

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: 13/00064/PP

Planning Hierarchy: Local Development

Applicant: Glenfeochan Estate

Proposal: Erection of 2 Dwellinghouses, Formation of Vehicular Access and Installation of Private Wastewater Treatment Systems

Site Address: Land East of Balnagowan, Kilmore, by Oban

SUPPLEMENTARY REPORT NO. 2

(A) Background

This application was presented to the Planning, Protective Services and Licensing Committee on 22 May 2013 where Members resolved to continue the application to a hearing on 24 June 2013.

During the Committee, Members sought clarification on the designation of the site within the proposed Local Development Plan (LDP) as it was thought it may have changed from its current designation in the adopted Local Plan.

The site is currently identified as 'settlement' zone in the adopted Argyll and Bute Local Plan. It is proposed to be reclassified as 'countryside' zone in the forthcoming LDP. However, an objection to the proposed amendment to the site in the LDP has been received and therefore the amendment to the designation in the proposed LDP remains to be determined by a Scottish Government Reporter. Pending that determination, the possible re-designation cannot be considered as a material consideration of sufficient weight to set aside the existing 'settlement' zone designation in the current adopted Local Plan. The proposed change to the LDP, and how it came about, is further discussed at Section C below.

Accordingly, in line with the requirements of Section 25 of the Planning Act the adopted development plan policies remain the main determining factor in the assessment of this planning application. As detailed in the original report, it is considered that the site offers a suitable opportunity for development with two dwellinghouses which would consolidate the extent of built development at this location, taking account of the presence of housing on the north side of the road extending further along the road edge to the east. The development makes use of the currently undeveloped land within the designated settlement zone in accordance with adopted development plan policy.

(B) Plan update

Since the previous meeting of the Committee, the applicant has submitted amended plans for the dwellinghouse proposed on plot 2 which remove two upper floor gable windows on Elevation A and provide velux rooflights on Elevation B instead. This amendment improves the proposal by removing potential overlooking issues from the upper floor of the dwellinghouse on the elevation facing towards Balnagowan. To underpin this amendment, a further condition is recommended in addition to those originally proposed, restricting scope for future openings on Elevation A.

(C) Local Development Plan (LDP)

The Main Issues Report (MIR) provided the public with an opportunity to suggest changes to the current adopted Local Plan. The MIR of the LDP process was published for public consultation with a closing date of 18/07/11. No representations were received requesting this site be removed from the settlement zone at that time.

The Development Policy unit was first contacted by Mrs Jane Derby regarding this site by telephone during the summer of 2012 and specifically by email on 17/07/12 as a result of a planning application being submitted for housing development on this site. A meeting was held by Development Policy staff with Mrs Derby to outline the LDP process on 10/09/12 at which she was informed that the public consultation period for formal representations to have sites included/removed prior to the proposed LDP itself being issued for consultation had passed (MIR consultation 2011). Therefore her emails/letter could not be considered formal representations, and her only opportunity to make formal representation requesting a change in the boundary of the settlement zone would be at the proposed LDP public consultation stage (04/02/13 – 29/04/13). Letters were subsequently received from the following persons (salient content reproduced in Appendix A attached to this report):

- Jeff and Jane Derby - dated 23/09/12
- Karen and Brian Nelson – dated 28/09/12
- Tristan and Alison Carre – dated 26/09/12
- Donald and Mary Morrison – dated 28/09/12

Mrs Derby was also in contact with several Members at this time and the Development Policy unit were requested by them to look into the issues and attempt to address this issue.

After careful consideration the Development Policy unit came to the view that the site did not have the characteristics to warrant its designation as settlement zone. Primarily the combination of its peripheral location on the edge of the settlement, its use as grazing land and the lack of any topographical features bounding the site and giving it a sense of forming part of the settlement were the basis of this view. Accordingly, it was recommended to the Oban, Lorn and the Islands (OLI) Area Committee, and subsequently to the Full Council, that the boundary of the settlement zone in this location be amended to exclude this site in the proposed LDP. Both the OLI Area Committee and Full Council approved the removal of this site being included in the proposed LDP that was published for public consultation.

A formal representation objecting to the removal of this site from the settlement area has been received from the applicant and as a result, it is premature for the amendment to the settlement zone detailed in the proposed LDP for Old Kilmore to be considered as a significant material planning consideration outweighing the settlement zone detailed in the adopted Local Plan.

(D) Recommendation

In light of the above, having due regard to the Development Plan and all other material considerations, it is recommended that planning permission be granted subject to the conditions and reasons appended to the original report, with the addition condition 9 as explained in Section B of this report.

Author of Report: **Fiona Scott** **Date:** 11/06/13

Reviewing Officer: **Stephen Fair** **Date:** 14/06/13

CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 13/00064/PP:

1. No development shall commence on site, or is hereby authorised, until the vehicular access at the junction with the public road has been constructed in accordance with the Council's Roads Engineer Drawing Number SD 08/004a with visibility splays of 53m x 2.4m in each direction formed from the centre line of the proposed access, and measures to prevent surface water run –off onto the public road. Prior to work starting on site these visibility splays shall be cleared of all obstructions above the level of the adjoining carriageway and thereafter maintained to the satisfaction of the Planning Authority.

The vehicular access granted consent shall be constructed to at least base course level prior to any work starting on the erection of the dwellinghouses which it is intended to serve and the final wearing surface of the road shall be applied prior to the first occupation of the dwellinghouses.

Reason: In the interests of road safety to ensure the proposed development is served by a safe means of vehicular access.

2. No development shall commence on site, or is hereby authorised, until an additional passing place has been completed alongside the UC25 Musdale public road between the A816 and the site entrance in accordance with the Council's Roads Engineer Drawing Number SD 08/003a in a location that must first be submitted in plan form to and agreed in writing by the Planning Authority in consultation with the Roads Authority.

