



Cunninghame House,
Irvine.

13 December 2012

Local Review Body

You are requested to attend a Special Meeting of the above mentioned Committee of North Ayrshire Council to be held in the Council Chambers, Cunninghame House, Irvine on **WEDNESDAY 19 DECEMBER 2012** at **11.30 a.m.** to consider the undernoted business.

Yours faithfully

Elma Murray

Chief Executive

1. Declarations of Interest

Members are requested to give notice of any declarations of interest in respect of items of business on the Agenda.

2. Notice of Review: 12/00098/PP: Erection of Detached Dwellinghouse and Refurbishment of Existing Outbuilding with the Addition of a Greenhouse and Landscaping: Land Adjacent to Myrtle Cottage, Whiting Bay, Isle of Arran

Submit report by the Chief Executive on a Notice of Review by the applicant in respect of the refusal of a planning application by officers under delegated powers (copy enclosed).

Local Review Body

Sederunt:

Matthew Brown

(Chair)

John Ferguson

(Vice-Chair)

Robert Barr

John Bell

John Bruce

Joe Cullinane

Ronnie McNicol

Tom Marshall

Jim Montgomerie

Robert Steel

Chair:

Attending:

Apologies:

Meeting Ended:

NORTH AYRSHIRE COUNCIL

Agenda Item 2

19 December 2012

Local Review Body

Subject: **Notice of Review: 12/00098/PP: Land Adjacent to Myrtle Cottage: Whiting Bay: Isle of Arran**

Purpose: To submit, for the consideration of the Local Review Body, a Notice of Review by the applicant in respect of a planning application refused by officers under delegated powers.

Recommendation: That the Local Review Body considers the Notice.

1. Introduction

- 1.1 The Town and Country Planning (Scotland) Act 1997, as amended by the Planning (Scotland) Act 2006, provides for certain categories of planning application for "local" developments to be determined by appointed officers under delegated powers. Where such an application is refused, granted subject to conditions or not determined within the prescribed period of 2 months, the applicant may submit a Notice of Review to require the Planning Authority to review the case. Notices of Review in relation to refusals must be submitted within 3 months of the date of the Decision Notice.

2. Current Position

- 2.1 A Notice of Review has been submitted in respect of Planning Application 12/00098/PP for the erection of a detached dwellinghouse and the refurbishment of the existing outbuilding with the addition of a greenhouse and landscaping on land adjacent to Myrtle Cottage, Whiting Bay, Isle of Arran.
- 2.2 The application was refused by officers for the reasons detailed in the Decision Notice at Appendix 6.
- 2.3 The following related documents are set out in the appendices to this report:-

Appendix 1 - Notice of Review documentation;
Appendix 2 - Representation received from an interested party;
Appendix 3 - Applicant's response to additional representation;
Appendix 4 - Report of Handling;
Appendix 5 - Location Plan; and
Appendix 6 - Decision Notice.

- 2.4 The above documentation was submitted for consideration by the Local Review Body at its meeting on 24 October 2012. The LRB agreed that a site familiarisation visit be undertaken. A site familiarisation visit was duly arranged for 16 November 2012.
- 2.5 Only those Members of the Local Review Body who attended the site visit on 16 November 2012 are eligible to participate in the determination of the review request (Councillors Brown, Bruce, Ferguson, McNicol, Marshall and Steel).

3. Proposals

- 3.1 The Local Review Body is invited to consider the Notice of Review.

4. Implications

Financial Implications

- 4.1 None arising from this report.

Human Resource Implications

- 4.2 None arising from this report.

Legal Implications

- 4.3 The Notice of Review requires to be considered in terms of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning (Scotland) Act 2006, and the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.

Equality Implications

- 4.4 None arising from this report.

Environmental Implications

- 4.5 None arising from this report.

Implications for Key Priorities

- 4.6 None arising from this report.

5. Consultations

- 5.1 Interested parties (both objectors to the planning application and statutory consultees) were invited to submit representations in terms of the Notice of Review. The applicant was given the opportunity to respond to the representation submitted. The additional representation received is set out at Appendix 2 to the report and the applicant's response is set out at Appendix 3 to the report.

6. Conclusion

- 6.1 The Local Review Body is invited to consider the Notice of Review, including any further procedures which may be required prior to determination.



ELMA MURRAY
Chief Executive

Reference :

For further information please contact Diane McCaw, Committee Services Officer on 01294 324133.

Background Papers

Planning Application 12/00098/PP and related documentation is available to view on-line at www.north-ayrshire.gov.uk or by contacting the above officer.

NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN
RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE)
(SCOTLAND) REGULATIONS 2008

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

IMPORTANT: Please read and follow the guidance notes provided when completing this form.
Failure to supply all the relevant information could invalidate your notice of review.

Use **BLOCK CAPITALS** if completing in manuscript

Applicant(s)

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail*

Agent (if any)

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail*

Mark this box to confirm all contact should be
through this representative: X

* Do you agree to correspondence regarding your review being sent by e-mail?

