

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: 12/01189/PP

Planning Hierarchy: Local

Applicant: Mr Peter Hardy

Proposal: Renewal of Planning Permission 06/01710/DET – Erection of 8 Flats and 2 Detached Dwellings; Formation of Vehicular Access and Parking; and Installation of Private Foul Drainage System

Site Address: Land South of Southpark, Ascog, Isle of Bute

DECISION ROUTE

(i) Local Government (Scotland) Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of eight flats (in two blocks of four);
- Erection of two detached dwellings with detached garages;
- Formation of vehicular access;
- Installation of private foul drainage system.

Other specified operations

- Connection to public water supply
-

(B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission be granted, as a 'minor departure' to the provisions of the Development Plan, subject to the conditions, reasons and informative notes given within this report.

(C) HISTORY:

Planning Permission (ref: 06/01710/DET) was granted on 26th June 2007 for the erection of 8 Flats and 2 detached dwellings; formation of vehicular access and parking; and installation of private foul drainage system.

(D) CONSULTATIONS:

Scottish Water (letter dated 7th June 2012) No objections – there are no public sewers available whilst the public water supply is able to support the development.

Area Roads Manager – no comments received at the time of writing.

Scottish Natural Heritage – no comments received at the time of writing.

E) PUBLICITY:

Neighbour notification procedure (closing date 21st June 2012) and Conservation Area/Setting of Listed Building Advert (closing date 6th July 2012).

(F) REPRESENTATIONS:

Representations have been received from a total of thirty sources as follows:

Margaret Morrison, Southpark, Ascog (e-mail dated 8th June 2012)
P J Kirkham, Crofton Cottage, Ascog, (letter dated 19th June 2012)
A Kirkham, Crofton Cottage, Ascog (letter dated 19th June 2012)
Yvonne Thomas, Balmory Hall, Ascog (e-mail dated 20th June 2012)
John Thomas, Balmory Hall, Ascog, (e-mail dated 20th June 2012)
George Morrison, Dun Eistein, Loch Ascog (e-mail dated 22nd June 2012)
Norman Foster, Seal Lodge, Ascog, (letter dated 27th June 2012)
Beryl Harrison, Huf Haus, Ascog (letter dated 28th June 2012)
Tony Harrison, Huf Haus, Ascog (letter dated 28th June 2012)
Richard Carley, Clyde House, Ascog (e-mail dated 29th June 2012)
Christine Carley, Clyde House, Ascog (e-mail dated 29th June 2012)
Dr David Reid, Millburn Cottage, Ascog (e-mail dated 29th June 2012)
Jean Reid, Millburn Cottage, Ascog (e-mail dated 29th June 2012)
Elizabeth Henderson, Rosemount, Ascog (e-mail dated 30th June 2012)
Michael Henry, Torwood, Crichton Road, Rothesay (e-mail dated 30th June 2012)
Ronald H Falconer, Hawkstone Lodge, Ascog (letters dated 30th June 2012 and 7th August 2012)
Marjorie A Falconer, Hawkstone Lodge, Ascog (letter dated 30th June 2012)
Stuart Falconer, 10 Queen Square, Glasgow (e-mail dated 2nd July 2012)
Dr Julia Lowe, 2181 Yonge Street, Toronto, Canada (e-mail dated 3rd July 2012)
James Hendry, Invergyle Cottage, Rothesay (e-mail dated 3rd July 2012)
Jacqueline Hendry, Invergyle Cottage, Rothesay (e-mail dated 3rd July 2012)
Kerr Falconer, 200 Elliott Street, Glasgow (e-mail dated 3rd July 2012)
Irina Falconer, 200 Elliott Street, Glasgow (e-mail dated 3rd July 2012)
Lindsay Ashton, 7 Fairisky Avenue, Mermaid Waters, Queensland, Australia (e-mail dated 4th July 2012)
Dr David Henry, Hawkstone Lodge, Ascog (e-mail dated 4th July 2012)
David Morrison, Southpark, Ascog, (letter dated 5th July 2012)
Mr and Mrs Henry Thomson, Stella Matutina, Ascog (e-mail dated 5th July 2012)
Robert Bone, Parkview, Milnab Terrace, Crieff (letter dated 5th July 2012)
Andrew Henry, 14a Queenstown Road, London (e-mail dated 6th July 2012)
Gail Foster, Seal Lodge, Ascog (e-mail dated 6th July 2012)

