

**STATEMENT OF CASE**

**FOR**

**ARGYLL AND BUTE COUNCIL  
LOCAL REVIEW BODY**

**24/0010/LRB**

**REFUSAL OF PLANNING PERMISSION 23/01163/PPP**

**SITE FOR THE ERECTION OF A DWELLINGHOUSE**

**KELLAN, GLENMORE ROAD, OBAN**

**02 May 2024**

## **STATEMENT OF CASE**

The Planning Authority is Argyll and Bute Council ('the Council'). The appellant is Mr Derek MacLean ("the appellant").

Planning permission 23/01163/PPP for the site for the erection of a dwellinghouse at Kellan, Glenmore Road, Oban ("the appeal site") was refused by the Planning Service under delegated powers on 16 February 2024.

The planning application has been appealed and is subject of referral to a Local Review Body.

### **DESCRIPTION OF SITE**

The site lies immediately adjacent to the public road situated to the south of Kellan. The site which is within the extended curtilage of Kellan was previously open garden ground which had been abandoned and incorporates recent unauthorised excavation works to the rock cliff to the east of the site; this is evident from the image captured on Google street maps dated May 2022 (Appendix 2). The site, although in an elevated position on Pulpit Hill, is surrounded by residential development; of various sizes and types of construction, some in a linear form and others sporadically sited.

The planning application identified the indicative footprint of the proposed dwellinghouse situated off the UC53 Glenmore Road.

The site is effectively the extended open ground of Kellan and a modest dwellinghouse appropriately sited and designed in terms of potential siting, plot size and compliance with the existing settlement pattern would effectively terminate the extent of built development at this location. The site represents a suitable opportunity within the defined settlement for the development of a suitably sited and designed dwellinghouse which will relate to the existing development within this area.

Whilst it is accepted that the proposed the site for the erection of a dwellinghouse within the site without any significant adverse visual impact on the site or the wider landscape within which it is proposed, a suitable access regime, including improvement of substandard public approach roads, to serve the proposed development cannot be achieved.

The proposed development of the site by the erection of a dwellinghouse constitutes a material intensification of the use of an existing and constrained public approach road. The proposed development is therefore considered to have a significant adverse impact upon highway safety. No appropriate commensurate or offsite highway improvements have been identified sufficient to set aside these safety concerns and therefore planning permission was refused.

### **STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED**

Section 25 of the Town and Country Planning (Scotland) Act 1997 provides that where, in making any determination under the Planning Act, regard is to be had to the development plan, and all other material planning considerations and 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 issues in relation to the case are as follows:

- *Whether the proposed development constitutes a material intensification of the use of an existing and constrained public approach road and whether.*

The Report of Handling (Appendix 1) sets out the Council's full assessment of the application in terms of Development Plan policy and other material considerations.

## **REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING**

It is not considered that any additional information is required in light of the appellant's submission. The issues raised were assessed in the Report of Handling which is contained in Appendix 1. As such it is considered that Members have all the information they need to determine the case. Given the above and that the proposal is small-scale, has no complex or challenging issues, and has not been the subject of any significant public representation, it is not considered that a Hearing is required.

## **COMMENT ON APPELLANT'S SUBMISSION**

The case from the Planning Service is set out in the Report of Handling appended to this statement.

The Planning Service has no comment to make on the Appellant's submission.

## **ADOPTION OF LOCAL DEVELOPMENT PLAN 2**

Since planning permission was refused, 'Local Development Plan 2' (LDP2) has been adopted which, along with 'National Planning Framework 4' represent the Development Plan against which planning applications are assessed.

However, the relevant policies contained within LDP2 were considered during the processing of the application and therefore, in this instance, the adoption of LDP2 does not change the assessment previously undertaken by officers, namely that the development the subject of this review would conflict with NPF4 Policy 13 and Policies 36 and 41 of LDP2.

## **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.

As set out above, it remains the view of the Planning Service, as set out in the Report of Handling appended to this statement, that the proposed development constitutes a material intensification of the use of an existing and constrained public approach road. The proposed development is therefore considered to have a significant adverse impact upon highway safety. No appropriate commensurate or offsite highway improvements have been identified sufficient to set aside these safety concerns and therefore planning permission was refused.

Taking account of the above, it is respectfully requested that the application for review be dismissed.

## APPENDIX 1

### Report of Handling Relative to 23/01163/PP

Argyll and Bute Council  
Development & Economic Growth

Planning Application Report and Report of Handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 relative to applications for Planning Permission or Planning Permission in Principle

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Reference No: 23/01163/PPP  
Planning Hierarchy: Local  
Applicant: Mr Derek MacLean  
Proposal: Site for the erection of dwellinghouse  
Site Address: Kellan, Glenmore Road, Oban, Argyll

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#### DECISION ROUTE

- Delegated - Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997
- Committee - Local Government Scotland Act 1973
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#### (A) THE APPLICATION

- (i) **Development Requiring Express Planning Permission**
- Site for the erection of a dwellinghouse
  - Formation of vehicular access
- (ii) **Other specified operations**
- Connection to public water main
  - Connection to public drainage system
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#### (B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission in principle be **refused** subject to the reasons appended to this report.

