

STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

**REFUSAL OF PLANNING PERMISSION IN
PRINCIPLE FOR A SITE FOR THE ERECTION OF
A DWELLINGHOUSE AT PLOT 4 ARDNACROSS
FARM, PENINVER, CAMPBELTOWN**

LOCAL REVIEW BODY REF. 10/0010/LRB

**PLANNING PERMISSION APPLICATION
REFERENCE NUMBER 10/00040/PPP**

29TH JULY 2010

STATEMENT OF CASE

The planning authority is Argyll and Bute Council ('the Council'). The appellant is Mr David Watson. ('the appellant').

The planning application, reference number 10/00040/PPP, for a site for the erection of a dwellinghouse at Plot 4, Ardnacross Farm, Peninver, Campbeltown ("the appeal site") was refused under delegated powers on the 28th April 2010. The planning application has been appealed and is subject of referral to a Local Review Body.

DESCRIPTION OF SITE

The application site relates to a 0.15 hectare area of agricultural land located on landward (west) side of the public highway some 100m to the NE of a cluster of buildings at Ardnacross Farm. The site is contained by an open road frontage to the east and by rising land to the north and east.

SITE HISTORY

Outline planning permission was originally granted for two dwellings stepping back from the public road to the north of the appeal site:

06/01738/OUT – Site for erection of dwellinghouse, Plot 2 – Approved – 13.12.06

06/01739/OUT – Site for erection of dwellinghouse, Plot 1 – Approved – 13.12.06

Upon undertaking an archaeological investigation of the site a number of archaeological remains were discovered within the boundary of Plot 1; in view of the potential cost implications, rather than complete the archaeological investigation the applicant requested that the planning permission for Plot 1 be voluntarily revoked and instead applied for outline planning permission for a second dwellinghouse in a roadside location (Plot 3) which had previously been given an 'all clear' in respect of archaeological matters.

08/00536/OUT – Site for the erection of dwellinghouse, Plot 3 – Approved – 29.04.08

In an attempt to recoup the costs incurred in respect of archaeological investigation relating to Plot 1, the applicant submitted a further application seeking outline planning permission for a third dwellinghouse in a roadside location (Plot 4). However, prior to the submission of this application, the Local Plan Inquiry Reporter's comments had been issued and cast doubt upon the retention of 'Rural Opportunity Areas' within national and regional scenic designations. The application was subsequently withdrawn after the

Planning Department advised that a positive decision could not be forthcoming whilst the Reporters concerns remained unsatisfied.

08/02177/DET – Site for erection of dwellinghouse, Plot 4 – Withdrawn – 16.01.09

Planning Permission in Principle has been issued following the submission of an application requesting that the outline planning permission relating to Plot 2 be renewed.

09/01803/PPP – Site for erection of dwellinghouse, Plot 2 – Approved – 25.01.10

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 issues in relation to the case are as follows:-

- Whether or not the proposal is consistent with the Council's 'Settlement Strategy' as set out in the Development Plan, in this instance policies STRAT DC 4, LP HOU 1 and P/DCZ 4.
- Whether or not the proposal has an adverse impact on the character of the Area of Panoramic Quality within which the application site lies; the provisions of policies STRAT DC 8 and LP ENV 10 would seek to resist development considered to adversely affect the landscape character of the Area of Panoramic Quality.

The Report of Handling (Appendix 1) sets out the Council's assessment of the application in terms of Development Plan policy and other material considerations. The consultation comments submitted by statutory and other consultees (Appendix 2) and third party representation (Appendix 3) are attached for the purpose of clarity.

POLICY BACKGROUND

The appeal relates to a 'small scale' housing development located on an open countryside location within a 'Rural Opportunity Area' which is positioned within an Area of Panoramic Quality – the following policy considerations are relevant to the determination of this matter:

Structure Plan Policy STRAT DC 4 – Development in Rural Opportunity Areas

- A) *Within Rural Opportunity Areas encouragement shall be given to small scale developments on suitable sites which, in terms of siting and design, will visually integrate with the landscape and settlement pattern; this may include small scale development and change of use of building development.*
- B) *n/a*
- C) *n/a*
- D) *n/a*
- E) *Developments are also subject to consistency with other policies of the Structure Plan and in the Local Plan.*

Structure Plan Policy DC 8 – Landscape and Development Control

- A) *Development which, by reason of location, siting, scale, form, design or cumulative impact, damages or undermines the key environmental features of a visually contained or wider landscape or coastscape shall be treated as ‘non-sustainable’ and in contrary to this policy. Outwith the National Park particularly important and vulnerable landscapes in Argyll and Bute are those associated with:*
- 1. National Scenic Areas;*
 - 2. Historic landscapes and their settings with close links with archaeology and built heritage and/or historic gardens and designed landscapes;*
 - 3. Landward and coastal areas with semi-wilderness or isolated or panoramic quality.*

Local Plan Policy LP ENV 10 – Development Impact on Areas of Panoramic Quality

Development in, or adjacent to, an Area of Panoramic Quality will be resisted where its scale, location or design will have a significant adverse impact upon the character of the landscape unless it is demonstrated that:

- (A) Any significant adverse effects on the quality for which the area has been designated are clearly outweighed by social and economic benefits of National or regional importance;*
- (B) Where acceptable, development must also conform to Appendix A of the Local Plan.*

In all cases the highest standards, in terms of location, siting, landscaping, boundary treatment and materials, and detailing will be required within the Area of Panoramic Quality.