Yes No
X ☐

Planning authority

Planning authority's application reference number

Site address

Description of proposed development

Date of application Date of decision (if any)

Note. This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

Nature of application

- | | |
|--|-------------------------------------|
| 1. Application for planning permission (including householder application) | <input checked="" type="checkbox"/> |
| 2. Application for planning permission in principle | <input type="checkbox"/> |
| 3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition) | <input type="checkbox"/> |
| 4. Application for approval of matters specified in conditions | <input type="checkbox"/> |

Reasons for seeking review

- | | |
|---|-------------------------------------|
| 1. Refusal of application by appointed officer | <input checked="" type="checkbox"/> |
| 2. Failure by appointed officer to determine the application within the period allowed for determination of the application | <input type="checkbox"/> |
| 3. Conditions imposed on consent by appointed officer | <input type="checkbox"/> |

Review procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

- | | |
|---|-------------------------------------|
| 1. Further written submissions | <input type="checkbox"/> |
| 2. One or more hearing sessions | <input type="checkbox"/> |
| 3. Site inspection | <input checked="" type="checkbox"/> |
| 4. Assessment of review documents only, with no further procedure | <input checked="" type="checkbox"/> |

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

NA

Site inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- | | | |
|--|-------------------------------------|-------------------------------------|
| | Yes | No |
| 1. Can the site be viewed entirely from public land? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

NA

Statement

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

Statement provided in full in separate document 194/NOR/01.

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes No
X ☐

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

No new matters have been raised that were not available to the officer at the time of application

The new material raised is explanatory and illustrative of our Notice of Review

List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

	Notice of Review Letter
194/NOR/01	Notice of Review Statement
194/NOR/02	CGI Image of proposed development
194/NOR/03	Site Plan with key of CGI position

Note: The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

Checklist

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

- ☒ Full completion of all parts of this form
- ☒ Statement of your reasons for requiring a review
- ☒ All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

Declaration

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed

Date

4th September 2012

REF 12/00098/PP - House on land adjacent to Myrtle Cottage, Whiting Bay, Isle of Arran, KA27 8RH

The proposal made for land adjacent to Myrtle Cottage has been rejected by North Ayrshire Council with reference to the following policies: RES 1, ENV 1 and H1/H2. We have set out below our response to the policy statements, followed by a commentary on the grounds for our Notice for Review.

Part I - Policy Response

POLICY RES 1: RESIDENTIAL DEVELOPMENT IN SETTLEMENTS

Proposals for residential development shall accord with the Local Plan if they are located within the settlement boundaries of Brodick, Lamlash, Whiting Bay, Blackwaterfoot, Lochranza, Shiskine, Lagg / Kilmory, Corrie, Sannox, Kildonan, Pirnmill and Slidery / Corriecravie.

Officer's Determination Statement

'That, the proposed development would be contrary to Policy RES 1 of the adopted Isle of Arran Local Plan, in that it would comprise residential development outwith the settlement boundaries and within the countryside, for which there is no specific locational need which would be detrimental to the amenity and appearance of the countryside and set an undesirable precedent for further similar projects.'

APPLICANT RESPONSE

We do not contest the locational principle of this policy as the site is clearly outside the existing settlement boundaries. We do contest that it would be detrimental to the amenity and appearance of the countryside or that it would set an undesirable precedent.

POLICY ENV 1: DEVELOPMENT IN THE COUNTRYSIDE

Proposals for development within the countryside shall not accord with the Local Plan unless it can be demonstrated that it meets the following criteria:

- (a) necessary non residential development associated with agriculture or forestry operations; or
- (b) there is a genuine operational need for a worker to live on site in pursuance of an established rural business; or
- (c) small scale business uses falling within Class 4 that have a specific locational need to be located on site; or
- (d) development associated with public utility operations that have a specific operational need to be located on site.

New buildings in relation to (a) above should be closely associated with existing groups of buildings.

The occupation of new houses in relation to (b) above shall be limited to persons employed in agriculture, forestry or other appropriate rural activities and their dependents, or employed in businesses allowed under (c) above.

Officer's Determination Statement

'That, the proposed development would be contrary to Policy ENV 1 of the adopted Isle of Arran Local Plan, in that the dwellinghouse is not required for persons employed in agriculture, forestry or an established rural business and consequently there is no justification for the dwellinghouse which, if approved, would establish an undesirable precedent for unnecessary development in the countryside, to the detriment of its appearance and amenity.'

APPLICANT RESPONSE

We do not contest that the dwelling is not proposed for the use of persons employed in agriculture or forestry. We do contest that it would establish an undesirable precedent or that it would be detrimental to the amenity and appearance of the countryside.

POLICY H 2: Single Houses in Rural Areas

Proposals for a single new house in a rural area shall not accord with the Local Plan unless it can be demonstrated that:

- a) the proposal is distinctive and responsive to its setting, making a positive design contribution to the locality of the area;
- b) the proposal integrates with and complements and enhances the established character of the area and the cumulative impact on the landscape of the development is acceptable; and
- c) it is demonstrated that account has been taken of the possibility of converting, rehabilitating, or replacing an existing building in the countryside or of locating a new building on brownfield.

Officer's Determination Statement

'That, the proposed development would be contrary to Policy H 2 of Alteration No.1 and the Council's Approved Addendum to the Rural Design Guidance given its proximity to the existing group.'