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#### (C) CONSULTATIONS:

##### Roads Authority

Report dated 06.07.2023 recommending Refusal. Area Roads advise that the proposal is situated off the UC53 Glenmore Road within an urban 20mph speed restriction and Roads will not support any further new development to be served by this road due to the unsuitability of the restricted road to take additional traffic.

The Roads Authority have further advised as follows: *'In 2012 the Council Roads Department carried out studies and inspections on traffic issues on Glenmore Road and Crannag a Mhinisteir at the behest of the Oban Lorn and The Isles Area Committee due to complaint and concerns that local elected members had received from the community in respect of road safety. The study looked at various issues but predominantly centred around turning Glenmore Road and Crannag a Mhinisteir into a one way system and providing a footway for pedestrian safety.*

*It is generally acknowledged that the road serving the Pulpit Hill area have steep gradients and are barely wide enough in places for two way traffic. In places this is exacerbated by walls and hedges close to the road edge.*

*The one way system option was dismissed on various grounds so the decision was taken at that point by the Roads department to try to control the increase in numbers of vehicle movements over these roads by refusing to support any further new development proposals that would increase traffic on the roads'.*

#### Scottish Water

Letter dated 22.06.2023 advising no objection to the proposed development which will be serviced from the Tullich Water Treatment Works and the Oban Waste Water Treatment Works. Scottish Water do however advise that further investigations may be required once formal applications for connection to their infrastructure has been submitted for consideration.

#### Health & Safety Executive (HSE)

Report dated 20.06.2023 advising that the proposed development site which you have identified does not currently lie within the consultation distance of a major hazard site or major accident hazard pipeline; therefore at present HSE does not need to be consulted on any developments on this site.

#### Oban Airport

No response at time of report being written and no request for an extension to time.

The above represents a summary of the issues raised. Full details of the consultation responses are available to view via the [Public Access](#) section of the Council's website.

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#### **(D) HISTORY:**

18/02010/PPP

Site for the erection of dwellinghouse  
Planning application returned

08/01030/OUT

Site for erection of a dwellinghouse.  
Refused: 01.08.2008

93/01135/OUT001

SITE FOR THE ERECTION OF A DWELLINGHOUSE  
23.02.1994

*(Delegated report for 08/01030/OUT referring to 93/01135/OUT001: The reasons*

for refusal were overdevelopment of a small narrow plot contrary to local plan policy HO 21 and fragmentation of open space which contributes to the townscape setting contrary to local plan policy BE 9A.

The applicant subsequently appealed the decision but it was dismissed by the reporter.)

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**(E) PUBLICITY:**

The proposal has been advertised in terms of Regulation 20 and Neighbour Notification procedures, overall closing date 20.07.2023

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**(F) REPRESENTATIONS:**

**(i) Representations received from:**

Objections:

David Maers, Rockcliff, 4 Glenmore Road, Pulpit Hill, Oban, received 06.07.2023  
Kenneth MacPherson, Kilphedar, Glenmore Road, Pulpit Hill, Oban, dated 07.07.2023.

Representation from the applicant:

Emails dated 12.10.2023, 12.10.2023, 23.10.2023, 11.11.2023, 16.01.2024, 19.01.2024, 02.02.2024 and 06.02.2024.

Representations are published in full on the planning application file and are available to view via the [Public Access](#) section of the Council's website.

**(ii) Summary of issues raised:**

- Concerns that the applicant has undertaken major excavations of the site which was once a lovely green area and is now a rock face.

*Planning Authority Comment: The retrospective nature of this part of the development is noted.*

- Concerns with the impact of privacy, overlooking / looking down into the proposed dwellinghouse.

*Planning Authority Comment: As the proposal is for planning permission in principle no details of the proposed dwellinghouse are required to be submitted at this stage.*

*However, it is considered that a dwellinghouse to this site will not impact on the privacy of surrounding dwellinghouses subject to a suitably sited and designed dwellinghouse which will relate to the existing development within this area.*

- Concerns with the proposal will partially block the view from a neighbouring property known as 4 Glenmore Road.

*Planning Authority Comment: The proposal is for planning permission in principle*

where no details of the proposed dwellinghouse are required to be submitted at this stage. Further the site is set down in a lower location and the loss of a private view is not a material planning consideration.

- Concerns that the proposed access will be directly opposite 4 Glenmore Road.

