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F McCallum  
Argyll and Bute Council  
Sent By E-mail

Our ref: NA-130-009  
Planning Authority ref:23/0003/LRB

10 June 2024

Dear Fiona McCallum

## **DECISION NOTICE**

### **TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 ('the Act')**

#### **APPLICATION FOR PLANNING PERMISSION IN PRINCIPLE FOR THE DEMOLITION OF OUTBUILDING AND ERECTION OF A DWELLINGHOUSE AT LAND NORTH OF SWALLOWTALE, ACHNAGOUL, INVERARAY, ARGYLL, PA32 8XT ('THE PROPOSED DEVELOPMENT')**

1. This letter contains the Scottish Ministers' decision on the above planning application submitted to Argyll and Bute Council on 20 October 2020 planning application (planning ref. 20/01901/PPP).
2. The application was called in for the Scottish Ministers' determination on 19 October 2023, in view of the proposed development's potential to impact on the safe and efficient operation of the A83(T).
3. The planning application was considered by means of written representations and site visit by a Reporter appointed by Scottish Ministers for that purpose. The final report with the Reporter's recommendation was issued to Scottish Ministers on 09 April 2024. A copy of the Reporter's report ('the report') is enclosed.
4. All references to paragraph and chapter numbers, unless otherwise stated, are to those in the Report.

#### **Reporter's Recommendation and Scottish Ministers' Decision**

5. The Reporter has recommended that planning permission in principle be refused. The Scottish Ministers have carefully considered all the evidence presented and the Reporter's conclusions and recommendations. For the reasons given below, the Scottish Ministers agree with the Reporter's recommendation and refuse planning permission in principle for the proposed development.

#### **Legal and policy context**

6. Section 25 of the Town and Country Planning (Scotland) Act 1997 requires the Scottish Ministers to determine planning appeals in accordance with the development plan

unless material considerations indicate otherwise. In this case, the development plan comprises the Fourth National Planning Framework ('NPF4') (adopted February 2023) and the Argyll and Bute Local Development Plan 2 (A&BLDP2).

## Main Issues

7. The Scottish Ministers agree with the Reporter in paragraph 11 that the main issues for consideration in deciding this application are:
- Potential traffic generation from the proposed development compared with the existing situation.
  - Substandard characteristics of the Achnagoul access junction with the trunk road.
  - The potential for mitigation of the substandard characteristics of the junction.
  - The potential for approval to result in pressure to allow further residential proposals at Achnagoul.
  - Consistency with other planning approvals.
  - Whether further use of the existing private access to serve the proposed development is acceptable on policy grounds.
  - Whether the proposal is acceptable as rural housing development on a brownfield site.
  - Whether the proposal should be accepted as a minor departure from development plan policies.

### Potential traffic generation from the proposed development compared with the existing situation

8. The Scottish Ministers agree with the Reporter in paragraph 12 that the Transport Scotland figures are to be preferred on the level of daily trips rates arising from one dwellinghouse. Transport Scotland cites the TRICS database, which is the industry standard source, as generally assuming that a single dwellinghouse will generate 5-6 two-way trips per 12 hour day (over the period 0700-1900 hours) and trips outside that period would increase that number range.
9. The Scottish Ministers agree with the Reporter's assessment in paragraph 13 that active travel and public transport for accessing services are impractical from this location compared with a dwelling located in a more accessible location. In reaching this conclusion, the Scottish Ministers agree with the Reporter taking into account that (i) Achnagoul has no services or facilities with the nearest settlement with services being Inveraray, some 5 kilometres away, (ii) the closest bus stops are at the Argyll Caravan Park roughly 800 metres east of the Achnagoul junction, with no footway link between the junction and those stops. The Scottish Ministers agree the proposed dwelling is therefore likely to increase the generation of private motor vehicle traffic.
10. The Scottish Ministers agree with the Reporter's assessment in paragraph 14 that there seems to be little potential for traffic to be generated as a result of reuse of the byre for agricultural purposes, due to the condition of the building, potential access issues, and the level of uncertainty over its potential reuse.
11. The Scottish Ministers agree with the Reporter's conclusion in paragraph 15 that compared with the existing situation, the proposed development would be likely to result in an increase in the number of vehicles entering and leaving the traffic stream on the trunk road.

### Substandard characteristics of the Achnagoul access junction with the trunk road.

12. The Scottish Ministers agree with the Reporter in paragraph 16 that the principal consideration in understanding the substandard characteristics of the Achnagoul access junction with the trunk road is that national standards for highways in the Design Manual for Roads and Bridges (DMRB) require that unobstructed visibility splays are provided at various types of junctions between minor and major roads. These are measured by visibility splays with a Y-distance along the major road carriageway edge and an X-distance set back from the carriageway edge along the centreline of the minor road. At the Achnagoul junction, the visibility splay to the left (east) for traffic emerging from the private access onto the trunk road has been measured as 120 metres (Y-distance) at 4.5 metres (X-distance) and as 130 metres (Y-distance) at 2.4 metres (X-distance). Transport Scotland have advised that, for either X-distance, this is considerably less than the minimum desirable Y-distance of 215 metres for the A83 trunk road in this location.
13. The Scottish Ministers agree with the Reporter in paragraphs 17 and 18 that, for drivers from Achnagoul entering the major road, visibility to the left is restricted to between 56% and 60% of the minimum desirable standard, making it difficult to judge whether there is sufficient time to safely turn right, enter the southbound lane and accelerate to an appropriate speed. For southbound traffic on the trunk road, forward visibility of the junction is restricted by the brow of a hill to around 140 metres, which is 65% of the minimum desirable standard of 215 metres. This significantly increases the risk that drivers on the trunk road would not be able to stop in time if a vehicle is waiting to turn right into the Achnagoul private access or is turning right out of the access.
14. The Scottish Ministers agree with the Reporter in paragraph 22 that the lack of an officially recorded history of accidents at the junction does not, in itself, warrant allowing further development and increased use of the junction where this carries an increased risk of accidents occurring in future.
15. The Scottish Ministers agree with the Reporter's conclusion in paragraph 23 that the likely increase in traffic movements would occur at a point on the trunk road where visibility for road users is substantially restricted and would fall well below national standards as set out in the DMRB thus increasing the potential for interference with the safety and free flow of traffic on the trunk road.