APPLICANT RESPONSE

We believe the proposal meets the criteria of policy H2, ie. the proposal is distinctive and responsive to its setting and does make a positive design contribution to the locality of the area. The proposal integrates with and enhances the established character of the area and we believe the cumulative impact of the development should be acceptable. Account was taken of the possibility of rehabilitating an existing building and the proposal does re-use a brownfield site.

The Approved Addendum to the Rural Design Guidance referenced by officers did not exist at the time of the application in February 2012 and was not officially adopted until after the original determination date in March 2012. Officers did not bring our attention to this document despite the fact that it was published during our discussions mid-application.

POLICY H 1: Small-scale growth of existing rural housing groups

Proposals for development in rural areas not defined in the Local Plan as a settlement or village shall accord with the Local Plan subject to satisfying the following criteria:

- a) the proposal constitutes a small-scale addition to an existing well-defined nucleated group of 4 or more houses. Expansion of such a housing group will be limited to 50% of the number of dwellings existing in that group as of 1 January 2005 up to a maximum of 4 new housing units;
- b) the proposal is sympathetic to the character and form of the existing group;
- c) any individual proposal does not prejudice a future development opportunity; and
- d) the proposal complies with Roads Guidelines.

Officer's Determination Statement

'That, the proposed development would be contrary to Policy H 1 and criteria (a) and (b) of the Development Control Statement of the Isle of Arran Local Plan, in that the proposed dwellinghouse would not constitute an acceptable addition to an existing grouping, as it would not be sympathetic to the character and form of the existing group with regard to its siting, design and external appearance.'

APPLICANT RESPONSE

Even if we were to accept the officer's judgement on the application of this policy, we would contest non-compliance with a) and the narrow interpretation of condition b).

- a) The scale of the proposed building is similar to Bourtree in the adjacent group at 1-2 storeys. Primrose Cottage and Shawfield are both 1½ storey buildings with 1st Floor bay windows and additions.
- b) The character of the group is that of a disparate collection of houses arranged on the hill to individually optimise their orientation and view, the houses do not address each other or the shared access 'green'. Although the form of the original buildings is generally traditional, the built fabric consists of split-level, 2-storey and bungalow structures with a variety of cladding including stone, render and timber. We believe the proposed house will have a negligible effect on an observers perception of this group, as it is situated across the road, will be set well back and is elevated behind the treeline.

We will expand an analysis of these policy determinations in the subsequent commentary.

Part II - Review Commentary

Policy Context

North Ayrshire Council's rejection of this application revolves around their interpretation and application of Policies H1 and H2 relating to new developments in the countryside. Officers made it clear to the applicant and agent that they were generally uncomfortable with the inclusion of these policies as directed by Central Government and that policy wording was unclear, making assessment difficult.

A single consent under the H2 policy in the five years since adoption cannot be evidence that this policy is facilitating development. The Approved Addendum to the Rural Design Guidance 'Design Guidance – single houses in rural areas' referenced in the rejection notice is unable to reference a single local example and relies on evidence of best practice from elsewhere in Scotland and England.

North Ayrshire planning officer's application of policy has resulted in a ruling that the proposed house is too close to the group to be considered under Policy H2 and too far away from the group to be considered under Policy H1, this is non-sensical. We suggest a more nuanced reading of these policies could have resulted in a consent being granted under either policy.

Policy H2

We believe we comply with the written conditions of Policy H2. What is contentious is whether we comply with what officers referred to as 'the unwritten intention' of the policy and a judgement as to whether the final development could be said to be an independent house. The applicant and agent agree with officers that there cannot be an empirical definition of acceptable proximities when assessing this policy, as every site is unique. In this case our starting point was a secluded clearing within a closely wooded hillside.

We believe that the site assessment made by the senior planner during the application process was flawed. At this time a significant amount of vegetation had been cleared to allow for site survey and landscape assessment. This had the effect of opening the site up to the road and the neighbouring group.

Standing on the site in its current state you are aware of the nearby houses with glimpses of the roofs of Primrose Cottage and Shawfield. Alma and Barrydean sit at a lower elevation and are hidden. The view of the site from the road is cumulatively screened by the hedge line perimeter and the sycamore grove, with the existing ruin barely visible.

The landscape statement appended to the application describes in detail how the site will be returned to its previous level of seclusion with a variety of indigenous species. It appears this mandated design information has not been taken into account when assessing the resultant relationships of the house.



fig.1 View from track to Myrtle Cottage



fig.2 Aerial view of dense woodland with clearing

Policy H1

North Ayrshire have been more successful in utilising this policy as exemplified locally by consented schemes at Beinnview, Blackwaterfoot, *fig 3* and at Kelvinhaugh Farm *fig 5*. Both projects involved the construction of multiple dwellings next to existing mixed clusters.

The layout of these existing groupings is by their nature reasonably random yet officers have been willing to accept building placements, which have been driven by optimum plot division.

Both applications included designs for split-level houses with a variety of cladding, including timber, large south facing windows and unusual roofscapes. If officers have accepted these designs as being sympathetic to their surrounding buildings it is difficult to understand officers objections to this proposal.



fig 3 Beinnview, Blackwaterfoot

Policy Interpretation

The wording of policy H1 that 'the proposal is sympathetic to the character and form of the existing group' has been designed to be open to interpretation by officers, encouraging an analysis of what defines this character.