*Planning Authority Comment: The submitted site plan, drawing number 2216 01, identifies the proposed access as being opposite the access to 3 Glenmore Road and not 4 Glenmore Road.*

- Concerns that the proposal will create a lot of noise and a mess on the public road.

*Planning Authority Comment: Any concerns with potential future noise would be a matter for Environmental Health and any potential mess on the public road would be a matter for the Area Roads Authority.*

- Concerns that planning permission has been refused before.

*Planning Authority Comment: Planning Permissions 08/01030/OUT and 93/01135/OUT001 were refused on the same site. Reasons for refusal are set out above in Section (D). It is noted that these historic refusals were assessed and determined under a different set of both local and national planning policies.*

- Concerns that the proposal will have insufficient garden ground.

*Planning Authority Comment: The submitted site plan, drawing number 2216 01, annotates an indicative house footprint; leaving approximately 429 square metres of garden ground which is acceptable.*

- Concerns from the applicant:

- The planning application had exceeded the determination date of 18<sup>th</sup> August 2023 and the agreed extension.

- Advising that the council are now in severe violation of Scottish planning laws. The first violation was not meeting the response time determined by the Scottish government. The second was not asking the applicant for an extension on the determination date. Finally the 3<sup>rd</sup> violation has occurred in the fact that Argyll and Bute council have not met the extension deadline that was reluctantly agreed by myself and the council.

*Planning Authority Comment: The applicant was advised that the Council is not in any violation of planning law although it is confirmed that failure to determine the application within the agreed extension period does now mean that the time period within which a right to seek Local Review of the application due to a failure of the Council to provide a timely decision commenced on 10<sup>th</sup> November 2023 and will expire on 10<sup>th</sup> February 2024. It was advised that once a request for a local review has been initiated that process would preclude officers from reaching a formal determination of the application.*

- The applicant enquired if the Area Team Leader would go against the recommendations from the roads authority.

- Advising that a FOI had been received from Argyll & Bute Council which requested

information on the road safety survey carried out in 2012.

- The roads department are not consistent with reports that have been carried out for previous applications i.e. granny annexes, garage conversions etc.

*Planning Authority Comment: The applicant was advised that Area Roads are a consultee in the planning process and that the points made are noted.*

- Mr J. Mclachlan's plots that have been granted for 5 homes which has been ongoing since 2008 with no built development being undertaken.

*Planning Authority Comment: This is not a material consideration in the determination of this planning application. However, planning permission 21/02509/PP was granted for the erection of 5 dwellinghouses and the formation of a vehicular access; commensurate improvements were sought and agreed with the Area Roads. That particular site benefited from planning approvals going back to 2007 and also benefits from a meaningful start.*

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#### **(G) SUPPORTING INFORMATION**

**Has the application been the subject of:**

- (i) **Environmental Impact Assessment Report:** Yes No
- (ii) **An Appropriate Assessment under the Conservation (Natural Habitats) Regulations 1994:** Yes No
- (iii) **A Design or Design/Access statement:** Yes No
- (iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** Yes No

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#### **(H) PLANNING OBLIGATIONS**

**Is a Section 75 agreement required:** Yes No

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- (I) **Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:** Yes No

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- (J) **Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application**

- (i) **List of all Development Plan Policy considerations taken into account in assessment of the application.**

[National Planning Framework 4 \(Adopted 13<sup>th</sup> February 2023\)](#)



## **Part 2 – National Planning Policy**

### **Sustainable Places**

NPF4 Policy 1 – Tackling the Climate and Nature Crises

NPF4 Policy 2 – Climate Mitigation and Adaption

NPF4 Policy 3 – Biodiversity

NPF4 Policy 4 – Natural Places

NPF4 Policy 7 – Historic Assets and Places

NPF4 Policy 9 – Brownfield, Vacant and Derelict Land and Empty Buildings  
(*includes provisions relevant to Greenfield Sites*)

NPF4 Policy 12 – Zero Waste

NPF4 Policy 13 – Sustainable Transport

### **Liveable Places**

NPF4 Policy 14 – Design, Quality and Place

NPF4 Policy 15 – Local Living and 20 Minute Neighbourhoods

NPF4 Policy 16 – Quality Homes

NPF4 Policy 17 – Rural Homes

NPF4 Policy 18 – Infrastructure First

### **[‘Argyll and Bute Local Development Plan’ Adopted March 2015](#)**

LDP STRAT 1 – Sustainable Development

LDP DM 1 – Development within the Development Management Zones

LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment

LDP 8 – Supporting the Strength of our Communities

LDP 9 – Development Setting, Layout and Design

LDP 10 – Maximising our Resources and Reducing our Consumption

LDP 11 – Improving our Connectivity and Infrastructure

Local Development Plan Schedules

### **[‘Supplementary Guidance to the Argyll and Bute Local Plan 2015’ \(Adopted March 2016 & December 2016\)](#)**

#### **Natural Environment**

SG LDP ENV 1 – Impact on Habitats, Species and our Biodiversity

#### **Landscape and Design**

SG LDP ENV 14 – Landscape

#### **General Housing Development**

SG LDP HOU 1 – General Housing Development Including Affordable Housing Provision

