable.

(D) RECOMMENDATION:

In light of all the above and with regard to the Development Plan and all other material planning considerations, it is recommended that planning permission be granted, and the existing Section 50 Agreement (now termed a Section 75 Agreement) be discharged.

Author of Report: Walter Wyllie
Reviewing Officer: Stephen Fair

Date: 24/07/12
Date: 07/08/12

Angus Gilmour
Head of Planning and Regulatory Service