The rural landscape of South Arran is populated by agricultural and residential groupings. This typology is evident locally around Knockenkelly Farm and Hawthorne Farm, *fig. 4*. where the buildings' variable scale and roofscapes create contrasting compositions.

If the starting point for the design of the new house is taken as an agricultural building, it is perfectly plausible that this building sits with the relationships proposed in the application.



fig 4 Hawthorn Farm, Smiddy Road, Whiting Bay

Policy Interpretation cont.

As is being demonstrated by the permission granted for 3 new houses on land adjacent to the outbuildings of Kelvinhaugh Farm, the H1 policy creates loose, mixed compositions of the residential and the agricultural.

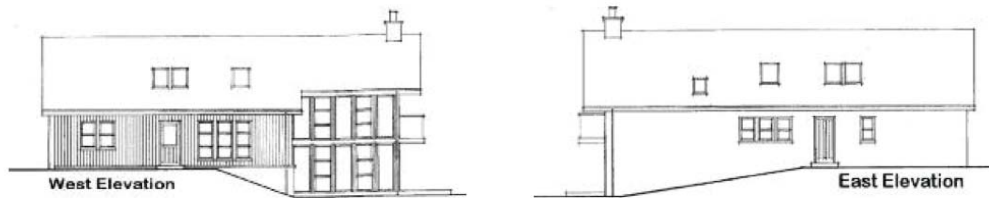


fig 5 Kelvinhaugh, Smiddy Road, Whiting Bay



fig 6 View of Kelvinhaugh Development, Smiddy Road, Whiting Bay

The Proposal Site and Building Location

The application site is brownfield, as it is occupied by the remnants of a group of houses. When the applicant was advised that the existing ruins could not be reused for development under Policy ENVIA the whole site came under consideration for the placement of a new house.

After careful consideration the position of the house has been chosen for a variety of compelling reasons:

The existing clearing and proximity to track would result in the least impact on the existing site and wildlife. Officers suggested during subsequent planning negotiations that it would be preferable to locate the house elsewhere on greenfield land even if this resulted in clearing trees. This would not be our preferred approach to a sustainable development.

The house would benefit from an environmentally positive southerly orientation, provided by the open grove. This is the foundation of our desire to construct an exemplar of sustainable design. Although environmental considerations in earlier times were more concerned with shelter from prevailing weather it is surely not a coincidence that original structures benefitted from this amenity.

The chosen position would not overlook any other buildings whilst maintaining views of the sea to the east and the grove to the south. Officers have suggested that a new house should be positioned to the south on the roadside. This would immediately overlook Primrose Cottage and Shawfield and their gardens, adversely impacting their privacy.

Design Rationale

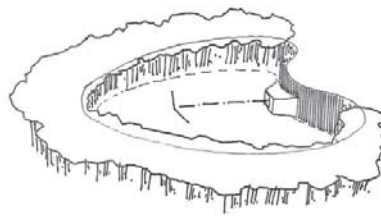
The design of this new house has been developed with a detailed understanding of its historical and environmental context, as explained by the Design Statement appended to the original application. We consider the submitted proposals to be a sensitive response to this context which successfully integrates the building with its setting.

From a starting point whereby existing structures could not be reused it was clear to the client and his agent that a new house should be just that and reflect modern requirements within an idiom of high quality environmental design. Although modern architecture is often characterised by novel forms and a need to stand out, it was important to the team that the design should use forms and materials, which were indigenous to the island and the local landscape. The shape, section and cladding materials have all been designed to harmoniously integrate with the site in ways that have been illustrated and explained in our Design Statement.

To summarise; the house has taken inspiration from the simple forms of local barns whose scale is modified through the addition of lean-to structures providing a porch and a garden room. The house has been curved to maximise solar gain and minimise visual impact and is stepped to follow the site gradient. The timber cladding to the south facade has been chosen to blend with the silver birch on the site as part of an overall landscape design incorporating native island species.



barn



grove



lean-to

Despite officers stating that they were impressed by the quality of the design and overall application submission, they were not willing to engage in any discussion on the features, which they found unacceptable. The applicant and agent could only conclude from this reticence, that officers were not confident in the concerns that they had.

We have augmented the drawn information previously submitted with an additional CGI of the house as it will be viewed from the southeast corner of the site. (ie. not the road where the view would be restricted to glimpses).



fig 7 View of house from South / East

Part III - Consultation Process

The applicant and his agent are well versed with the planning process, with many years of experience on sensitive sites including on the Isle of Arran.

We were particularly careful to develop our ideas within the context of the available policy and design guidance and to describe our thoughts to officers as the proposals developed. It was disappointing to say the least that it took until the final week of the application process for officers to state categorically that a house of this type would not be acceptable 'anywhere on the application site'.

The applicant and his agent met with a planning officer on site in August 2011 before any design work was progressed. When the officer stated that a house could be considered within the context of Policy H2 if its design was exemplary the applicant and agent stated this was their intention. The planning officers stated later that they considered the site more aligned with an H1 policy, but the correspondence included a copy of Policy H2 for guidance. The application follows this guidance.