The points raised can be summarised as follows:

- a. Concern is expressed that the methods to be used to dig foundations through the rock on the site could have severe repercussions for the properties at Southpark.

Comment: This is essentially a civil matter between the parties concerned. Foundation details will be addressed at Building Warrant stage.

- b. The Isle of Bute already has a number of properties for sale (both new and second hand), some of which have been on the market for several years.

Comment: The lack of need for a development does not have a material bearing upon the planning aspects of the case.

- c. The proposed development site is only partly within the 'settlement zone' of Rothesay. Approximately one-third of the site is within 'Countryside Around Settlement'.

Comment: The actual physical development identified in the application all takes place within the 'settlement zone'. No development is to take place within the area beyond the settlement boundary at the rear of the site, nor on the associated foreshore land on the opposite side of the road at the front of the development site.

- d. Concern is raised regarding the impact of the proposal upon trees. The application is not specific on how these will be preserved and safeguarded from damage.

Comment: No significant trees are at risk from the physical development in the application.

- e. The proposal for two blocks of four flats is completely out of character with the types of dwellings currently existing in this part of Ascog. There is no sensitivity in the scale or design of the proposed development it will have a huge environmental impact both physically and visually.

Comment: This issue was addressed at the time of the previous application when it was considered that the proposal represented an acceptable form of development.

- f. The proposals form a development that is at odds with Ascog's conservation status. In parallel the development will be detrimental to the setting of the neighbouring listed building.

Comment: The site lies outwith the boundary of the defined Rothesay Conservation Area. The issue of impact upon neighbouring Listed Buildings was addressed at the time of the previous application when it was considered that the proposal would not harm the setting of Listed Buildings in the vicinity.

- g. The proposed development will lead to further congestion on the main road and lead to further road safety concerns.

Comment: This issue was addressed at the time of the previous application when the Area Roads Manager raised no objection to the proposal subject to conditions.

- h. The proposed development would constitute 'Ribbon Development' (not infill development as summarised in the planning application) in that it extends development southwards along the coastline.

Comment: This issue was addressed at the time of the previous application when it was considered that the proposal represented an acceptable form of development.

- i. The level of amenity presently enjoyed by Hawkstone Lodge will be adversely impacted by this proposal, particularly in terms of outlook to the north and north-east.

Comment: This issue was addressed at the time of the previous application when it was considered that, due to the distance between the relevant properties, there would be no diminution in the privacy or amenity of Hawkstone Lodge.

- j. Concern regarding light pollution. Night-time darkness which surrounds Hawkstone Lodge will be destroyed by the street light associated with the development

Comment: This issue was addressed at the time of the previous application when the Council's Public Protection Service had raised no concerns in this regard.

- k. Increase in noise and dust levels during construction works and increased noise levels due to increased persons and traffic residing at the development.

Comment: This issue was raised at the time of the previous application when the Council's Public Protection Service has raised no concerns in this regard.

- l. The foreshore will become a private amenity space for the use of those residing in the development. It appears that this public amenity is to be denied.

Comment: The submitted drawings include the foreshore within the application site; however no development or change of use is sought for the foreshore.

- m. Concerns regarding local flora, fauna and wildlife that has been seen within the application site. No environmental survey has been undertaken.

Comment: This issue was addressed at the time of the previous application when it was established that there are no known natural heritage interests within the site and there is no requirement for an environmental or ecological survey to be undertaken.

- n. SuDS drainage may not be feasible due to existing ground conditions.