#### **Sustainable Siting and Design**

SG LDP Sustainable – Sustainable Siting and Design Principles

#### **Resources and Consumption**

SG LDP SERV 1 – Private Sewage Treatment Plants & Wastewater Systems  
SG LDP SERV 2 – Incorporation of Natural Features / SuDS  
SG LDP SERV 5(b) – Provision of Waste Storage & Collection Facilities within  
New Development

### **Addressing Climate Change**

SG LDP Sust Check – Sustainability Checklist

### **Transport (Including Core Paths)**

SG LDP TRAN 2 – Development and Public Transport Accessibility  
SG LDP TRAN 4 – New & Existing, Public Roads & Private Access Regimes  
SG LDP TRAN 5 – Off-site Highway Improvements  
SG LDP TRAN 6 – Vehicle Parking Provision

**(ii) List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 3/2013.**

- Third Party Representations
- Consultation Responses
- Planning History
- [ABC Technical Note – Biodiversity \(Feb 2017\)](#)

[Argyll and Bute proposed Local Development Plan 2 \(November 2019\)](#) – The Examination by Scottish Government Reporters to the Argyll and Bute Local Development Plan 2 has now concluded and the [Examination Report](#) has been published (13<sup>th</sup> June 2023). The Examination Report is a material consideration of significant weight and may be used as such until the conclusion of the LDP2 Adoption Process. Consequently, the Proposed Local Development Plan 2 as recommended to be modified by the Examination Report and the published Non Notifiable Modifications is a material consideration in the determination of all planning and related applications.

### **Spatial and Settlement Strategy**

Policy 01 – Settlement Areas  
Policy 04 – Sustainable Development

### **High Quality Places**

Policy 05 – Design and Placemaking  
Policy 08 – Sustainable Siting  
Policy 09 – Sustainable Design  
Policy 10 – Design – All Development

### **Connected Places**

Policy 35 – Design of New and Existing, Public Roads and Private Access Regimes  
Policy 36 – New Private Accesses  
Policy 37 – Development Utilising an Existing Private Access or Existing Private

Road  
Policy 40 – Vehicle Parking Provision  
Policy 41 – Off Site Highway Improvements

**Sustainable Communities**

Policy 61 – Sustainable Urban Drainage Systems (SUDS)  
Policy 63 – Waste Related Development and Waste Management

**High Quality Environment**

Policy 71 – Development Impact on Local Landscape Areas (LLA's)  
Policy 73 – Development Impact on Habitats, Species and Biodiversity

Local Development Plan 2 Schedules

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**(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:** Yes No

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**(L) Has the application been the subject of statutory pre-application consultation (PAC):** Yes No

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**(M) Has a Sustainability Checklist been submitted:** Yes No

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**(N) Does the Council have an interest in the site:** Yes No

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**(O) Requirement for a pre-determination hearing:** Yes No

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**(P)(i) Key Constraints/Designations Affected by the Development:**

- N/A

**(P)(ii) Soils**

Agricultural Land Classification:

Unclassified Land

Peatland/Carbon Rich Soils Classification:

Class 1

Class 2

Class 3

N/A

Peat Depth Classification:

N/A

Does the development relate to croft land?

Yes No

Would the development restrict access to croft or better quality agricultural land?

Yes No N/A

Would the development result in fragmentation of croft / better quality agricultural land?

Yes No N/A

**(P)(iii) Woodland**

Will the proposal result in loss of trees/woodland? Yes  
No

(If yes, detail in summary assessment)

Does the proposal include any replacement or compensatory planting? Yes  
No details to be secured by condition  
N/A

**(P)(iv) Land Status / LDP Settlement Strategy**

Status of Land within the Application

- Brownfield
- Brownfield Reclaimed
- Greenfield

**ABC LDP 2015 Settlement Strategy  
LDP DM 1**

- Main Town Settlement Area
- Key Rural Settlement Area
- Village/Minor Settlement Area
- Rural Opportunity Area
- Countryside Zone
- Very Sensitive Countryside Zone
- Greenbelt

**ABC LDP 2015 Allocations/PDAs/AFAs  
etc:**

Special Built Environment Area (SBEA) –  
Pulpit Hill

**ABC pLDP2 Settlement Strategy**

- Settlement Area
- Countryside Zone
- Remote Countryside Zone
- Helensburgh & Lomond Greenbelt

**ABC pLDP2 Allocations/PDAs/AFAs  
etc:**

**(P)(v) Summary assessment and summary of determining issues and material considerations**

Planning permission in principle (PPP) is sought for the erection of a dwellinghouse at Kellan, Glenmore Road, Oban in Argyll.