The text which accompanies policy LP ENV 10 sets out the following justification in relation to development within Areas of Panoramic Quality:

The aim of this policy is to provide panoramically important landscapes in Argyll and Bute, with adequate protection against damaging development.

The Council has identified Areas of Panoramic Quality and these are shown on the main Proposals Maps. These areas are important not only for their physical landforms and for the flora and fauna, which they support, but also for the environmental assets that they represent. These qualities could easily be destroyed or damaged by even a relatively small, insensitive development. They therefore must be protected.

Local Plan Policy LP HOU 1 – General Housing Development

(A) There is a general presumption in favour of housing in development other than those categories, scales and locations of development listed in (B) below. Housing development, for which there is a presumption in favour, will be supported unless there is an unacceptable environmental, servicing or access impact.

(B) n/a

(C) n/a

(D) Housing developments are also subject to consistency with other policies of both the Structure and Local Plan and in particular policy P/DCZ 4 – Rural Opportunity Areas.

The text which accompanies policy LP HOU 1 sets out the following justification in respect of Housing in the Rural Opportunity Areas.

The rural opportunity areas have been mapped specifically with a view to identifying areas within which there is a general capacity to successfully absorb small scale housing development. This includes open countryside locations where appropriate forms of small-scale housing development will be in tune with landscape character and development pattern. Development proposals located within the open countryside within Rural Opportunity Areas positioned within National Scenic Areas and Areas of Panoramic Quality will be considered premature until a Landscape Capacity Study covering the relevant Rural Opportunity Area has been completed and approved by the Council. Thereafter, development proposals will be expected to be consistent with the findings contained within the Landscape Capacity Study. Consequently, there is a presumption in favour of small-scale housing development within this zone, subject to on-going capacity evaluation.

P/DCZ 4 – Rural Opportunity Areas – Areas and Boundaries

It is proposed that the Rural Opportunity Areas be identified in Proposal Maps A in the proposal map folders; these correspond to areas with a general capacity to successfully absorb small-scale development.

Development proposals located in the open countryside, within Rural Opportunity Areas positioned within National Scenic Areas or Areas of Panoramic Quality will be considered premature until a Landscape Capacity Study covering the relevant Rural Opportunity Area has been completed and approved by the Council. In such instances proposals should be considered as if located within Sensitive Countryside.

Development proposals will be expected to be consistent with the findings contained within completed Landscape Capacity Studies.

NB. This Policy impacts upon the following policies in LP TOUR 1; LP HOU 1; LP RET 4; LP BUS 2.

The Rural Opportunity Area within which the appeal site is located has been the subject of Landscape Capacity Assessment undertaken by qualified Landscape Architects and is contained within ROA SK 17 (pages 62-65) of the 'North and South Kintyre Landscape Capacity Study' which was approved by the Mid Argyll, Kintyre and the Islands Area Committee on 3rd February 2010. This document also sets out the methodology employed in assessing landscape capacity.

The appeal site is located within an area identified in red in the Landscape Capacity Study which relates to 'Areas not recommended for development' wherein the recommendations include:

- *New development should be kept back from the immediate road edge and not placed in the very open spaces on the lower slopes within fields;*
- *This is generally a wide open landscape with extensive visibility in all directions and is open to views from the road.*

REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING

The issues raised were covered in the Report of Handling which is contained in Appendix 1, including a summary of third party representations. 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 significant body of conflicting representation, then it is considered that a Hearing is not required.

COMMENT ON APPELLANTS' SUBMISSION

Having regard to part (7) of the appellant's submission it is noted that these are in the main part adequately addressed in the report of handling

(appended), over and above this, the following comments are submitted for consideration:

Neighbour Support

The appellant has submitted 54 letters of support for the proposal from local residents.

Having regard to Annex A of Circular 4/2009, third party representations raising planning matters are considered to be material considerations to the determination of a planning application.

It is also noted that had 54 letters been received in advance of the application being determined then this would have necessitated determination by the Planning, Protective Services and Licensing Committee of the Council and, in light of the number of representations, a discretionary public hearing. In the event that this route had also led to a refusal then the appellant's right of appeal would have been to the Scottish Government's Directorate for Planning and Environmental Appeals (DPEA) rather than a Local Review Board of the Council.

At the time of determination, planning officers were in receipt of only two letters indicating general support for the proposal and the application was accordingly refused by officers under the Council's Scheme of Delegation. It is advised that the 54 letters of support of the application for review should not be taken into consideration in the determination of this matter as they not only give rise to new material considerations than those taken into account in the determination of the planning application but also would have materially altered the determination and appeal process.

In this respect Members are respectfully reminded that Section 43B of the Act restricts the introduction of material in the review; paragraph 38. of Circular 7/2009 sets out that new material will only be permitted where the party can demonstrate that it could not have been introduced earlier in the process, or that it arises as a result of exceptional consequences.