Reason: In the interests of road safety to ensure the proposed development is served by a safe means of vehicular access with commensurate improvements to the existing access regime in accordance with Local Plan Policy LP TRAN 4 part D.

3. The proposed on-site vehicular parking areas shall provide parking for three vehicles within each plot and shall be formed in accordance with the approved plans and brought into use on each plot prior to the first occupation of the dwellinghouse on each respective plot hereby approved.

Reason: To enable vehicles to park clear of the access road in the interests of road safety by maintaining unimpeded vehicular access over that road.

4. No development shall commence on site, or is hereby authorised, until full details of the proposed means of private foul drainage to serve the development, including evidence of SEPA's consent to the proposed discharge to a watercourse, has been submitted to and approved in writing by the Planning Authority. The duly approved scheme shall be implemented in full concurrently with the development that it is intended to serve and shall be operational prior to the first occupation of the dwellinghouses.

Reason: To ensure that an adequate means of foul drainage is available to serve the development.

5. No development shall commence on site, or is hereby authorised, until full details of the proposed means of crossing the burn within the site to enable access into plot 2 has been submitted in plan form to and agreed in writing by the Planning Authority in consultation with SEPA. The development shall thereafter be completed in strict accordance with such details as are approved.

Reason: In the absence of any details having been submitted and to ensure that the burn is not adversely affected by the method of implementing the development hereby approved.

6. No development shall commence on site, or is hereby authorised, until a scheme of boundary treatment, surface treatment and landscaping has been submitted to and approved in writing by the Planning Authority. The scheme shall comprise a planting plan and schedule which shall include details of:

- i) Existing and proposed ground levels in relation to an identified fixed datum;
- ii) Existing landscaping features and vegetation to be retained;
- iii) Location design and materials of proposed walls, fences and gates;
- iv) Proposed soft and hard landscaping works including the location, species and size of every tree/shrub to be planted;
- v) A programme for the timing, method of implementation, completion and subsequent on-going maintenance.

All of the hard and soft landscaping works shall be carried out in accordance with the approved scheme unless otherwise approved in writing by the Planning Authority.

Any trees/shrubs which within a period of five years from the completion of the approved landscaping scheme fail to become established, die, become seriously diseased, or are removed or damaged shall be replaced in the following planting season with equivalent numbers, sizes and species as those originally required to be planted unless otherwise approved in writing by the Planning Authority.

Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity.

7. No development shall commence on site, or is hereby authorised, until full details of the proposed material, texture and colour for all external materials have been submitted to and agreed in writing by the Planning Authority. The development shall thereafter be completed in strict accordance with such details as are approved.

Reason: In the absence of any details having been submitted and to ensure that the development integrates with its setting.

8. The development shall be implemented in accordance with the details specified on the application form dated 11/01/13 and the approved drawing reference numbers:

- Plan 1 of 7 (Drawing Number L(Ex)K001 Rev A)
- Plan 2 of 7 (Drawing Number L(Ex)K001)
- Plan 3 of 7 (Drawing Number L(PL)K105 Rev B)
- Plan 4 of 7 (Drawing Number L(PL)K101)
- Plan 5 of 7 (Drawing Number L(PL)K104)
- Plan 6 of 7 (Drawing Number L(PL)K102)
- Plan 7 of 7 (Drawing Number L(PL)K103)

unless the prior written approval of the planning authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997 (as amended).

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

9. Notwithstanding the provisions of Class 1A (single storey extensions) or Class 2B (alterations) of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as amended by the Town and Country Planning (General Permitted Development) (Scotland) Amended Order 2011, or as may be further amended, no extensions or alterations including the provision of additional window or door openings of any kind are permitted to the northern elevation of the house hereby approved on plot 2 (titled Elevation A on the approved plans), without the prior written consent of the Planning Authority.

Reason: To prevent future overlooking of the neighbouring house and garden to the north, which may otherwise occur.

NOTE TO APPLICANT

- **Length of the permission:** 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 (as amended), 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 (as amended) 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.
- The Area Roads Manager has advised that a Roads Opening Permit (S56) is required for the proposed development, please contact him direct on 01631 569160 to discuss the matter further.
- Please note the advice contained within the attached letter from Scottish Water. Please contact them direct to discuss any of the issues raised.

Appendix A - Content of representations seeking removal of settlement zone

I would wish you to consider rezoning the land east of Balnagowan that is currently zoned as 'settlement land' and change it to 'land around settlement'.

The current boundary of the settlement is defined by the topography of the land. There is a hill around the north of the settlement and more open ground sloping towards the river on the south. At the east of the settlement is a stream and this would appear to be a natural end to the built up area of the 3 houses on the south side of the Musdale Road. This stream runs all year and often floods when the land is waterlogged and the overspill stream adds water to the burn. The current use of the land is agricultural and there is a small culvert in the stream on this land, that allows the farmer to pass across the area with his vehicle and herd sheep and cattle from one field to another.

The housing on the south side is only single development deep and we feel that if planning permission were granted for the currently zoned land then it would alter the nature of the settlement, making it denser and elongating the settled area along the length of the glen.

At the moment the settlement is very rural in nature as all the houses border onto fields, should the zoned area become built on then the nature of settlement became more dense and change the that aspect of the settlement.

Planning permission for the land currently zoned as 'settlement land' has been sought and the roads department was of the opinion that 'sightlines were not achievable to the northwest within the land owned by the applicant...'. When the planner wrote to the developer the planning application was withdrawn. As the access to Musdale Road from this land is an issue, we believe that this strengthens the case for the land to be rezoned.

We consider this land to be of very high quality productive agricultural land and by possible development will diminish and extract good land from farming purposes which is already limited in this area.