The site lies immediately adjacent to the public road situated to the south of Kellan. The site which is within the extended curtilage of Kellan was previously open garden ground which had been abandoned and incorporates recent unauthorised excavation works to the rock cliff to the east of the site; this is evident from the image captured on google street maps dated May 2022. The site, although in an elevated position on Pulpit Hill, is surrounded by residential development; of various sizes and types of construction, some in a linear form and others sporadically sited.

The application shows the indicative footprint of the proposed dwellinghouse situated off the UC53 Glenmore Road.

Whilst the application is seeking to secure PPP for the site, with the detailed layout, design and infrastructure details to be addressed by way of a future application(s) for approval of matters specified in conditions, the site plan shows the indicative position of a dwellinghouse within the site.

The site is effectively the extended open ground of Kellan and a modest dwelling

appropriately sited and designed in terms of potential siting, plot size and compliance with the existing settlement pattern would effectively terminate the extent of built development at this location. It is therefore considered that the site represents a suitable opportunity within the defined Settlement for the development of a suitably sited and designed dwellinghouse which will relate to the existing development within this area. The detailed siting, design and finishes of the proposed dwellinghouse could be secured by way of suitably worded condition(s) being imposed on the grant of permission.

It is accepted that this opinion differs materially from the previous refusals on the site but the current application must be considered on its merits and whilst the planning history of the site remains a material planning consideration greater weight must be given to the current and proposed Local Development Plan and to National Planning Framework 4.

Notwithstanding the above however, the Council as roads authority have serious concerns regarding the suitability of the existing access and road network serving Pulpit Hill. Roads have firmly stated that they are not prepared to allow any further development of this type in Glenmore Road and that there is no scope for commensurate road improvements sufficient to outweigh their road safety concerns.

Officers have spent considerable time trying to find a solution to this but, ultimately, it is agreed that a highway safety issue does exist and therefore this planning application is recommended for refusal on that sole basis. It is accepted that the applicant takes a wholly different view. His opinions are both noted and respected.

**NPF4 Policy 1** seeks to prioritise the climate and nature crises in all decisions; it requires to be applied together with other policies in NPF4. Guidance from the Scottish Government advises that it is for the decision maker to determine whether the significant weight to be applied tips the balance in favour for, or against a proposal on the basis of its positive or negative contribution to climate and nature crises.

In this case, given the relatively small scale nature of the development proposed and its alignment with all other relevant policies in NPF4 and those supporting policies in the adopted 'Argyll and Bute Local Development Plan 2015' (LDP), it is considered that the development proposed would, in the absence of the overriding highway safety concerns, be in accordance with the broad aims of NPF4 Policy 1 as underpinned by LDP Policies STRAT 1, LDP DM 1 and the adopted Sustainability Checklist and Policies 01 and 04 of pLDP2.

**NPF4 Policy 2** seeks to ensure that new development proposals will be sited to minimise lifecycle greenhouse gas emissions as far as possible, and that proposals will be sited and designed to adapt to current and future risks from climate change.

Guidance from the Scottish Government confirms that at present there is no single accepted methodology for calculating and / or minimising emissions. The emphasis is on minimising emissions as far as possible, rather than eliminating emissions. It is noted that the provisions of the Settlement Strategy set out within Policy LDP DM 1 of the LDP promotes sustainable levels of growth by steering significant development to our Main Towns and Settlements, rural growth is supported through identification of Key Rural Settlements and safeguards more

sensitive and vulnerable areas within its various countryside designations.

It is considered that the proposed development would, in the absence of the overriding highway safety concerns, be consistent with Policy 2 of NPF4 having had due regard to the specifics of the development proposed and to the overarching planning policy strategy outlined within the adopted LDP, notably policies STRAT 1, LDP DM 1, LDP DM 10 and the adopted Sustainability Checklist and Policies 01 and 04 of pLDP2.

**NPF4 Policy 3** seeks to protect biodiversity, reverse biodiversity loss and deliver positive effects from development and strengthen nature networks.

In the case of the development proposed by this application, it is considered that there are no issues of compliance with Policy 3. No material biodiversity impacts have been identified in the assessment of this application by the Planning Authority and whilst no specific proposals for biodiversity improvements have been submitted it is considered that adequate and proportionate measures for biodiversity enhancement and protection could be delivered by planning condition. Such a condition will be attached to this permission.

The proposed development is therefore considered to be in compliance with NPF4 Policy 3 as underpinned by Local Development Plan Policy LDP 3, SG LDP ENV 1 and Policy 73 of the pLDP2, in the absence of the overriding highway safety concerns.