MSP and Councillor Support

For clarity, it is again noted that prior to the determination of the application the only written expression of support for the proposal was from Cllr Donald Kelly and Jamie McGrigor MSP.

Determining Issues etc.

The appellant argues that the Landscape Capacity Study is invalid on the basis that it does not take into account the previous grant of planning permission on adjoining land, if so it would have been reasonable to assume that additional capacity would have been assigned as an extension to this area. In this respect it is cordially noted that the applicant cannot provide any guarantee that the previously approved outline/planning permission in

principle will ever be implemented – as such it would be presumptuous to assign capacity as an extension to an approved development (in principle) which may or may not happen.

The appellant states that ‘Small scale development’ has not been quantified – for the purpose of clarity its is noted that this is defined under the provisions of policy LP HOU 1 of the adopted Local Plan for the purpose of applying that policy as being residential development of a maximum of 5 dwelling units.

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.

The application site is located within ‘rural opportunity area’ positioned within an Area of Panoramic Quality wherein the provisions of policy P/DCZ 4 requires consideration to be had to the provisions of the North and South Kintyre Landscape Capacity Study. It is the consideration of the Planning Department that the residential development of this roadside site within the open countryside, viewed both independently and cumulatively in light of extant outline planning permission/planning permission in principle on adjoining land, is contrary to the recommendations of the North and South Kintyre Landscape Capacity Study and as such would be detrimental to the landscape character of the Area of Panoramic Quality within which the application site lies. This proposal does not conform to the North and South Kintyre Landscape Capacity Study and so conflicts with policy P/DCZ 4 of the local plan which states that “Development proposals will be expected to be consistent with the findings contained within the completed Landscape Capacity Studies”.

In light of the above, the proposal is consequently considered contrary to the provisions of policies STRAT DC 4, STRAT DC 8, LP HOU 1, P/DCZ 4 and LP ENV 10. Taking account of the above, it is respectfully requested that the appeal be dismissed.

Appendix 1 – Report of Handling

Argyll and Bute Council
Development Services

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: 10/00040/PPP
Planning Hierarchy: Local Development
Applicant: Mr David Watson
Proposal: Site for Erection of Dwellinghouse and Installation of Septic Tank
Site Address: Plot 4, Ardnacross, Peninver, by Campbeltown

DECISION ROUTE

Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997

(A) THE APPLICATION

- (i) **Development Requiring Express Planning Permission**
- Site for erection of dwellinghouse (no details submitted);
 - Installation of septic tank (no details submitted);
 - Proposed private water supply (no details submitted);
 - Formation of access to public highway.
- (ii) **Other specified operations**
- n/a
-

(B) RECOMMENDATION:

Recommend that planning permission in principle be refused for the reasons attached.

(C) CONSULTATIONS:

Environmental Services Mid Argyll	19.01.2010	no objections subject to conditions
Archaeologist	01.02.2010	no objection - site has been partially investigated
Area Roads Mid Argyll Kintyre And	27.01.2010	no objections subject to conditions

(D) HISTORY:

Outline planning permission was originally granted for two dwellings stepping back from the public road:

06/01738/OUT – Site for erection of dwellinghouse, Plot 2 – Approved – 13.12.06

06/01739/OUT – Site for erection of dwellinghouse, Plot 1 – Approved – 13.12.06

Upon undertaking an archaeological investigation of the site a number of archaeological remains were discovered within the boundary of Plot 1; in view of the potential cost implications, rather than complete the archaeological investigation the applicant requested that the planning permission for Plot 1 be voluntarily revoked and instead applied for outline planning permission for a second dwellinghouse in a roadside location (Plot 3) which had previously been given an 'all clear' in respect of archaeological matters.

08/00536/OUT – Site for the erection of dwellinghouse, Plot 3 – Approved – 29.04.08

In an attempt to recoup the costs incurred in respect of archaeological investigation relating to Plot 1, the applicant submitted a further application seeking outline planning permission for a third dwellinghouse in a roadside location (Plot 4). However, prior to the submission of this application, the Local Plan Inquiry Reporter's comments had been issued and cast doubt upon the retention of 'Rural Opportunity Areas' within national and regional scenic designations. The application was subsequently withdrawn after the Planning Department advised that a positive decision could not be forthcoming whilst the Reporter's concerns remained unsatisfied.

08/02177/DET – Site for erection of dwellinghouse, Plot 4 – Withdrawn – 16.01.09

Planning Permission in Principle has been issued following the submission of an application requesting that the outline planning permission relating to Plot 2 be renewed.

09/01803/PPP – Site for erection of dwellinghouse, Plot 2 – Approved – 25.01.10

(E) PUBLICITY:

Regulation 20 – Expired 5th February 2010

(F) REPRESENTATIONS:

(i) **Representations received from:**

One e-mail in support of the proposal has been submitted by Donald Kelly, elected member for Ward 1, South Kintyre.

Comments prepared by the Applicant have also been forwarded to the (former) Director of Development Services by Jamie McGrigor MSP.