Comment: This issue was addressed at the time of the previous application when SEPA raised no concerns in this regard.

- o. If the soakaway drainage includes discharge from the packaged sewage treatment plant then this could contaminate groundwater leading to unpleasant and possibly malodorous conditions and possibly a potential health hazard both on site and at Southpark and Hawkstone Lodge.

Comment: This issue was addressed at the time of the previous application when SEPA raised no concerns in this regard.

- p. Concern has been expressed that the development of the site has a significant flooding issue associated with it.

Comment: This issue was addressed at the time of the previous application when the applicant submitted a Flood Risk Assessment which concluded with the recommendation of increasing final floor levels and creating a minimum ground level across the site in order to minimise risk of flooding.

- q. The Ascog road is used by many tourists and local people for recreation, including tourist buses visiting Mount Stuart. The overall ambience is important in attracting return visitors to the island. I believe this would be diminished by the proposed development.

Comment: This issue was addressed at the time of the previous application when it was considered that the proposal represented an acceptable form of development.

- r. Such a high density of development is quite out of keeping with general character of the area.

Comment: This issue was addressed at the time of the previous application when it was considered that the proposal represented an acceptable form of development.

- s. It should be pointed out that the Drawing No. 0553/P01 Rev A as amended on 27 July remains incorrect and this is regarded as a significant deficiency in the application. The amended plan and annotation showing ground in the applicant's ownership shows a substantial area of ground adjacent to the proposed site as being in the 'applicant's ownership'. This is not the case. The delineation of land ownership is regarded as an important issue highly relevant to this application and the Council would expect a reasonable standard of thoroughness in researching any application site.

Comment: It is acknowledged that the Site Plan accompanying the application as originally submitted identified land outwith the development site as being within the ownership of the applicant. This was the same plan that was submitted when application 06/01710/DET was being considered. However, the applicants only own the application site and the certification with the application confirms this. All of the neighbouring properties have been notified in accordance with Regulation 18 and it is not considered that any party has been prejudiced by the originally-submitted Site Plan.

- t. It is noted that the Flood Risk Assessment has now been submitted but that this was not available on the public website as part of the original renewal application and presumably was not submitted at that time. It is also suggested that the recent flooding incidents, some of which are illustrated in the objection of 27 June 2012 merit review and updating of this report which is now over 5 years old; including consideration of climate change and the likely increased frequency and severity of extreme rainfall events, and whether proposals are still considered adequate to ensure no adverse impact on adjacent properties and the site itself. The Terrenus report also refers to an Appendix including Figures and Plans which at this stage there is difficulty in locating in the submission.

Comment: See comment on point P above.

- u. It is also noted that Stewart Associates argue that because an Environmental Statement was not requested at the time of the original application, then none is required now. There has been an increase in biodiversity and species potentially impacted by the development since the time of the original application and that recent environmental legislation is relevant. Stewart Associates appear to question this view on the potential impact on the local environment and on protected species in or adjacent to the site. These issues are regarded as important in the consideration of any development proposal and particularly at this site for the reasons given; and that this divergence of views would be settled by conducting specialist surveys and the preparation of an Environmental Statement. The onus should be on the developer to demonstrate no adverse impact, or proposals to mitigate any impact.

Comment: Having regard to the 2011 Regulations, there is no statutory requirement for an Environmental Statement to be submitted.

The above represents a summary of the issues raised. Full details of the letters of representation are available on the Council's Public Access System by clicking on the following link <http://www.argyll-bute.gov.uk/content/planning/publicaccess>.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

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

Stewart Associates have produced a Design Statement, which can be summarised as follows:

The site comprises three distinct parts: the foreshore to the east of the public road; a large relatively flat grassed section (the developable area); and a sloping wooded section to the west. The first part allows future purchasers private access to the foreshore whilst the last part provides a green “edge” to the site forming part of a continuous woodland strip from Balmory Road to the south.