In January 2012 a full set of plans and elevations was submitted to the case officer and Senior Planner for comment in advance of making an application. The only advice forthcoming at a subsequent meeting was that the application should include explanatory notes stating the case for consideration under policy H2.

During the application process officers offered no feedback until a meeting was called following an otherwise uneventful consultation process. It was at this meeting that officers stated their fundamental opposition to the scheme stating that the proposal would never have complied. Even at this point officers could not substantiate how they had come to this conclusion other than to say this was their interpretation of the policy and reading of the site. This meeting and the resultant negotiation delayed determination of the application by 3 months. In the absence of any constructive design feedback this was limited to adjustments of building position and shape, which remained unacceptable to officers, hence the eventual rejection.

Conclusion

We believe the proposals made for this new house are based on a great affection for the site and its locale, a careful analysis of the environmental and planning context and a creative design response.

The policies central to officer's rejection are important checks on inappropriate development in the countryside, which we fully support. As we believe we comply with these policies when applied as described we are not seeking any dispensations.

We expect the house to be an exemplar for the Isle of Arran and North Ayrshire, demonstrating a responsible environmental and contextual design approach.

Hutchison Kivotos Architects

4th September 2012







Planning App No: 12/00098/PP
Bill Calderwood
to:
dmccaw
27/09/2012 09:42
Hide Details
From: "

To: <dmccaw@north-ayrshire.gov.uk>

Isle of Arran Community Council

Planning Application No. **12/00098/PP**

The Community Council have discussed the review notice for the above application at our meeting on the 25th sept and would submit the following statement.

We have reviewed the refusal statements and debated the reasons given.

It is understood that although the applicant is not employed in agriculture or associated business he does intend to establish a professional business at the proposed premises. The original application has not been the subject of any significant local objection and although the design is not necessarily of traditional design it is of high quality and considered not as extreme as some properties which have been approved around the island. There does not appear to be any "standard" design for the dwellings in the surrounding area and this proposal therefore is considered does not create an unnecessary deviation from the standard. We also note that there are more obvious deviations from local designs which have been agreed in other locations on the island. We do not wish to have random styles proliferate but we were unclear as to the interpretation of the regulations in this case.

We hope the comments are helpful to your review process and look forward to the conclusion. If you wish to respond to any of the above we would welcome an explanation which may help us in future considerations apply a reasoned response.

On Behalf of Arran Community Council.

Community Council Contact:
Bill Calderwood.
Secretary.

8th October 2012

194/2.01/gh

Diane McCaw
Committee Services
Chief Executives Department
North Ayrshire Council
Cunninghame House
IRVINE KA12 8EE

Dear Diane,

COMMUNITY COUNCIL REPRESENTATION - PLANNING REVIEW - APPLICATION 12/00098/PP

PROPOSED DWELLING ON LAND ADJACENT TO MYRTLE COTTAGE, WHITING BAY, ISLE OF ARRAN, KA27 8RH

We welcome the representation made by the Community Council to our Review Notice with the following observations: -

The applicant plans to run his architectural business from the new house with economic benefits to the local community during construction and beyond. Although we accept there is no policy based locational need for this activity as associated with agriculture or forestry uses it does coincide with other policy provisions in North Ayrshire's UDP eg. Policy IND 6 Business and Industry in the Countryside and Policy RES 5 Working from Home. North Ayrshire Council's guidance on how to use the Local Plan states: -

The Plan has to be read as a whole. It may be necessary to look at policies in more than one chapter to obtain the full policy context for any topic. Weighting given to policies is a matter of balanced judgement for particular proposals.

Although the location for the proposal is due to the applicant's family ownership over generations we believe the proposal is complementary with this rural location.

We welcome the Community Council's comments on the quality and appropriateness of the design in this rural context.

North Ayrshire Council's policies in this area are clearly a work in progress as they attempt to implement direction from Central Government. Although we think it is unacceptable that the proposal has been refused quoting guidance that was made public after the application was submitted (Addendum to the Rural Design Guidance / Single Houses in Rural Areas - May 2012), we feel this document could have been written with our proposal in mind.

Our application represents an opportunity for the Council to reflect on the primary reasons for introducing Policies H1 and H2 as described in Scottish Planning Policy - Feb 2010.

92. The planning system has a significant role in supporting sustainable economic growth in rural areas. By taking a positive approach to new development, planning authorities can help to create the right conditions for rural businesses and communities to flourish. The aim should be to enable development in all rural areas which supports prosperous and sustainable communities whilst protecting and enhancing environmental quality.

We believe the scheme exemplifies these aims in spirit and detail and would encourage the Planning Committee to support this view through the Review Process.