(ii) Summary of issues raised:

- Endorses the justification for the development set out in the applicant's submissions.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- | | |
|--|----------------------------|
| (i) Environmental Statement: | No |
| (ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: | No |
| (iii) A design or design/access statement: | No |
| (iv) A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc: | Yes – supporting statement |

The applicant has submitted a statement setting out his justification for the development proposals; the issues raised are summarised as follows:

Location: That the Planning Department has previously informally discussed and encouraged the applicant to make submissions for plots 1 and 2 (and latterly plot 3) rather than his initial preference of developing in the vicinity of Eastholme which the Planning Department sought to discourage. The advice previously given by the Planning Department is now at odds with the published North and South Kintyre Landscape Capacity Study which promotes development adjacent to Eastholme and Ardnacross Farm but seeks to resist development in the vicinity of the previously consented development.

Comment: The implications of the North and South Kintyre Landscape Capacity Study are addressed in detail in part P. It is noted however that advice previously offered to the applicant was the informal, professional advice of Planning Officers based upon the relevant policy and guidance available at that time.

Overdevelopment: The applicant has taken issue with the Planning Department's previous informal advice which set out that a development of three dwellinghouses would not be supported at this particular location – such a proposal being viewed as an overdevelopment of the site and an incongruous grouping of buildings within the countryside. Contrary to this advice, the applicant has highlighted a previous roadside development elsewhere in East Kintyre where a grouping of three dwellinghouses has

secured outline planning approval (refs. 07/00879/OUT, 07/00886/OUT and, 07/00884/OUT) – the applicant suggests that as a grouping of three buildings was acceptable elsewhere in East Kintyre then it should also be acceptable in this location.

Comment: Firstly, it is noted that all applications require to be determined on their own merits and secondly, there is no policy provision or guidance which states that groupings of three buildings are acceptable in East Kintyre as a one size fits all solution. The consents referenced by the applicant relate to a development located to the South of Carradale. Thirdly, there are significant differences between both the landscape character and the existing patterns of development between these locations. In particular the previous assessment (for the Carradale approvals) identified a roadside pattern of development consisting of isolated and small groups of dwellings located in roadside locations – the layout of the development allowed for elements of separation between the plots to reflect the existing roadside settlement pattern and prevent an ordered row of three buildings, furthermore, conditions relating to design were imposed to prevent three identical dwellings being erected. The development pattern within the vicinity of Ardnacross Farm is predominantly relating to existing farm groupings and set back from the public highway with the occasional building located immediately adjacent to the public highway. The current proposal would result in three buildings being lined up side by side on small plots adjacent to the public highway with no significant element of separation between buildings; whilst the Planning Department has previously been content to approve a pair of buildings at Ardnacross it has consistently set out a position where it would look to resist a linear, ribbon development in this location – the recommendations of the North and South Landscape Capacity Study highlight the existing settlement pattern at Ardnacross and takes a harder stance than that previously considered by Planning Officers as the LCS recommendations would also have precluded the permissions previously granted.

Local Plan: It is highlighted that the Local Plan process has severely impacted upon the timescale for obtaining a planning decision in light of development within certain 'rural opportunity areas' being subject to a moratorium in light of concerns raised by the Local Plan Inquiry Reporter where these designations related to national and regional scenic considerations.

Comment: The recommendations of the Local Plan Inquiry Reporters included for the deletion of all ROAs which were located within Areas of Panoramic Quality (as is the case in this instance) and National Scenic Areas – this in effect would have resulted in this site and all other such ROAs being amended to 'sensitive countryside' wherein there is a presumption against all development in the open countryside. In view of the uncertainty as to the status of ROAs, the Planning Department took the view that the determination of applications in the affected ROAs would be premature to the development plan process until such time as the Council had provided its response to the Reporters recommendations. The Council duly provided its response to the Reporters recommendations in Nov. 2008 by classifying all ROA within APQ/NSA designations as 'sensitive countryside' until such time as a Landscape Capacity Study had been prepared – the policy provisions of P/DCZ4 and LP HOU 4 in the Local Plan were also amended to require new development to be consistent with the Landscape Capacity Study. The North and South Kintyre Landscape Capacity Study was approved by Members on 3rd February 2010 and it is only subsequent to this point that the Planning

Department has been in a position to consider determination of the affected applications. Whilst I can appreciate the applicant's disappointment at a delay in excess of 12 months it must be noted that the events which have unfolded in the Local Plan preparation process meant that it was not possible for the case officers processing this application either to predict or avoid the consequences of these events.

Archaeological Costs: The applicant states that significant costs have been incurred to undertake an archaeological evaluation of the development. The applicant is of the view that some of these costs have been excessive and that the Planning Department could have assisted by minimizing this cost. Planning permission is being sought for Plot 4 to recoup these costs.

Comment: The requirement for archaeological investigation of the development sites was identified by the West of Scotland Archaeology Service in their role as the retained archaeological advisors to the Council. Outline planning permission was initially granted in a conditional basis that no development commence until such time as an archaeological investigation of the site had been undertaken. The applicant's decision to undertake archaeological investigation of the site prior to it being sold to a developer and his decision to extend the archaeological investigation to a wider area which was not the subject of planning permission was not subject to advice from the Planning Department. The initial requirement for an archaeological investigation of the site has proven well founded with the discovery of remains within the boundary of Plot 1, having regard to the costs incurred in the investigation of the sites it is noted that the requirement to investigate and record findings is a normal requirement and is not specific to this particular instance; the conditional requirements on the outline planning permission have been proportionate to the scale of development proposed. It is further noted that the additional development costs incurred by the applicant do not in themselves amount to a justification to approve planning permission for additional development.