Southpark dominates the approach into Ascog from the south but has a lesser presence when leaving the settlement to the north, Hawkstone is less imposing and is largely screened by mature tree planting. On this basis, the scale and massing of the proposed apartment blocks have been considered relative to Southpark with the intention of providing contemporary buildings which maintain the rhythm of building and landscape.

Ascog, and particularly the southern end, is characterised by large buildings set in sizeable gardens with a virtually continuous tree screen at the higher ground away from the foreshore. The massing and scale of the proposed apartments and houses reflect this pattern. The landscaped setting of Southpark and, in particular, views toward it from the south, should be protected. This is reflected in the relative positions of Blocks A and B, which are staggered to maintain the vista.

The apartments and houses have common elements of design which clearly identify them as being part of the same development. Both types share a common theme of having two “wings” (bedroom and lounge) connected by a flat roofed glazed link. Features such as projecting bays, similar window and door proportions and the key relationship of solids and voids are common to all house types.

(iv) Supporting Information

Stewart Associates (letter dated 25th July 2012) have provided a response to the representations that have been received. This can be summarised as follows:

The scheme is sympathetic in scale, massing and relationship to the semi-rural site in the knowledge that space around the buildings in as important as the buildings themselves.

The scheme demonstrably does not adversely impact on the adjacent buildings with the chosen site layout and sightlines being specifically designed to complement the adjacent Southpark property.

There is no requirement for a specific habitat survey to be provided nor is it considered necessary by any of the consultees. The developable part of the site is a relatively featureless flat field whilst the woodland and shore-side area are retained as is.

All building habitable rooms are at least 20 metres from Hawkstone Lodge and this was a design constraint that was carefully considered when planning the layout.

The requirements for street lighting would be determined in consultation with the Council's Roads Department since the road is to be adopted and it is agreed that a suitably low-key approach would be appropriate.

Any potential flood risk has been addressed in the scheme proposed by the civil engineer, which was prepared in accordance with the recommendation of the Terrenus Flood Risk Report dated 2nd March 2007. In summary, there is no flood risk to adjacent properties as a result of the applicant's proposals nor is there any flood risk to the development.

Since the area of mature woodland is uphill from the development site and no work is proposed to this area, the nature of this objection is not understood. On a positive note, further tree planting is proposed as part of the managed landscape scheme.

The development site has an extremely good seafront location and, when developed, would occupy the upper end of the housing market on the island. This should bring new residents to Bute which may be of potential economic benefit.

In terms of ownership boundaries, the previous application plan was re-submitted but this should have been updated to show that the applicant is no longer in control of Southpark. An updated plan has now been submitted and it is not considered that this error should have an effect upon the processing of the application.

- (v) **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

- (i) **Is a Section 75 agreement required:** No
-

- (l) **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

Argyll & Bute Local Plan 2009

LP ENV 2 – Development Impact on Biodiversity

LP ENV 10 seeks to resist development within Areas of Panoramic Quality where its scale, location or design will have a significant adverse effect on the character of the landscape.

LP ENV13a presumes against development which undermines the settings of listed buildings.

LP ENV 14 presumes against development that does not preserve or enhance the character or appearance of an existing Conservation Area.

LP ENV 19 '*Development Layout, Setting & Design*' requires developers to execute a high standard of setting, layout and design where new developments are proposed.

LP HOU 1 presumes in favour of housing developments of appropriate scale unless there is an unacceptable environmental, servicing or access impact.

LP HOU 2 states that all new housing developments with a total capacity of 8 dwellings or more should contribute 25% of the total number of units as affordable housing.

LP SERV 1 – Private Sewerage Treatment Plant & Wastewater Systems.

LP TRAN 4 states that, in the case of new public roads, the new road shall be constructed to a standard as specified in the Council's Road Development Guide. Such a standard will be reflective of the development's location i.e. in a settlement, in a rural or remote rural situation, or in a Conservation Area.