Yours sincerely,

Gavin Hutchison

Cc David Hutchison

REPORT OF HANDLING



NORTH AYRSHIRE
COUNCIL

Reference No:	12/00098/PP
Proposal:	Erection of detached dwellinghouse and refurbishment of existing outbuilding with addition of a greenhouse and landscaping
Location:	Site To East Of , Myrtle Cottage, Whiting Bay, Brodick Isle Of Arran
Local Plan Allocation:	Countryside/Rural Community
Policies:	POLICY ENV1POLICY RES1POLICY H1POLICY H2Development Control Statement
Consultations:	Yes
Neighbour Notification:	Neighbour Notification carried out on 22.02.2012 Neighbour Notification expired on 14.03.2012
Advert:	Regulation 20 (1) Advert Published on:- 09.03.2012 Expired on:- 30.03.2012
Previous Applications:	None

Description

Planning permission is sought for the erection of a detached dwellinghouse to the east of Myrtle Cottage, Whiting Bay. The site is located within North Kiskadale to the north of and outwith the settlement of Whiting Bay. It lies to the west of a single track Smiddy Road, which leads to Whiting Bay by way of Smiddy Brae to the south and to Knockenkelly to the north. Myrtle Cottage is situated approximately 80 metres to the west and there are a number of residential properties to the east, predominately one and a half storey detached dwellinghouses of traditional design. The proposed house would be located on the site of a previous house of which only a few remnants of the walls remain. The site is screened by trees from the road and neighbouring houses.

The dwellinghouse would adopt a linear form with all habitable rooms facing south and the footprint would be curved to maximise its frontage and to take advantage of sunlight, the garden and views to the sea. It has been designed to respond to the sloping site, to maximise the area facing the sea and to reduce the area shaded by the trees to the east. Combining this stepped approach with a split level section, provides a combination of single and two storey accommodation. The dwellinghouse would be finished in vertical hardwood cladding and a low mono-pitch zinc roof. It is

also proposed to refurbish an existing outbuilding including the addition of a greenhouse. Access would be from an existing track leading to Myrtle Cottage. The north entrance boundary would be defined by a dry stone wall and new stob and wire fencing would be erected where boundaries are not already defined.

The applicant has submitted a comprehensive design and landscape capacity statement in support of the planning application. Various constraints have suggested that the house should be placed at the north end of the site with access from the track to Myrtle Cottage. It has been designed to respond to the sloping site to avoid substantial excavation, retaining and underbuilding. The design of the proposed house incorporates elements from nearby residential/agricultural buildings. The material palette will utilise natural unfinished materials sympathetic to its natural setting. The dwellinghouse has been orientated to maximise natural light and solar gain, to have the least impact on any neighbouring houses and to avoid any issues of overlooking.

With regard to the Landscape Capacity Statement, the character and typology of the local landscape surrounding the site is predominantly agricultural grazing land inter-dispersed with areas of managed forests. Agricultural land is typically divided into small parcels bordered by native hedging. The land has mild undulations with a slow, even gradient down to the coastline to the east. The site specifically is characterised by deciduous mixed tree cover. Due to the undulating landscape and vegetation, the site is well secluded. A landscaping design document has also been submitted, which includes current landscaping, proposed landscaping and features and hard landscaping.

In the adopted Local Plan, the site is located within an area of countryside and is unaffected by any site specific policies or proposals therein. Policy RES 1 states that residential development within the settlement boundaries shall accord with the plan. Policy ENV 1 is opposed to residential development in the countryside unless it is required for persons employed in agriculture, forestry or other appropriate rural activities.

Policy H 1 of Alteration No. 1 to the Local Plan permits small scale growth of existing rural housing groups of four or more houses, providing the proposal is sympathetic to the character and form of the existing group, it does not prejudice a future development opportunity and it complies with the Council's Road Guidelines. Policy H 2 of Alteration No. 1 permits single houses in rural areas if it can be demonstrated that:

- (a) the proposal is distinctive and responsive to its setting, making a positive design contribution to the locality of the area;
- (b) the proposal integrates with and complements and enhances the established character of the area and the cumulative impact on the landscape of the development is acceptable; and
- (c) it is demonstrated that account has been taken of the possibility of converting, rehabilitating or replacing an existing building in the countryside or of locating a new building on brownfield.

High quality design for single houses in the countryside is required and houses of a suburban character will not be accepted.

Policy ENV 2 of the prepared Local Development Plan (modified plan) proposes to vary the terms of the Policy H2 to clarify that this would relate to single new stand alone houses, which was the original intention of Policy H 2.

All development proposals require to be accessed against the relevant criteria of the Development Control Statement of the adopted Local Plan. The proposal also requires to be assessed against the Rural Design Guidance.

The Addendum to the Rural Design Guidance (non-statutory supplementary rural design guidance which will become statutory planning policy on adoption of the Local Development Plan) relates to single houses in rural areas, which provides greater clarification for Policy H 2 proposals. The addendum states that the first option for providing housing in rural areas is considered to be via the conversion, rehabilitation, or replacement of an existing building in the countryside. Where this is not possible small scale additions to existing groups should be the next option to be considered. It also states that H 2 proposals will not be acceptable if the site is close to an existing building or group of buildings.

Consultations and Representations

Neighbour notification was carried out and the application was advertised in the local press on 9th March 2012 for neighbour notification purposes. Three representations were received (one objection, one representation and one letter of support) and the grounds can be summarised as follows:

1. Drainage and flooding - water run-off has caused significant damage to Smiddy Road and the cul-de-sac to the other adjacent properties, after heavy rain. The applicant should be required to ensure that the surface water from the property is properly diverted. Smiddy Road is in a poor state of repair and there should not be a significant increase in traffic if the application is successful and any damage to the track should be repaired. The applicant has not approached the neighbouring residents for consent to upgrade the road and the road alterations should be the subject of further consultation with the residents. The fir hedge that has been planted adjacent to Smiddy Road is out of keeping with the surrounding area and will significantly reduce the amount of sunlight reaching the adjacent properties.