Neighbour Support: The applicant states that he has discussed the development with all of his immediate neighbours and other local people and have found no objections to the proposal; everyone has offered to provide written submissions for the current proposal.

Comment: To date, the Planning Department has not received written letters offering support for the proposal from neighbours or the general public.

MSP and Councillor Support: The applicant states that he also has the support of his MSP, Jamie McGrigor, and the three Local Councillors for Ward 1 (Cllr. Rory Colville, Cllr. Donald Kelly and, Cllr. John Semple) who all agree that the development of Plot 4 would be acceptable.

Comment: To date, the Planning Department has only received a formal commendation of support for the proposal from one of the elected ward members, Cllr. Donald Kelly. Correspondence has also been received from Jamie McGrigor MSP enclosing a copy of a letter to him from the applicant and requesting that the issues raised be given due consideration in the determination of the current application.

Merits of Application: The applicant states that he began looking to develop plots on his land to provide a cash injection to the farm business however

costs incurred have had the opposite effect and consequently the sale of only two plots will not have the impact that was originally hoped for. Income from a third plot is required to invest in the farm and enable the applicant to maintain their natural and built heritage (a requirement which he highlights is reflected in Scottish Planning Policy) by keeping up the practices of a traditional small working hill farm. The sale of these plots will provide economic benefit not only to the applicant's farm but also to the local businesses that he supports and to the local area by providing housing and construction work.

Comments: The financial benefits which would be accrued from the development of plot 4 are not material to the determination of the current application – in this respect it is noted that the applicant has not provided an over-riding locational or operational justification for the approval of development at a location which is not supported by the 'settlement strategy' set out in the Development Plan. The current proposal is essentially speculative in nature and is not accompanied by a supporting "farm development program" specifying how and where capital receipts accrued from the sale of land would be utilised to improve/support the farm business. Furthermore, it is noted that the North and South Kintyre Landscape Capacity Study identifies landscape capacity for further development at other land within the applicant's ownership which could potentially be developed to meet the applicant's requirements for supplementary income to the working of the agricultural holding.

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: No

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

(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.

'Argyll and Bute Structure Plan' 2002 (delete as appropriate)

STRAT DC 4 – Development in Rural Opportunity Areas

STRAT DC 8 – Landscape and Development Control

'Argyll and Bute Local Plan' 2009 (delete as appropriate)

LP ENV 1 – Impact on the General Environment

LP ENV 10 – Impact on Areas of Panoramic Quality (APQs)

LP ENV 19 – Development Setting, Layout and Design

LP HOU 1 – General Housing Development

LP SERV 1 – Private Sewage Treatment Plants and Wastewater Systems
LP SERV 4 – Water Supply

LP TRAN 4 – New and Existing Public Roads and Private Access Regimes
LP TRAN 6 – Vehicle Parking Provision

P/DCZ 4 – Rural Opportunity Areas – Areas and Boundaries

Appendix A – Sustainable Siting and Design Principles
Appendix C – Access and Parking Standards

(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 4/2009.

- North and South Kintyre Landscape Capacity Study
- Consultee comments;
- Third party representations.

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

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

(M) Has a sustainability check list been submitted: No

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

(O) Requirement for a hearing (PAN41 or other): No

(P) Assessment and summary of determining issues and material considerations

The proposal seeks planning permission in principle for a site for the erection of a dwellinghouse (no details submitted) in a roadside location with shared access arrangements with previous planning permission. Outline planning permission/planning permission in principle has been granted (prior to the amendment of ROA policies and subsequently renewed prior to expiry – see history above) for two further plots on adjacent sites (ref. Plot 2 – 09/01803/PPP and Plot 3 - 08/00536/OUT); planning permission for a previous development of Plot 1 (06/01739/OUT) which promoted a development pattern which stepped away from the roadside edge was voluntarily revoked by the applicant to allow approval of Plot 3 following the discovery of archaeological remains within the boundary of Plot 1.

The application site is situated on the landward (west) side of the B842 public highway some 100m NE of the existing cluster of agricultural and residential development at Ardnacross Farm, the access to Ardnacross Cottage is located on the opposite side of the public highway. The land is open to the south and west of the application site where the development will be viewed within the backdrop of the existing, loose grouping of development at Ardnacross Farm. The land rises steeply to the north of the site beyond the adjacent planning permission in principle (09/01803/PPP) and will provide a backdrop to the proposed dwellings as well as a natural end to the development potential at this location. Previous permissions will require development on Plot 3 to face the public highway, Plot 2 could potentially be angled to face south given the immediate backdrop of higher land which abuts that site. The assessment relating to the previous grant of outline planning permission/planning permission in principle considered that "the situation of two single storey, modest cottage type dwellings of an appropriately traditional design and finishes at this location would be in keeping with the existing pattern of development in the locality, would not be prominent or incongruous and, will not have an adverse impact upon the East Kintyre Regional Scenic Area or the Area of Panoramic Quality". *For the purpose of clarity it is noted that this previous assessment is contrary to the recommendations of the North and South Kintyre Landscape Capacity Study and is therefore no longer applicable.* The current proposal seeks permission for a third dwellinghouse immediately adjacent to the previous permissions which, if all implemented would result in a row of small of dwellinghouses adjacent to the public highway.