- (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 History
Scottish Planning Policy

(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):

Although a significant number of persons have made representation, this application is for renewal of a previous consent granted by Members following a PAN 41 hearing. A hearing was required as the proposal was not consistent with the outdated but still effective provisions of the former local plan and was to be assessed against the uncontested provisions of the emergent 'Argyll & Bute Local Plan'.

In deciding whether to exercise discretion to allow respondents to appear at a hearing in the case of this application for renewal of that permission, Members should be guided by the following:

- Whether the proposal constitutes a justified departure from the Development Plan and the degree of local interest and controversy;
- The complexity of technical/material considerations raised;
- The up-to-date nature of the Development Plan and its policies;
- The volume of representations and the degree of conflict within the local community;
- Whether there have been any previous decisions and/or pre-determination hearings held that covered similar issues/material considerations.

The decision on the previous application (ref: 06/01710/DET) was taken by the Bute & Cowal Area Committee in 2007 following a PAN 41 hearing. At that time, twenty five letters of representation were received. The current application has been the subject of objection from a total of thirty sources, fourteen of whom commented on the previous proposal.

Although PAN 41 advises that a local hearing be held in cases where significant representations are received in the case of prospective development plan departures, and that has been the Council's practice, there is no mandatory requirement to hold a hearing as the advice makes it clear that the convening of a hearing is discretionary on the part of the decision-making committee.

Having regard to the criteria listed and in particular the fact that the previous decision was made after a PAN 41 hearing, the vast majority of the same issues apply now and in the absence of any significant change in circumstances since the granting of the original permission, there would be no added value in convening a further hearing in this case.

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

Planning Permission (ref: 06/01710/DET) was granted on 26th June 2007 for the erection of 8 Flats and 2 detached dwellings; formation of vehicular access and parking; and installation of private foul drainage system on land to the south of Southpark, Isle of Bute. The present application seeks to renew that permission.

Since the previous permission was granted the Argyll and Bute Local Plan 2009 has been adopted. Whilst this has not significantly changed the policy context for this site, Policy LP HOU 2 was introduced by the plan and which provides for a 25% affordability obligation upon developments of 8 units or more.

Notwithstanding the effect of LP HOU 2, there are other factors that should be taken into account in this case. These factors are as follows:

- There is recent evidence to suggest that there is an overprovision in affordable housing on the Isle of Bute (which has been accepted previously as a reason for not requiring an affordability component in similar scaled developments on the island);
- It is not considered that the type and form of development which is proposed would be conducive to the provision of affordable housing on site in this location. No affordability requirement applied in respect of the original permission.
- Whilst an alternative could be to seek to secure the provision of a commuted sum through a Section 75 agreement towards provision elsewhere in the same market area, given the lack of demand and the availability of low cost accommodation in Rothesay, there would not appear justification for such an approach particularly as it could present an unnecessary obstacle to facilitating development. In the context of the current economic climate and recent government advice about not overburdening the housebuilding industry other than by obligations which are essential to enable

development to proceed, it is considered that encouragement should be given to supporting development wherever that is both possible and reasonable.

On the basis of the foregoing, the application is being recommended for approval as a 'minor departure' to the affordability requirements of the Argyll and Bute Local Plan.

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

(R) Reasons why planning permission or a Planning Permission in Principle should be granted

The proposal accords with policy STRAT DC 1 and STRAT DC 9 of the 'Argyll and Bute Structure Plan' 2002 and policies LP ENV 10, LP ENV 14, LP ENV 19, LP HOU 1 and LP TRAN 4 of the 'Argyll and Bute Local Plan' (2009). It can be justified as a 'minor departure' from the affordability obligations stemming from Policy LP HOU 2 of the adopted local plan, given the over-provision of low cost accommodation on the Isle of Bute and the consequent lack of demand for additional affordable accommodation within the market area associated with the site. Notwithstanding the views expressed by third parties, the proposal raises no other new material considerations beyond those considered at the time of the previous granting of planning permission and there is no justifiable reason for withholding a renewal of that consent.

