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**APPLICATION 12/01248/PP - LAND AT DUNAMUCK FARM, BY LOCHGILPHEAD**

**REQUEST TO REMOVE A SECTION 50 AGREEMENT PERTAINING TO THE ERECTION  
OF A FARM WORKER'S DWELLINGHOUSE - DETAILED PLANNING PERMISSION  
01/94/1089**

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**1. SUMMARY**

Detailed planning permission was granted in 1996 for the erection of a new farm worker's house at Dunamuck Farm, By Lochgilphead (Planning Permission No. 01/94/1089). In order to comply with the provisions of the Council's development plan Settlement Strategy which was applicable at that time, the ownership of the permitted dwellinghouse was tied to the farm and all of its land holding by a Section 50 legal agreement (now Section 75).

Since that time, the Council's Settlement Strategy has been amended with the adoption of the 'Argyll and Bute Local Plan' in August 2009. Details presented by the agent for the application also state that the original operational need for the dwellinghouse has altered with a reduced requirement for permanent staff. The presence of the historical S50 Agreement (in its originally drafted form) prevents the sale of this dwellinghouse separate from Dunamuck Farm. The 1996 permission is also subject to a condition restricting the occupancy of the dwellinghouse to a person employed locally in agriculture – removal of that restriction would require to be the subject of a separate application for planning permission.

In view of the revised policy provisions of the 'Argyll and Bute Local Plan' 2009 a request has been submitted by the owners of Dunamuck Farm, Mr James Chisholm, to have the S50 amended, in order to remove the tie between the ownership of the dwelling and the farm resulting from the 1996 planning permission.

**2. RECOMMENDATION**

**Recommend that the S50 Agreement be removed as a burden upon the title of the subject property.**

**3. PLANNING HISTORY**

Detailed planning permission for a new agricultural worker's dwellinghouse (ref. 01/94/1089) was approved by the Mid Argyll, Kintyre and Islay Area Committee and issued in February 1996 following the conclusion of an agreement under the provisions of S50 of the Town and Country Planning (Scotland) Act 1973, which provided that the new dwellinghouse and Dunamuck Farm be retained in one ownership.

In determining that application, regard was given to the provisions of the 'Strathclyde Structure Plan' 1990 and the 'Mid Argyll Local Plan' 1985 and (1<sup>st</sup> review) 1989,

against which it was determined that the proposed dwellinghouse was to be located outwith areas of land considered suitable for infill or 'rounding off' development, and within the Lochgilphead/Ardrishaig settlement catchment area – an area of general development restraint. As such the proposal would have been contrary to the provisions of development plan policies STRAT 4, STRAT 4A and POL HO 14 in the absence of an operational justification provided by the need for an agricultural worker's dwellinghouse tied functionally and financially to the entire farm holding – this justification being underpinned by the S50 agreement.

#### **4. POLICY CONSIDERATIONS**

##### 'Argyll and Bute Structure Plan' 2002

STRAT DC 4 – Development Within Rural Opportunity Areas

##### 'Argyll and Bute Local Plan' 2009

LP ENV 1 – Development Impact on the General Environment

LP HOU 1 – General Housing Development

#### **5. ASSESSMENT**

At the time of determination of the original application (ref. 01/94/1089) the applicable provisions of the Development Plan set out a general presumption against development at this location.

The application was, however, supported by a claim of a locational/operational need which set out a requirement for a functional need for a new farm dwellinghouse to manage a holding of some 500 acres, which was augmented by rental of a further 75 acres within which some 620 sheep and 188 cattle were accommodated. The application was also supported by the lack of any suitable alternative to the erection of a new dwelling for occupation by an agricultural manager/worker on the holding (having regard to archaeological and landscape constraints) and confirmation that the original farmhouse had been sold off separately in 1988, leaving a shortfall in the ability to accommodate the necessary 2.5 labour units on the holding. In order to underpin the locational/operational justification, the ownership of the new dwellinghouse was tied to that of the farm holding by the imposition of a S50 agreement upon the title of the property.

The Council's Settlement Strategy has altered substantially since 1996 with the adoption of the 'Argyll and Bute Structure Plan' 2002 and the 'Argyll and Bute Local Plan' 2009. Having regard to the updated Development Plan, the subject property is now located within a 'Rural Opportunity Area' within which the provisions of policies STRAT DC 4 and LP HOU 1 would be supportive of appropriately sited development in the 'open countryside', even where there is no operational justification in support of the proposal.

It is noted that the remainder of the farm holding lies within more restrictive 'sensitive countryside' and 'very sensitive countryside' locations which reflect the continuing landscape and archaeological sensitivity of the surrounds. However, even with such restrictive designations in place, planning permission has previously been obtained for two semi-detached dwellinghouses as a 'rounding-off' of the main grouping of farm buildings. The current settlement strategy would, however, suggest that the potential capacity for any additional development on the farm holding is extremely limited.

The supporting information to the current application also states that the subject dwellinghouse is no longer required for operational purposes in light of reduced requirements for labour to be permanently employed on the holding. The 1994 submission stated a labour requirement of 2.5 units which was at that time met by the applicant, an employee and a student. At the present time, the applicant is the only person permanently employed on the holding, short fall in labour is made up by the use of contractors and employment of the applicant's daughter (who lives in one of the recently developed semi-detached dwellings on the holding) on a temporary part-time basis as and when required.

Having regard to the above it is considered that the S50 Agreement in relation to this dwelling is no longer required in light of both the reduced labour requirements of the holding and the change to Development Plan policy which would now support development of the site in question without any operational justification. In the event that the agreement is removed, the applicant should be made aware that the decision to do so would be a material consideration in the (albeit unlikely) event of any future case being advanced for a further dwelling on the basis of agricultural need.

The applicant is aware of the need to apply to vary the conditions attached to the planning permission for the house to remove the occupancy restriction in the event that the legal agreement in question is removed.

**Author:** Peter Bain                      **Contact:** 01546 604082  
**Reviewed:** Richard Kerr              **Contact:** 01546 604845

**Angus J Gilmour**  
**Head of Planning and Regulatory Services**