Access to the site would be via a new access which would serve all three roadside plots – it is noted that whilst detailed planning permission has not been obtained for the formation of an access, the applicant has installed a new entrance which it can only be presumed meets with the conditional requirements set out in the previous grants of outline planning permission/planning permission in principle. The Area Roads Manager has not raised objection to the proposal subject to conditions relating to the geometry and visibility to be applied to the junction with the public highway, parking and turning provision – in this respect the proposal is considered to be consistent with the relevant provisions of policies LP TRAN 4 and LP TRAN 6. Water would be by connection to a new private water supply (no details submitted); foul drainage would be to a new septic tank and soakaway (no details submitted); the Area Environmental Health Manager has not raised objection subject to conditions in respect of ensuring the adequacy of these provisions – in this respect the proposal is considered to be consistent with the relevant provisions of LP SERV 1 and LP SERV 4.

Having regard to the Council's current policy/guidance position in respect of 'settlement strategy', the application site is located within a 'rural opportunity area' (ROA) wherein the provisions of policies STRAT DC 4 and LP HOU 1 would normally support the general principle of 'small scale' residential development in the open countryside. However the site also lies within an 'Area of Panoramic Quality' wherein the provisions of STRAT DC 9 and LP ENV 10 would seek to resist development which has a significant adverse impact upon the character or the landscape and, the provisions of policy P/DCZ 4 which requires planning decisions within the aforementioned designations to be consistent with the findings of the North and South Kintyre Landscape Capacity Study (LCS).

Having specific regard to the recommendations of the LCS, the application site is located within ROA SK 17 which extends from Low Peninver in the South to Ugadale in the North. ROA SK 17 is identified as having “high” scenic quality, “high” sensitivity to change and with a more general “limited” capacity to accommodate further development. ROA SK 17 is largely comprised of shallow, east facing slopes primarily utilised as agricultural pasture located between the B842 public highway and the flat raised beach/coastline to the east and the band of commercial forestry which demarcates the lower slopes of Sgreadan Hill to the west. “The gentle, east facing slopes are largely devoid of woodlands and are very open to views from the road and the coast. There are pockets of deciduous woodland in some of the smaller valleys associated with small watercourses and burns which run down the slopes.” “The views from parts of the slopes are spectacular with clear open aspects across the Kilbrannon Sound to Arran. The views of the coastline are also intermittent due to intervening topography and small pockets of woodland and scrub. There are good long views of the rising ground to the west which are panoramic and which provide attractive views of well ordered farmsteadings set against the hillside such as Ardnacross and Ballochgair”.

Having regard to the existing development pattern, the LCS notes that generally, the area is dotted with farm buildings and individual dwellings, with the exception of greater clustering of buildings in and around Peninver. More specifically the LCS recommends and identifies that there is additional capacity for development in and around existing farm clusters where building would be seen as part of the same grouping; the LCS also identifies other more specific sites in lower valleys where new development could sit comfortably with existing deciduous woodland. The LCS also recommends that (i) new development should be kept back from the immediate road edges and not placed in very open spaces on the lower slopes within the fields; and, (ii) that there should be no development above the 30m contour in order to reflect the general positioning of existing farm groupings within the landscape setting.

The current application site is located on the 30m contour to the north of Ardnacross Farm within a zone identified in the LCS “where development is generally unacceptable and would have an adverse impact upon the landscape character of the area”. Land some 100m to the south west of the current application site, immediately adjacent to Ardnacross Farm and Eastholme is identified as having some capacity for additional development and ties in with the LCS recommendations that existing farm groupings could be expanded.

However, in assessing this proposal the Planning Department has noted the minute of the Mid Argyll, Kintyre and the Islands Area Committee’s decision to accept the recommendations of the LCS subject to flexibility in the margins of areas identified as having capacity for additional development.

In this respect the Planning Department has identified that the recommendations maps for ROA SK 17 in the LCS largely do not relate to readily recognisable physical boundaries (i.e. fence lines/roads) and this has provided the opportunity to look for an element of flexibility in the determination of the current application. However, upon further examination it is also noted that the landscape character of ROA SK17 is essentially uniform in nature and therefore the identification of capacity for further development is related to

specific existing landscape features (existing farm clusters and woodland) rather than being defined by areas of specific landscape character. The current application site is located some 100m from the existing grouping of buildings at Ardnacross/Eastholme and, given the intervening open space, would not be viewed as an integral part of this existing grouping; furthermore the site is located within a relatively open field edge adjacent to the public highway, a situation which the recommendations of the LCS expressly seek to resist development. The previously approved development relates to two small sites immediately adjacent to one another and restricted by condition to dwellings of modest, single storey design; plot 4 lies immediately to the south west of the access road which would serve the development however to all intent and purposes the erection of a dwellinghouse on plot 4, in addition to anticipated development of plots 2 and 3, would result in a tight, linear, roadside grouping which bears little resemblance to the existing development pattern and would promote the further expansion of this anticipated new grouping (plot 2 and 3) as ribbon development along the roadside to the southwest with further land of identical situation being available again to the south west of Plot 4 – such development would be in prominent contrast to, and incongruous in the context of, the existing development pattern (which predominantly consists of farm groupings set back from the public highway and sporadic individual dwellings which account for the occasional roadside development) and would therefore be to the detriment of the character of the landscape within which the development is located.