Response: If the development was deemed to be acceptable, planning conditions could be imposed regarding drainage, flooding and roads issues. Infrastructure and Design Services (Roads) have raised no objections (see below). The planting of a hedge does not require planning permission and in Scotland there is no restriction on the height of such hedges.

2. The proposed dwellinghouse would be clearly visible reducing the amenity of the neighbouring properties. The character of the area would be adversely altered to become more suburban which would be inappropriate in this semi-rural area. The dwelling would have a high impact in a small area of traditional houses and is thoroughly out of character. There is no linked design to the existing dwellings in the area; the proposal is for a high impact large curved building in a prominent position on higher ground. The objector was not neighbour notified of the planning application and there is confusion regarding the boundary of the site and the applicant's ownership of land. The ownership of the objector is wrongly identified within the submission.

Response: noted. It is agreed that the proposed dwellinghouse would be out of character with the existing group of traditional dwellinghouses within the rural area. There was no need to notify the objector as the property is in excess of 20 metres from the application site. The application was however advertised in a local newspaper. The application site is outlined in red on the submitted plans and an area shaded blue denotes other land in the applicant's ownership. The location plan solely identifies the location of the application site in relation to neighbouring properties. The plans are not an accurate portrayal of the ownership of neighbouring properties.

The letter of support welcomes the proposed development.

Consultations:

Infrastructure and Design Services (Roads) - no objections. The applicant should improve the section of track (Smiddy Road) along the frontage of the site, between the track to Myrtle Cottage and the track to Bourtree and construct one passing place along its section. The passing place could be constructed on land in the applicant's control.

Response: Planning conditions could be imposed in this regard.

Scottish Water - no objection. A totally separate drainage system would be required with the surface water discharging to a suitable outlet. Scottish Water requires a Sustainable Urban Drainage System (SUDS) as detailed in Sewers for Scotland 2 if the system is to be considered for adoption.

Response: A planning condition could be imposed in this regard.

Arran Community Council - no objection.

Response: Noted.

Analysis

The site is located within a countryside area in the adopted Isle of Arran Local Plan and the proposed development would not therefore accord with policy RES 1. The proposed dwellinghouse is not required for persons employed in agricultural, forestry or an established rural business and cannot, therefore be justified in terms of Policy ENV 1.

The main determining issues are whether the development accords with Policy H 1 or Policy H 2 of Alteration No. 1 and the relevant criteria of the Development Control Statement of the local Plan.

With regard to Policy H 1, it is accepted that the existing dwellinghouses in this vicinity comprise an identifiable cluster applicable for consideration under Policy H 1. However, the proposal does not constitute an acceptable addition as it would not be sympathetic to the character and form of the group in terms of its scale, design and siting. It would result in the creation of a large, curve-shaped dwellinghouse over two storeys, sited to the north of the application site, which does not reflect the nature and character of the existing group of houses and would set an undesirable precedent. In addition, the tree cover and proposed landscaping to provide seclusion from the other buildings in the group further accentuates the segregation of the

proposal rather than its association with the group. It is therefore considered that the proposal development would not accord with Policy H 1.

In addition, it is considered that the proposal fails to meet the terms of policy H 2, given the proximity of the proposed dwellinghouse to the existing group and its discordant design. While it is acknowledged that the proposed dwellinghouse exhibits a high quality of design, the intention of the policy was to permit new dwellinghouses of exceptional design within their own landscape setting rather than adding to existing groups or villages.

It is considered that the design is certainly distinctive. However it is considered that it is not responsive to its setting in that it is at odds with the existing dwellinghouses in the adjoining group. The design as noted above would be out of character to the traditional form and context of the group. As a result, it is considered that there would be neither a complementary or enhanced impact on the rural landscape as a result of the proposal. The proposal would not therefore comply with criteria (a) and (b) of Policy H 2.

With regard to Criterion (c) of Policy H 2, it is accepted that there are no suitable buildings for conversion, rehabilitation or replacement to provide a new building at the site.

In view of the above, it is considered that the proposal would not comply with Policy H 2 of the adopted Local Plan. Furthermore, the proposal would not comply with the Addendum to the Rural Design Guidance (assessment provided above in terms of conversion, rehabilitation or replacement, Policy H 1 and Policy H 2).

Discussions have taken place with the applicant/agent regarding the proposed development. They suggested re-siting the dwellinghouse 6 metres westwards from the current site. Such a small movement of the building would not however be sufficient to overcome the conflict with policies H 1 and H 2. They were not prepared to re-site the dwellinghouse further away from the grouping in order to allow Policy H 2 to be applicable. They were also advised of the option of lodging an acceptable H 1 proposal, which would have involved re-siting and re-designing the dwellinghouse, however this was not forthcoming.

The proposal also requires to be assessed against the relevant criteria of the Development Control Statement of the adopted Local Plan, an assessment of which follows:

(a) Siting, Design and External Appearance: it is considered that these matters have been addressed above and that the proposals would not meet with the requirement of this criterion.