**NPF4 Policy 4** seeks to protect, restore and enhance natural assets making best use of nature-based solutions.

The development proposed by the current planning application is considered appropriate in terms of its type, location and scale such that it will have no unacceptable impact on the natural environment. The proposed development is not within any designated European site of natural environment conservation or protection, it is not located within a National Park, a National Scenic Area a SSSI or RAMSAR site, or a National Nature Reserve. Neither is it located within a site designated as a local nature conservation site or landscape area or within an area identified as wild land.

The site is located within the Special Built Environment Area (SBEA) of Pulpit Hill where SBEA's do not have the presence, continuity or quality of 'conservation areas' but exhibit special built and land form characteristics which should be safeguarded and promoted when considering development potential and proposals.

However, in this instance, subject to a suitably sited and designed dwellinghouse, details of which could be secured by condition, it is not considered that the development of the site with a single dwellinghouse would, in the absence of the overriding highway safety concerns, have any significant adverse impact on the land form characteristics and therefore accords with NPF4 Policy 4 as underpinned by LDP Policies LDP 3, SG LDP ENV 1 and SG LDP ENV 13 and Policy 71 of pLDP2.

**NPF4 Policy 9** seeks to encourage, promote and facilitate the reuse of brownfield, vacant and derelict land and empty buildings, and to help reduce the need for greenfield development.

The development proposed by this planning application is on a brownfield site by virtue of it being the extended open ground of Kellan. The site is within the defined Settlement wherein LDP Policies LDP STRAT 1 and LDP DM 1 give general encouragement to development on appropriate sites, with these main policy considerations underpinned by the SG contained within SG LDP HOU 1 and SG LDP ENV 14 which offer further support to appropriate scales of residential development where such development would have no significant adverse impact upon the character of the landscape and where there is no unacceptable environmental, servicing or access impact.

In terms of pLDP2, the site is identified as being within a 'Settlement Area' where Policy 01 gives general support to development provided that it is compatible with surrounding uses; provides appropriate infrastructure; is of an appropriate scale and fit for the size of settlement in which it is proposed; and respects the character and appearance of the surrounding townscape in terms of density, scale, massing, design, external finishes and access arrangements.

In this instance the proposal is seeking to secure permission for a single dwellinghouse in an area of established residential development where it could fit with the settlement pattern of the area and not give rise to any adverse impact on the wider landscape setting. Accordingly, in this instance, it is not considered that the proposal conflicts with Policy 02 of pLDP2.

Policy 9 of NPF4 aligns with the settlement strategy of the LDP and emerging pLDP2 and the current development proposal raises no issue of conflict.

**NPF4 Policy 12** seeks to encourage, promote and facilitate development that is consistent with the waste hierarchy as defined within the policy document.

The development the subject of this planning application seeks to establish the principle of a single dwellinghouse. Whilst this is a development likely to generate waste when operational, it would benefit from regular waste uplifts by the Council and would be expected to comply with our adopted and enforced recycling and reuse strategy. In this regard, in the absence of the overriding highway safety concerns, the proposed development is considered to be in compliance with NPF4 Policy 12 as underpinned by LDP Policies LDP 10 and SG LDP SERV 5(b) and Policy 63 of pLDP2.

**NPF4 Policy 13** seeks to encourage, promote and facilitate developments that prioritise walking, wheeling, cycling and public transport for everyday travel and reduce the need to travel unsustainably.

The development the subject of this planning application seeks to establish the principle of a single dwellinghouse. The application proposes a new vehicular access of the UC 53 Glenmore Road.

Part (b) of Policy 13 sets out that development proposals will be supported where it can be demonstrated that the transport requirements generated have been considered in line with the sustainable travel and investment hierarchies and where appropriate they:

- i. Provide direct, easy, segregated and safe links to local facilities via walking, wheeling and cycling networks before occupation;
- ii. Will be accessible by public transport, ideally supporting the use of existing services;

- iii. Integrate transport modes;
- iv. Provide low or zero-emission vehicle and cycle charging points in safe and convenient locations, in alignment with building standards;
- v. Supply safe, secure and convenient cycle parking to meet the needs of users and which is more conveniently located than car parking;
- vi. Are designed to incorporate safety measures including safe crossings for walking and wheeling and reducing the number and speed of vehicles;
- vii. Have taken into account, at the earliest stage of design, the transport needs of diverse groups including users with protected characteristics to ensure the safety, ease and needs of all users; and
- viii. Adequately mitigate any impact on local public access routes.

Part (g) of Policy 13 states that development proposals that have the potential to affect the operation and safety of the Strategic Transport Network will be fully assessed to determine their impact. Where it has been demonstrated that existing infrastructure does not have the capacity to accommodate a development without adverse impacts on safety or unacceptable impacts on operational performance, the cost of the mitigation measures required to ensure the continued safe and effective operation of the network should be met by the developer. New junctions will only be considered if they are designed in accordance with relevant guidance and where there will be no adverse impact on road safety or operational performance.

