

15 August 2012

UPDATE ON RECENT SCOTTISH GOVERNMENT PLANNING DECISIONS

A) INTRODUCTION

This report advises of recent appeal decisions by the Scottish Government Directorate for Planning and Environmental Appeals relative to the cases set out below.

B) RECOMMENDATION

Members are asked to note the contents of the report.

C) DETAILS OF APPEAL DECISIONS

PLANNING APPEAL DECISION – PPA-130-2027 – DISMISSED

**Sub-division of garden ground, erection of dwellinghouse and detached garage and formation of new vehicular access
7 Laggary Park, Rhu, Helensburgh**

Planning permission was refused at PPSL Committee on January 18th 2012. In summary, the grounds for refusal were based on the adverse effect that the development would have on the conservation area and the Tree Preservation Order in place.

An appeal against the refusal was subsequently lodged and dealt with by written submissions and a site visit. The appeal was dismissed for the reasons summarised below:

- The proposal would remove a significant amount of vegetation and, although some replanting is proposed, this would be insufficient to maintain the continuity in cover that is a particular feature of the conservation area. This conflicts with Argyll and Bute Structure Plan Policy STRAT FW 2 and Argyll and Bute Local Plan Policy LP ENV 7.
- The lowering of the wall to accommodate the required sightlines would disrupt the continuity of the boundary that exists at the rear of the gardens for the Laggary Park dwellings. The angled siting and its position would contrast with the dwellings of Laggary Cottage and The Coach House that are next to Station Road. The proposed development would therefore be contrary to the established pattern of development in this locality. The proposed development would have a significant detrimental impact on public views of the site from Station Road and when approached along Laggary Road.
- The built development, loss of tree and shrub cover and the changes to the boundary wall would harm the character and appearance of the conservation area. This would conflict with structure plan policy STRAT DC 9 and local plan policies LP ENV 1 and LP ENV 14 concerning development within conservation areas. The development would fail to be compatible with its surroundings in this sensitive conservation location, contrary to local plan policy LP ENV 19. There would also be an unacceptable environmental impact, in conflict with local plan policy LP HOU 1.

PLANNING APPEAL DECISION PPA-130-2024– DISMISSED

Erection of Class 1 retail store and associated development, including access, car parking and landscaping

Land at the site of the former gas works, Argyll Street/Hamilton Street, Dunoon

Planning permission 11/00689/PPP was refused on 23 December 2011 on the following grounds:

1. Taking a precautionary principle approach in terms of climate change and additional rainfall and frequency of storm which increase the occasions when the West of Scotland is susceptible to flooding and associated damage, the site cannot deliver the size of store shown on the indicative plans and still have enough of the site to deliver the compensatory flood storage required. This development will increase the flood risk to other properties on the opposite bank of the burn and to properties downstream of the site. The applicant does not address these issues or whether any measures would be needed to protect the channel bed or opposite bank. The flood level estimates have been revised and the floodplain storage lost will have increased, but not the size of the compensatory flood storage area. The development is therefore contrary to Scottish Planning Policy, Policy STRAT DC10 of the Argyll and Bute Structure Plan and Policies LP SERV 8 and LP ENV 1(D) of the Argyll and Bute Local Plan in that it increases the risk to other land and property as it occupies the functional flood plain and the plans submitted do not give comfort that this development will mitigate these risks.
2. Paragraph 1.9 of Appendix C of the Argyll and Bute Local Plan rightly expects that more parking should be provided where the car parking has a link to town centre shopping and parking. The parking provision falls short of minimum requirements or is at the lower end of requirements and does not benefit a modern supermarket that serves a dispersed and rural community such as the Cowal peninsula where there is a greater reliance on private cars. To this extent, the application is contrary to Policy LP TRAN 6 and Appendix C of the Argyll and Bute Local Plan.
3. The proposal is contrary to Policy LP ENV 19 of the Argyll and Bute Local Plan in that the density and layout of the building is inappropriate and represents overdevelopment of the site. The impact of this development in respect of its size, its location, its prominence and its relationship with the surrounding environment, including open space, renders it incompatible in that it fails to make a positive contribution to the area.
4. The applicant has failed and cannot prove beyond reasonable doubt that the site is free from technical impediments and therefore is not a viable site for retail for the people of Dunoon especially when more attractive offers are available. This site does not offer the best option and fails to maximise the potential for retail opportunities across the spectrum of food, non food and fuel to serve the Dunoon population and ensure the economic vibrancy and sustainability of a rural town. The plan for this site lacks vision and is a “shoe in” development, compressed to meet the needs of the applicant as to what can be fitted on site rather than what would best meet the aspirational retail needs of Dunoon and Cowal and as such is contrary to Policy LP RET 1 of the Argyll and Bute Local Plan in that it does not meet the sequential test.

An appeal against the refusal was submitted to Scottish Ministers on 22 March 2012. The Reporter concluded that

- the appellants have undertaken sufficient investigation of flood risk on the site at this stage to demonstrate that a detailed scheme involving compensatory flood storage would be feasible.

- the amount of car parking provided on the site is acceptable and that the proposed development complies with local plan policy LP TRAN 6
- there is no issue with the outline design and layout of the proposed development; and that, appropriately conditioned and detailed, it has the potential to make a positive contribution to the area.
- there is a high risk of a significant cumulative impact on the Morrisons store and consequently on the vitality and viability of Dunoon town centre. There would also be a significant impact on the Co-op store, which is very close to the town centre and where there are likely to be linked trips visiting the Co-op and the town centre. The proposed development would therefore not comply with structure plan policy PROP SET 2 and local plan policy LP RET 1.

She therefore dismissed the appeal against the refusal of planning permission in principle. However, given that the council behaved unreasonably with regard to all four reasons for refusal, she concluded that the appellants should be awarded their entire expenses in the appeal.

D) IMPLICATIONS

Policy: None

Financial: The quantum of expenses against the Council has yet to be agreed

Personnel: None

Equal Opportunities: None

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