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

Policy LP HOU 2 of the Argyll and Bute Local Plan 2009 sets out the requirements for affordable housing contribution of 25% on sites of eight or more dwellinghouses. This is a renewal of a previous permission which did not entail any affordability obligations, in circumstances where there is an over-provision of low cost accommodation in locality which would not now warrant the imposition of on-site provision as part of this renewal, nor a commuted payment towards off-site provision elsewhere in the same market area. The imposition of an affordability requirement in these circumstances would be contrary to recent government advice not to over-burden the housebuilding industry with unnecessary obligations in the current economic climate, in the interests of avoiding impediments to development. On the basis of the foregoing, the application can be justified as a minor departure to the Argyll and Bute Local Plan 2009.

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

Author of Report: Steven Gove

Date: 18/7/2012

Reviewing Officer: David Eaglesham

Date: 18/7/2012

Angus Gilmour
Head of Planning & Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO: 12/01189/PP

1. The development shall be implemented in accordance with the approved drawings: Drawing Number 0553/P1; Drawing Number 0553/P2A; Drawing Number 0553/P3A; Drawing Number 0553/P4; and Drawing Number 10976/SK2 unless the prior written approval of the Planning Authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.

2. The development hereby permitted shall not commence until final details of foul and surface water drainage systems, including the position of the final outfall, and a scheme for the maintenance in perpetuity of the approved systems have been completed and approved in writing by the Planning Authority.

Reason: To ensure that adequate and timeous drainage arrangements are made and to ensure the on-going maintenance of the method of sewage treatment in the interests of the residential amenity and public health of existing and future occupiers in the area.

3. None of the dwellings hereby approved shall be occupied until the sewage disposal/drainage works have been completed in accordance with the approved plans.

Reason: In the interests of public health and in order to ensure that adequate and timeous drainage arrangements are made.

4. The proposed access shall be formed in accordance with fig 10.16 of the Council's Development Guidelines and shall have visibility splays of 215.0m x 2.5m metres in each direction formed from the centre line of the proposed access. Prior to work starting on site these visibility splays shall be cleared of all obstructions over one metre in height above the level of the adjoining carriageway and thereafter shall be maintained clear of all obstructions over one metre in height.

Reason: In the interests of road safety.

5. The access serving this site shall be a Road over which the public has a right of access in terms of the Roads (Scotland) Act 1984, and shall be constructed in consultation with the Council's Roads and Amenity Services Department, including provision of a 2m service strip and a street name plate.

Reason: In order to ensure that provision is made for a service "road" commensurate with the scale of the overall development and having regard to the status of the proposed access as a residential service road.

6. Prior to work starting on site full details of the proposed external render shall be submitted to and approved in writing by the Planning Authority. The development shall be implemented in accordance with the duly approved details

Reason: In order to protect the character and appearance of the locality.

7. Development shall not begin until details of a scheme of hard and soft landscaping works has been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:
 - i) existing and finished ground levels in relation to an identified fixed datum
 - ii) existing landscaping features and vegetation to be retained
 - iii) location and design, including materials, of walls, fences and gates
 - iv) soft and hard landscaping works, including the location, type and size of each individual tree and/or shrub
 - v) programme for completion and subsequent on-going maintenance.

All the hard and soft landscaping works shall be carried out in accordance with the scheme approved in writing by the Planning Authority. All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting and seeding seasons following the commencement of the development unless otherwise agreed in writing with the Planning Authority.

Any trees or plants which within a period of ten years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species, unless otherwise agreed in writing with the Planning Authority.

Reason: To ensure the implementation of a satisfactory scheme of landscaping.

- 8 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended), (or any Order revoking and re-enacting that Order(s) with or without modifications), nothing in Article 2(4) of or the Schedule to that Order, shall operate so as to permit the erection of any buildings, walls, fences or other structures within the land to the west of the land shaded blue on approved drawing number 0553/P2A, without the prior consent of the Planning Authority.