NPF4 Policy 13 is underpinned at local level by LDP Policy LDP 11 which sets out a requirement that an appropriate standard of access is delivered to serve new developments, including off-site highway improvements where appropriate. This requirement is specified in more detail within LDP Policy SG LDP TRAN 4 (1) and Policy 36 of pLDP2 which sets out acceptance of development that proposes new private access regimes which are subject to road safety and street design issues being addressed which will only be accepted if:

- (i) The new private access forms an individual private driveway serving a single user development, which does not, in the view of the planning authority, generate unacceptable levels of pedestrian or vehicular traffic in terms of the access regime provided; or
- (ii) The private access serves a housing development not exceeding 5 dwelling houses; or
- (iii) The private access serves no more than 20 units in a housing court development.

The Council's Area Roads Authority was consulted on the proposal and a refusal was recommended. The Roads Authority have advised that they will not support any further new development to be served by the public road at this location due to unsuitability of the restricted road to take additional traffic.

The Roads Authority have further advised that in 2012 the Council Roads Department carried out studies and inspections on traffic issues on Glenmore Road and Crannag a Mhinisteir at the behest of the Oban Lorn and The Isles Area Committee due to complaints and concerns that local elected members had received from the community in respect of road safety. The study looked at various issues but predominantly centred around turning Glenmore Road and Crannag a Mhinisteir into a one way system and providing a footway for pedestrian safety. The Roads Authority have advised that the one way system option was dismissed by Members on various grounds so the decision was taken at that point by the Roads Authority to try to control the increase in numbers of



vehicle movements over these roads by refusing to support any further new development proposals that would increase traffic on the roads.

It is generally acknowledged that the public roads serving the Pulpit Hill area have steep gradients and are barely wide enough in places for two way traffic. In places this is exacerbated by walls and hedges close to the road edge.

The provisions of LDP Policy SG LDP TRAN 5 and Policy 41 of pLDP2 set out that where development will significantly increase vehicular or pedestrian traffic on substandard public approach roads, then developments will be required to contribute proportionately to improvements to the public road network. In this instance the review undertaken by the Council's Roads Service in 2012 has already concluded that in the absence of a one way system being introduced, the wider road network does not have capacity to accommodate additional vehicular or pedestrian traffic generating uses and as such the applicant is not in a position to address the fundamental shortcomings in the public approach road in a manner that would be practical or proportionate to the development proposed.

The proposed development of the site by the erection of a dwellinghouse constitutes a material intensification of the use of an existing and constrained access regime. The proposed development is therefore considered to have a significant adverse impact upon highway safety. No appropriate commensurate or offsite highway improvements have been identified sufficient to set aside these safety concerns. The proposal is considered to be contrary to the NPF4 Policy 13(g) as underpinned by LDP Policies LDP 11, SG LDP TRAN 4(1), SG LDP TRAN 5 and Policies 36 and 41 of pLDP2.

**NPF4 Policy 14** seeks to encourage, promote and facilitate well designed development that makes successful places by taking a design-led approach and applying the 'Place Principle'.

The development the subject of this planning application seeks to establish the principle of a single dwellinghouse and therefore, at this stage, no specific design has been submitted for assessment by the Planning Authority. If granted, the necessary future application(s) for the approval of the details of the proposed development would be expected to comply with the 'place principle' as set out in NPF4 Policy 14 and planning conditions attached to any permission in principle would ensure that the development is designed to an appropriate standard.

In this regard, the development the subject of this planning application is, in the absence of the overriding highway safety concerns, considered to be in accordance with the broad aims of NPF4 Policy 14 as underpinned by LDP Policies LDP 9 and SG LDP Sustainable Siting and Design Principles and Policies 08, 09 and 10 of pLDP2.

**NPF4 Policy 15** seeks to encourage, promote and facilitate the application of the 'Place Principle' and create connected and compact neighbourhoods where people can meet the majority of their daily needs within a reasonable distance of their home, preferably by walking, wheeling or cycling or using sustainable transport options.

In terms of our adopted settlement strategy, the site of the proposed development is within the defined Main Town Key Settlement of Oban where LDP Policies LDP STRAT 1 and LDP DM 1 give general encouragement to

development on appropriate sites. These main policy considerations are underpinned by the SG contained within SG LDP HOU 1 and SG LDP ENV 14 which offer further support to appropriate scales of residential development where such development would have no significant adverse impact upon the character of the landscape and where there is no unacceptable environmental, servicing or access impact.

