

STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

**REFUSAL OF PLANNING PERMISSION FOR
ERECTION OF DWELLINGHOUSE AND SITING
OF 2 TEMPORARY CARAVANS
(RETROSPECTIVE), ERECTION OF TIMBER
STORAGE SHED (RETROSPECTIVE)
INSTALLATION OF SEWAGE TREATMENT
PLANT, FORMATION OF CAR PARKING AREA
AND ASSOCIATED WORKS AT LAND WEST OF
STRATHHOLM CLACHAN TARBET ARGYLL
AND BUTE**

**PLANNING APPLICATION REFERENCE
NUMBER 21/02691/PP**

**LOCAL REVIEW BOARD REFERENCE
NUMBER 24/0009/LRB**

7th May 2024

STATEMENT OF CASE

The planning authority is Argyll and Bute Council ('the Council'). The appellant is Mr Lee Wheeler ('the appellant').

The planning application, reference number 21/02691/PP for the Erection of dwellinghouse and siting of 2 temporary caravans (retrospective), erection of timber storage shed (retrospective) installation of sewage treatment plant, formation of car parking area and associated works at Land West Of Strathholm, Clachan ("the appeal site") was refused under delegated powers on the 24th January 2024. The planning application has been appealed and is subject of referral to a Local Review Body.

STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED

Section 25 of the Town & Country Planning (Scotland) Act 1997 provides that where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise. This is the test for this application.

STATEMENT OF CASE

Argyll and Bute Council considers the determining issue in relation to the case are as follows:-

- **Whether sufficient evidence has been submitted to fully understand and address flood risk associated with the site and surrounding area and consequently meet the requirements of NPF4 Policy 22 and LDP2 policies 55 and 57.**

The Report of Handling (attached) sets out the Council's assessment of the application in terms of Development Plan policy and other material considerations.

REQUIREMENT FOR ADDITIONAL INFORMATION

It is considered that no new material information has been raised in the appellant's submission. A detailed planning policy assessment (which was relevant at the time of the assessment of the planning application) and all other material planning considerations is covered in the Report of Handling.

Members will be aware that since the planning authority issued the decision notice, LDP2 has been adopted and that the LDP (2015) and LDP SG (2016) no longer form part of the development plan. However, the reason for refusal refers to the most relevant LDP2 planning policies to the main issue at hand, namely LDP2 policies 55 and 57. References to LDP policy LDP 10 and SG

LDP SERV 7 should be disregarded. As such it is considered that Members have all the information they need to determine the case.

COMMENT ON APPELLANTS' SUBMISSION

Having regard to the detailed grounds for review set out in the appellant's submission, it is noted the submission focusses on procedural concerns with the planning application rather than the reason for refusal. For clarity, and in response to the point raised that the 'lack of an accurate 1:200 year flood level being at the heart of the issues' as noted by SEPA in their response dated 9th March 2022, 'The SEPA Flood Maps do not provide information on flood risk from small watercourses...'. This response also goes onto note the requirement for the appellant to undertake a Flood Risk Assessment. Similarly, a response dated 25th February 2022 from the Council's Flood Risk Advisor notes the need for a Flood Risk Assessment (FRA) that quantifies the 1:200 year plus climate change fluvial and surface water flood events. As such, the matter of flood risk was a live issue prior to the publication of NPF4 on 13th February 2023. Importantly, it should be noted that the burden of proof (in this case the need for a sufficient FRA) is on the applicant. Despite the passage of time, the appellant has not produced the evidence required by the Council's Flood Risk Advisor and SEPA who still maintain the need for a sufficient FRA in their correspondence dated and the 8th September 2023 and 19th September 2023 respectively. Indeed, SEPA (a Statutory Consultee) maintain a holding objection to the planning application.

In summary, none of the procedural points raised by the appellant raise any material considerations that would justify allowing the appeal, the determination of which must be based on the development plan at the point the decision is made.

CONCLUSION

Section 25 of the Town and Country Planning Act 1997 requires that all decisions be made in accordance with the development plan unless material considerations indicate otherwise. It is considered there are no material considerations that indicate that the proposed development should be taken other than in accordance with the development plan. For the reasons set out in the Report of Handling and decision notice, it is considered that the proposed development would conflict with the development plan when taken as a whole. As such, it is respectfully requested that the request for a review be dismissed.

Appended documents:
Report of Handling.