Reason: In order to confine any ancillary structures associated with the development hereby permitted to the confines of the 'settlement' boundary delineated by the 'Argyll & Bute Local Plan' 2012.

NOTES TO APPLICANT

- This planning permission will last only for **three years** from the date of this decision notice, unless the development has been started within that period. [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).]
- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.
- Surface Water

The Area Roads Manager advised that a system of surface water drainage is required to prevent water running off the road in accordance with Section 99 of the Roads (Scotland) Act 1984, which states that:

"(i) The owner and occupier of any land, whether or not that land is such as constitutes a structure over or across a road, shall prevent any flow of water, or of filth, dirt or offensive matter from, or any percolation of water through, the land onto the road."

A drainage system including positive surface water drainage measures should be agreed with the Area Roads Manager. The applicant is advised to contact the Area Roads Manager (Mr. Paul Farrell tel. 01369 708600) directly in this regard.

- Road Opening Permit

The Area Roads Manager has advised that the proposed works will require a Road Bond (Section 17), Construction Consent (Section 21) and a Road Opening Permit (Section 56). The applicant is advised to contact the Area Roads Manager (Mr. Paul Farrell, tel. 01369 708600) directly upon this matter.

- Septic tanks

If planning permission has been issued to you including a specific location and type for a septic tank and/or outfall and if, for any reason, it is necessary to change the location of the tank or outfall an additional permission will be necessary and further advice should be sought from your local planning office.

In addition, before a Building Warrant will be granted and as part of the ground assessment you will require to have trial holes dug to specified dimensions to determine the position of the water table and soil type and conditions and submit the results of a professionally carried out percolation test using the method described in BS 6297:1983 or other acceptable method to determine the area of ground required for the "infiltration system".

- Protected species

The developers are reminded of their responsibilities under the Conservation (Natural Habitats etc. Regulations) 1994 whereby it is an offence to damage or destroy the breeding or resting place of any European Protected Species. Although there has not been evidence of the presence of any such species at the time of permission being granted, it remains the developer's responsibility to check for the presence of any protected species prior to development and to see any necessary licence in respect of disturbance to that species as a consequence of development. Advice in respect of the conservation status of species and the necessity of any mitigation measures may be sought from Scottish Natural Heritage.

ANNEX A – RELATIVE TO APPLICATION NUMBER 12/01189/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The site is located within the 'settlement' zone of Rothesay, within which policies seek to focus development and there is encouragement for small, medium and large-scale residential development unless there is an unacceptable environmental, servicing or access impact.

Small sections of the application site, beyond the limits of the area to be developed, lie within the 'countryside around settlement' development control zone, both to the rear of the site and including part of the foreshore on the opposite side of the road. It is appropriate to include a condition to remove 'permitted development rights' from the contiguous land at the rear of the site so that this is not enclosed as garden ground or occupied by ancillary domestic structures, so that it remains free of any built development as intended in the application and as provided for by the zoning in the plan. The foreshore area is divorced from the development and would not benefit from 'permitted development' rights.

On this basis, the proposal is considered to accord with STRAT DC 1 of the Structure Plan.

B. Location, Nature and Design of Proposed Development (Including Impact upon Built Environment)

The site largely consists of a vacant paddock/field and this is the area upon which the proposed buildings will be sited. To the east of the site is bounded by the foreshore and A844 and to the west the topography of the site becomes sloping wooded ground. The Category B listed building *Southpark*, is located to the north of site which has a dominating presence within the wider landscape setting. To the south lies the dwellinghouse known as Hawkstone Lodge. Both neighbouring properties to the site benefit from existing natural screening which runs along the dividing boundaries.

It is proposed to erect two flatted blocks with the application site, both of which comprising of four units. The blocks mirror each other in terms of their setting and overall design. Both blocks are two-storey in size and consist of a large amount of glazing, a variety of pitched roofs and flat roofs, using both natural slate lead and zinc. Both blocks are located within the centre of the site: the new access road that is to service the site runs between the two blocks towards a turning circle at the rear of the proposed flats.