### Potential for mitigation of the substandard characteristics of the junction.

16. The Scottish Ministers agree with the Reporter in paragraphs 24 to 26 in relation to signage that there is no potential for mitigation that would address the substandard visibility distances and the substandard characteristics of the junction.

### Potential for approval to result in pressure to allow further residential proposals at Achnagoul

17. The Scottish Ministers note that there has been pressure for residential development in this locality and agree with the Reporter in paragraph 27 that approval of the current application would make it more difficult to refuse similar applications in future, to the cumulative detriment of road safety.

### Consistency with other planning approvals

18. The Scottish Ministers agree with the Reporter in paragraphs 28 to 30 that there are no other planning approvals that would justify approval of the proposed development. The Scottish Ministers agree that the Reporter is correct to draw distinction with previous planning approvals and potential traffic generating activity in this locality that relate to temporary or intermittent development proposals, relating to the existing borrow pit, the felling and removal of timber, agricultural activities and activity connected with the nearby overhead electricity transmission line. These factors contrast with the current dwellinghouse proposal which would be permanent and which is subject to no equivalent locational necessity.
19. The Scottish Ministers also agree with the Reporter in paragraph 30 that the current application requires to be assessed on its own merits rather than in relation to the consistency or otherwise of other consultation responses.

### Whether further use of the existing private access to serve the proposed development is acceptable on policy grounds

20. The Scottish Ministers agree with the Reporter in paragraphs 31 to 34 that further use of the existing private access to serve the proposed development is not acceptable under the policies 37 or 39 of the A&BLDP2 or policy 13 of NPF4 and for Policy 35 A&BLDP2.

### Whether the proposal is acceptable as rural housing development on a brownfield site

21. The Scottish Ministers agree with the Reporter in paragraph 35 that the A&BLDP2 defines Achnagoul as an area where development may be accepted subject to criteria and that the proposals map (Mid Argyll) indicates Achnagoul as a Settlement Area. Policy 01 states that in Settlement Areas development will normally be acceptable on a brownfield site, subject to compatibility in matters such as scale and character, but that there is also a need to comply with all other relevant policies of the plan. It is agreed that these scale and character requirements are satisfied, but as the proposal fails to comply with access and highway policies of the plan, it does not comply with Policy 01.

### Whether the proposal should be accepted as a minor departure from development plan policies

22. The Scottish Ministers agree with the Reporter in paragraph 36 that the proposal is not appropriate as a minor departure from the development plan policies for the following reasons:- the degree to which visibility for drivers at the Achnagoul junction falls below national standards; the lack of potential for significant mitigation; the context of fairly high measured traffic speeds on the trunk road and the need for consistency across the network. It is agreed that to allow this proposal as an exception would make it more difficult for the Council to maintain its policies in relation to similar future applications throughout the district, to the detriment of road safety and the free flow of traffic on the trunk road.

### Other matters for Ministers' consideration

23. The Scottish Ministers accept the Reporter's point in paragraph 37 that detailed matters of drainage, flooding, odour, power supply, tree removal and planting, surface

treatments, and water pressure would be for assessment against council's planning policies at development management stage as the application is for permission in principle.

### Conclusions and recommendation

24. The Scottish Ministers agree with the Reporter's conclusions and recommendations in paragraphs (paragraphs 40-42).
25. The Scottish Ministers agree with the Reporter's consideration (paragraph 40) of Policy 01 (Settlement Areas) of the A&BLDP2, that the proposal fails to comply with access and highway policies of the plan; that it is not supported by NPF4 Policy 13 (Sustainable Transport) (g), which expects that development proposals will not result in adverse impacts on the safety of the strategic transport network or unacceptable impacts on its operational performance and that the cost of mitigation measures to overcome the identified impacts be met by the developer is not feasible in this case; that it is contrary to Policies 37 and 39 of the A&BLDP2 as it fails to make the case for further use of the existing private access and does not provide suitable improvements to the access; and that it does not accord with Policy 35 of the A&BLDP2 in relation to making the case for further use of the access; and as it does not offer sustainable travel links, it is not supported by Policy 13(b)(i) and (ii) of NPF4.

### **Formal Decision**

26. Accordingly, for the reasons set out in the Report and as summarised above, the Scottish Ministers hereby refuse planning permission in principle for the proposed development.
27. This decision of the Scottish Ministers is final, subject to the right conferred by Sections 237 and 239 of the Town and Country Planning (Scotland) Act 1997 of any person aggrieved by the decision to apply to the Court of Session within 6 weeks of the date of this letter. If such an appeal is made, the Court may quash the decision if satisfied that it is not within the powers of the Act, or that the appellant's interests have been substantially prejudiced by a failure to comply with any requirements of the Act, or of the Tribunals and Inquiries Act 1992, or any orders, regulations or rules made under these Acts.
28. A copy of this letter and the Reporter's report will be sent to Argyll and Bute Council. Those parties who lodged representations will also be informed of the decision.

Yours sincerely

*Allen Hughes*

**ALLEN HUGHES**