Having regard to the above, the proposal is contrary to the specific recommendations of the North and South Kintyre Landscape Capacity Study and therefore is viewed as likely to have a significant adverse impact upon the landscape character of the Area of Panoramic Quality within which the development is located, in this respect the proposal is contrary to the provisions of policies P/DCZ 4, STRAT DC 4, STRAT DC 8, LP ENV 10 and LP HOU 1.

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

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

It is the consideration of the Planning Department that the residential development of this site within the open countryside, viewed both independently and cumulatively in light of extant outline planning permission/planning permission in principle on adjoining land, is contrary to the recommendations of the North and South Kintyre Landscape Capacity Study and as such would be detrimental to the landscape character of the Area of Panoramic Quality within which the application site lies. This proposal does not conform to the North and South Kintyre Landscape Capacity Study and so conflicts with policy P/DCZ 4 of the local plan which states that “Development proposals will be expected to be consistent with the findings contained within the completed Landscape Capacity Studies”.

In light of the above, the proposal is consequently considered contrary to the provisions of policies STRAT DC 4, STRAT DC 8, LP HOU 1, P/DCZ 4 and LP ENV 10.

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

n/a

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

Author of Report: Peter Bain

Date: 26th April 2010

Reviewing Officer:

Date: 27th April 2010



**Angus Gilmour
Head of Planning**

REASONS FOR REFUSAL RELATIVE TO APPLICATION REF. NO. 10/00040/PPP

1. It is the consideration of the Planning Department that the residential development of this site within the open countryside, viewed both independently and cumulatively in light of extant outline planning permission/planning permission in principle on adjoining land, is contrary to the recommendations of the North and South Kintyre Landscape Capacity Study and as such would be detrimental to the landscape character of the Area of Panoramic Quality within which the application site lies. This proposal does not conform to the North and South Kintyre Landscape Capacity Study and so conflicts with policy P/DCZ 4 of the local plan which states that "Development proposals will be expected to be consistent with the findings contained within the completed Landscape Capacity Studies".

In light of the above, the proposal is consequently considered contrary to the provisions of policies STRAT DC 4, STRAT DC 8, LP HOU 1, P/DCZ 4 and LP ENV 10.

APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **10/00040/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. **No**

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

It is the consideration of the Planning Department that the residential development of this site within the open countryside, viewed both independently and cumulatively in light of extant outline planning permission/planning permission in principle on adjoining land, is contrary to the recommendations of the North and South Kintyre Landscape Capacity Study and as such would be detrimental to the landscape character of the Area of Panoramic Quality within which the application site lies. This proposal does not conform to the North and South Kintyre Landscape Capacity Study and so conflicts with policy P/DCZ 4 of the local plan which states that “Development proposals will be expected to be consistent with the findings contained within the completed Landscape Capacity Studies”.

In light of the above, the proposal is consequently considered contrary to the provisions of policies STRAT DC 4, STRAT DC 8, LP HOU 1, P/DCZ 4 and LP ENV 10.

Appendix 2 – Statutory and other Consultee Comments

Other Consultees:

- Argyll and Bute Council – Environmental Health (9th January 2010)

Argyll and Bute Council
Comhairle Earra Ghàidheal agus Bhòid



Memorandum

Legal & Protective Services

Date: 19 January 2010

To: planning.maki@argyll-bute.gov.uk

Attn: Planning

Our Ref: GT/

From: Geoff Taylor,
Environmental Health Officer

Extension: 4782

Planning Application No: 10/00040/PPP
Erection of dwelling house & installation of septic tank
Plot 4 Ardnacross Farm, Peninver, PA28 6QP

If approval for this application is granted I recommend that the following conditions be attached:

C09005 Drainage (Detail)

None of the dwellings granted consent shall be occupied until the sewage disposal/drainage works have been completed in accordance with approved plans.

Reason: In the interests of public health and in order to ensure that adequate and timeous drainage arrangements are made.

C31001 Water Details to Specification

Prior to the development commencing a full appraisal to demonstrate the wholesomeness and sufficiency of the private water supply to serve the development shall be submitted to and approved in writing by the Planning Authority. This assessment shall be carried out by a qualified and competent person(s). Such appraisal shall include a risk assessment having regard to the requirements of Schedule 4 of the Private Water Supplies (Scotland) Regulations 2006 and shall on the basis of such risk assessment specify the means by which a wholesome and sufficient water supply shall be provided and thereafter maintained to the development. Such appraisal shall also demonstrate that the wholesomeness and sufficiency of any other supply in the vicinity of the development, or any other person utilising the same source or supply, shall not be compromised by the proposed development. Furthermore, the development itself shall not be brought into use or occupied until the required supply has been installed in accordance with the agreed specification.