To the rear of the turning circle, at the western end of the site, it is proposed to erect two large detached dwellinghouses and associated garages. The design of dwellings share similar design features of the proposed flatted blocks with modern glazing and a variety of roof pitches and finishing materials. It is proposed to incorporate a large amount of screening between the dwellinghouses and the flatted blocks. The submitted drawings detail landscaping and screen planting within the site to address possible overlooking and privacy concerns between the proposed flatted blocks and the detached properties to the rear of the site. The location of this screen planting also ensures that the overall mass of development is broken up and successfully absorbed within the site.

The applicant's agent has submitted a Design Statement for this proposed development which details the design context and the concept of the design solution that has been submitted. This statement includes an assessment on the impact/relationship of the proposed development upon both neighbouring properties and that of the wider landscape setting.

Concerns have been raised that Ascog's character would be radically altered to its detriment by the development and such concerns should not be underestimated. However, if examined more positively, it is considered that the provision of housing within an attractive environment that has safe and pleasant private and open spaces within it, together with distinct identities (two well spaced flatted blocks and detached dwellings in generous plots to the rear) can contribute and enhance an area rather than detract from it.

The previous granting of planning permission following the discussion of third party concerns at a PAN 41 hearing is an important material consideration in the determination of this renewal application. The proposed development remains the same as approved in 2007 when it was considered to be acceptable in terms of layout, scale, density and design. On the basis that there has been no significant material change in circumstance since January 2007 with the exception of the need to consider affordability obligations, the development remains acceptable.

On the basis of the foregoing, it is considered that the proposal is in accordance with Policy STRAT DC 9 of the Structure Plan and policies LP ENV 10, LP ENV 14, LP HOU 1 and LP ENV 19 of the Local Plan.

C. Historic Environment

The application site lies just outwith the southern end of Rothesay Conservation Area. Ascog is at the very southern tip of Rothesay; generally, the buildings are located on the landward side of the A844 road except for two small nodes of shoreside development, firstly as one enters Ascog from a northerly direction, and secondly surrounding Ascog Point. When travelling along the A844 road in a southerly direction, Ascog appears as a linear settlement. Its character prior to Ascog Mansion is different from that which is evident as one exits the settlement; the density of housing is higher and there is less of a '*countryside*' ambience.

The impact of the development upon the Category B listed building South Park located to the north of the development site and situated within a large generous curtilage is considered to be minimal. South Park is some 70 metres from the nearest proposed dwellinghouse and there is a natural boundary between site and South Park which consists of vegetation and trees. Furthermore, layout of the development, particularly the positioning of the two flatted blocks has been designed to be consistent with and complement the established surrounding settlement character which consists of South Park being a prominent building within the wider landscape setting.

On this basis the proposal does not undermine the settings of the conservation area or adjoining listed buildings and is consistent with policies LP ENV 13a and LP ENV 14 of the Local Plan.

D. Road Safety

There were two conditions attached to the original permission in terms of road safety and these are reiterated in this report.

Subject to the recommended safeguarding conditions the proposal is considered to accord with policy LP TRAN 4 of the Local Plan.

E. Affordable Housing

One relatively significant change in circumstance since 2007 is the introduction of LP HOU 2 by the Argyll and Bute Local Plan 2009. This advocates that that all new housing developments with a total capacity of 8 dwellings or more should contribute 25% of the total number of units as affordable housing. This applies in this instance as the total number of units is 10.

Notwithstanding the terms of LP HOU 2, there are other factors that should be taken into account as set out in Section P of the main report. In this particular case, having regard to the mitigating factors detailed in Section P and the conclusions set out in Section S of the main report, it is considered reasonable to renew the permission without the imposition of affordability obligations.

This constitutes as a 'minor departure' to Policy LP HOU 2 of the Local Plan.