It is considered that the small scale of the proposed development and its location would, in the absence of the overriding highway safety concerns, reasonably comply with Policy 15 of NPF4 given the existing dispersed geographical scale of the environment within which the development is to be located, and given its compliance with the existing settlement pattern and the geographic relationship of the proposed development with the surrounding area where people can reasonably meet the majority of their daily needs within a reasonable distance of their home. This is underpinned by the broad settlement strategy policy contained within Policies LDP DM 1, LDP 8, LDP 10 and LDP 11 of the LDP and Policy 02 of pLDP2.

**NPF4 Policy 16** seeks to encourage, promote and facilitate the delivery of more high quality, affordable and sustainable homes in the right locations and providing choice of tenure to meet diverse housing needs.

Policy 16 supports development proposals for new homes that improve choice, including at Policy 16(c) 'self-provided homes'. It is considered that this application to establish the principle of a single self-build home would accord with the broad policy aims of NPF4 Policy 16 and would be in a location underpinned by our adopted settlement strategy policies.

The development proposed by this planning application falls well below the adopted threshold for a requirement to provide 25% affordability.

The need in Policy 16(f) to ensure that development proposals for an agreed timescale for build-out could be covered through the use of a planning condition.

Whilst the development proposed by this planning application is on land not actively allocated for housing in the LDP, it would wholly accord with the adopted settlement strategy and would accord with the principles of 'local living' and '20 minute neighbourhoods'. The proposed development, in the absence of the overriding highway safety concerns, is therefore deemed consistent with NPF4 Policy 16 as underpinned by LDP policies LDP DM 1, LDP 8 and SG LDP HOU 1 and Policy 05 and 67 of pLDP2.

**NPF4 Policy 18** seeks to encourage, promote and facilitate an infrastructure first approach to land use planning etc.

The development the subject of this planning application proposes connection to the public water and drainage infrastructure to which Scottish Water raised no objection advising that the development will be serviced from the Tullich Water Treatment Works and the Oban Waste Water Treatment Works. Scottish Water do advise that they are unable to confirm capacity and advise the Applicant to submit a Pre-Development Enquiry for consideration. The proposal is, in the absence of the overriding highway safety concerns, considered consistent with the broad aims of NPF4 Policy 18 as underpinned by LDP policy LDP DM 11 and Policies 05 and 08 of pLDP2 which seek to ensure suitable infrastructure is available to serve proposed developments.

**NPF4 Policy 22** seeks to strengthen resilience to flood risk and to ensure that water resources are used efficiently and sustainably.

As detailed at NPF4 Policy 18 above, the development the subject of this planning application proposes connection to the public water main to which Scottish Water raised no objection. The proposal is, in the absence of the overriding highway safety concerns, considered to be consistent with NPF4 Policy 22 as underpinned by LDP Policies LDP 10 and SG LDP SERV 2 and Policy 61 of pLDP2.

Accordingly, notwithstanding the above assessment that the proposed site for the erection of a single dwellinghouse could be accommodated within the site without any significant adverse visual impact on the site or the wider landscape within which it is proposed, a suitable access regime, including improvement of substandard public approach roads, to serve the proposed development cannot be achieved.

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**(Q) Is the proposal consistent with the Development Plan:**  Yes  No

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**(R) Reasons why Planning Permission in Principle Should be Refused:**

See reasons for refusal below.

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**(S) Reasoned justification for a departure to the provisions of the Development Plan**

N/A

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**(T) Need for notification to Scottish Ministers or Historic Environment Scotland:**  
 Yes  No

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**Author of Report:** Judith Stephen **Date:** 14.02.2024

**Reviewing Officer:** Peter Bain **Date:** 15.02.2024

**Fergus Murray**  
**Head of Development & Economic Growth**

## **REASONS FOR REFUSAL RELATIVE TO APPLICATION REF. NO. 23/01163/PP**

1. The proposed development conflicts with NPF4 Policy 13, and Policies LDP 11, SG LDP TRAN 4 and SG LDP TRAN 5 of the adopted 'Argyll and Bute Local Plan' 2015 and Policies 37 and 41 of emerging proposed 'Local Development Plan 2' as the proposed development would result in the intensification in vehicular use of a sub-standard public approach road with no delineation between pedestrian or vehicular use.

The proposed development of the site by the erection of a dwellinghouse constitutes a material intensification of the use of an existing and constrained public approach road. The proposed development is therefore considered to have a significant adverse impact upon highway safety. No appropriate commensurate or offsite highway improvements have been identified sufficient to set aside these safety concerns. The proposal is considered to be contrary to the NPF4 Policy 13(g) as underpinned by LDP Policies LDP 11, SG LDP TRAN 4(1), SG LDP TRAN 5, and Policy 36 and Policy 41 of pLDP2.

## APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **23/01163/PPP**

(A) Has the application been the subject of any “non-material” amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing.  Yes  No

(B) The reason why planning permission has been refused:

**See reasons for refusal set out above.**

## Appendix 2

Image captured on Google street maps dated May 2022 Relative to 23/01163/PP