Reason: *In the interests of public health and in order to ensure that an adequate private water supply in terms of both wholesomeness and sufficiency can be provided to meet the requirements of the proposed development and without compromising the interests of other users of the same or nearby private water supplies.*

Yours sincerely,

Geoff Taylor
Environmental Health Officer

- Argyll and Bute Council – Roads (27th January 2010)

Operational Services - Roads and Amenity Services
OBSERVATIONS ON PLANNING APPLICATION

Grid Reference 176786 626319 Dated
 Applicant Mr David Watson
 Proposed Development Erection of dwellinghouse
 Location Plot 4 Ardnaacross Farm, PenInver, Campbeltown
 Type of consent Detailed Permission
 Drawing Refs.

Application No. 10 00040 PPP
 Contact James Ross
 Tel. 01546-604655
 Received 19/01/2010
 Return By Date 29/01/2010
 Call By Date
 District Kintyre
Recommendation
No objection subject to conditions

Comments

1. *Conditions as per previous detailed application ref 08/02177/DET.*
2. *The position of the access is critical, to achieve the required visibility.*

Conditions/Reasons for refusal/deferment

1. *CO1002 - 160 x 2.00 x 1.05 metres.*
2. *CO1003 - G300, TM197 & TM377 type C construction.*
3. *CO1006.*
4. *CO1011 - Parking and turning for 2 vehicles within site.*

Notes for intimation to Applicant

(I) Construction Consent(S21)*
 (II) Road Bond (S17)*
 (III) Road Opening Permit (S56)*
 (iv) No surface water discharge*

Not Required
Not Required
Required
Required

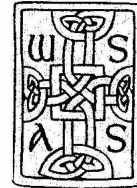
*Relevant Section of the Roads(Scotland) Act 1984

Signed:	J. Ross	Date	27/01/2010	ID	2861
		Actual Return Date	27/01/2010	Replied	

- **West of Scotland Archaeology (1st February 2010)**

Our ref: 7/3/2/10/00040
Your ref: 10/00040/PPP
WoSASdoc: 10_00040
Date: 29 January 2010
Contact: Paul Robins
Direct dial: 0141 287 8335

**WEST of SCOTLAND
ARCHAEOLOGY
SERVICE**



Planning Services
Argyll & Bute Council
67 Chalmers Street
Ardrishaig
PA30 8DX



20 India Street, Glasgow G2 4PF
Tel: 0141 287 8332-5
Fax: 0141 287 9529
enquiries@wosas.glasgow.gov.uk

Dear Sir

Archaeological Consultation on Planning Applications: No Archaeological Issue Raised

No substantive archaeological issue is raised by the undemoted planning application(s), sent recently to the West of Scotland Archaeology Service for comment:

**10/00040/PPP Erection of dwellinghouse and installation of septic tank, Plot 4,
Arnacross Farm, Peninver, Campbeltown, PA28 6QP**

(This site has already been partially investigated)

Thank you for requesting our comments.

Yours faithfully

West of Scotland Archaeology Service

Appendix 3 – Third Party Representation

Two e-mails in support of the proposal have been received from Cllr. Donald Kelly and Jamie McGrigor MSP.

MacDonald, Rory

From: maki, planning
Sent: 15 March 2010 09:49
To: Clark, Catherine; MacDonald, Rory
Subject: FW: Plot 4 Ardnacross Farm Peninver Campbeltown PA28 6QP

From: Bain, Peter
Sent: Monday, March 15, 2010 9:49:12 AM
To: maki, planning
Subject: FW: Plot 4 Ardnacross Farm Peninver Campbeltown PA28 6QP
Auto forwarded by a Rule

Log as supporting representation please

Peter Bain

Area Team Leader (Acting) - Planning Services
Mid Argyll, Kintyre & the Islands
Tel: 01546 604082

www.argyll-bute.gov.uk

From: Kelly, Donald (Councillor)
Sent: 13 March 2010 14:27
To: Bain, Peter
Subject: Plot 4 Ardnacross Farm Peninver Campbeltown PA28 6QP

Dear Peter,
Application no 10/00040/ PPP
I wish to write in support of my constituent Mr David Watson application.
The information contained with his correspondence dated 12 March 2010 fully supports and justifies this application being approved
Best Regards
Councillor Donald Kelly
Ward 1 South Kintyre.

-----Original Message-----

From: Douglas.Pattullo@scottish.parliament.uk
[mailto:Douglas.Pattullo@scottish.parliament.uk]
Sent: 06 January 2010 08:52
To: Loudon, Sally
Subject: Ardnacross Farm, Peninver, CAMPBELTOWN

Dear CE,

I have been contacted by the constituent below and attach his letter which is self explanatory.

Mr David Watson
Ardnacross Farm
Peninver
CAMPBELTOWN
PA28 6QP

I share Mr Watson's concerns. I also note that he informs me that he also works full time in Glen Scotia distillery, Campbeltown but if the farm was more viable he would hopefully be able to free up that job that he has held for 11 years to give someone else in the town a steady job, and allow his father (76yrs old) to finally retire from the farm.

Could you look into these issues and address my constituent's concerns?

Kind regards,

Jamie McGrigor MSP

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For information about how you can visit the Parliament, go to <http://www.scottish.parliament.uk/vli/visitingHolyrood/index.htm>.

Watch Parliamentary business live at <http://www.holyrood.tv/> The information

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