(b) Amenity: it is considered that there would be no significant adverse impacts with overlooking, loss of privacy and overshadowing as a result of the development. However, it is considered that the proposed dwellinghouse would be out of character with the neighbouring properties and would have a detrimental impact on visual amenity.

(c) Landscape Character: as noted above it is considered that the proposed development would not have a complementary or enhanced impact on landscape character.

(d) Access, Road Layout and Parking Provision: if the proposal was considered to be acceptable, planning conditions as recommended by IDS Roads could be imposed in this regard.

(e) Water and Sewerage: if the proposal was considered to be acceptable, a planning condition could be imposed in this regard.

Criteria (f) and (g) are not considered to be relevant in this instance.

In view of the foregoing, it is considered that the development would not comply with Policy H 1 or H 2 of Alteration No. 1 and to Criteria (a) and (b)) of the Development Control Statement of the adopted Local Plan. The development would also be contrary to Policies RES 1 and ENV 1 of the adopted Local Plan. Accordingly, planning permission should be refused.

Decision

Refused

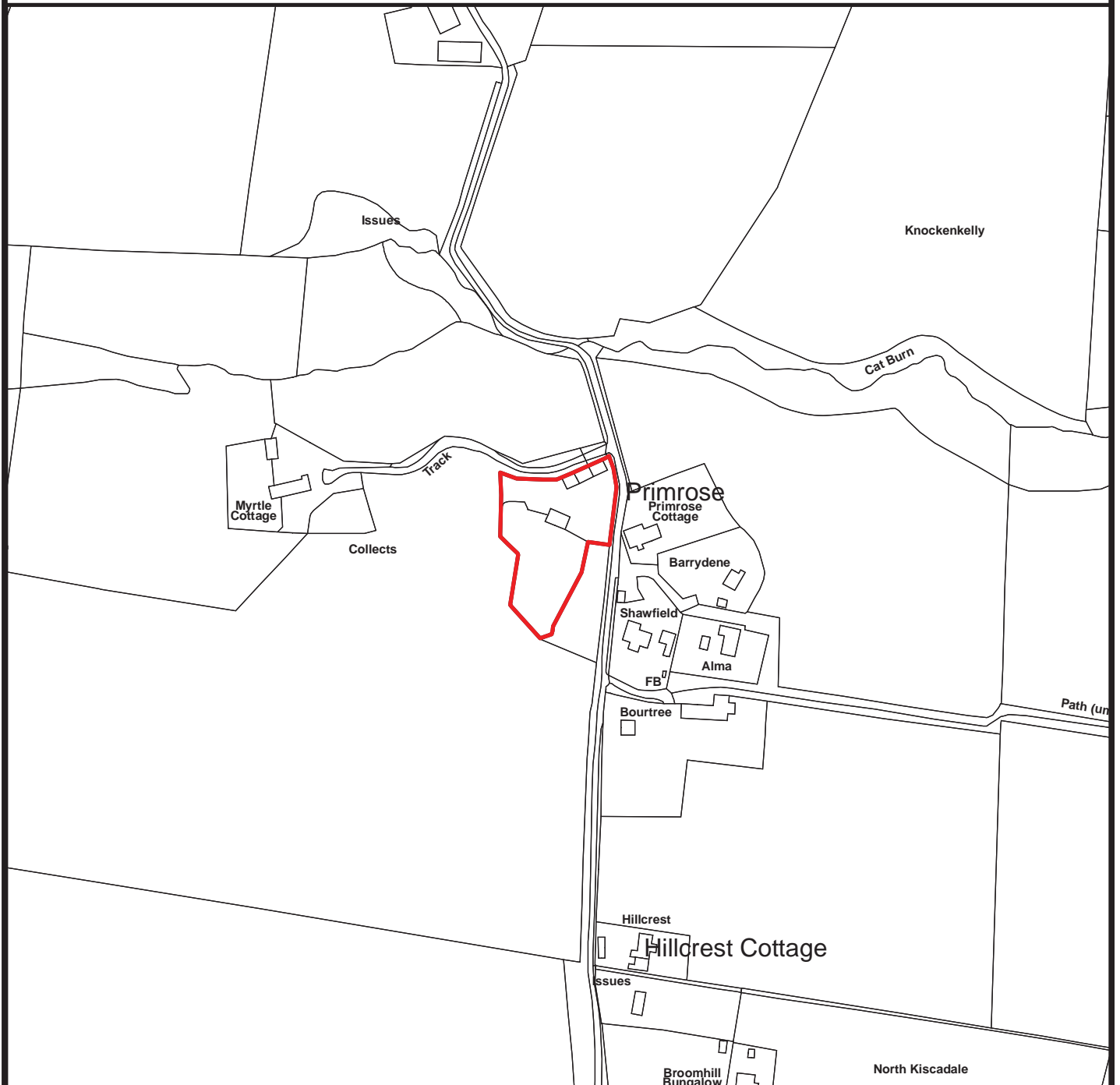
Case Officer - Ms Julie Hanna

Appendix 1 - Drawings relating to decision

Drawing Title	Drawing Reference (if applicable)	Drawing Version (if applicable)
Location and Block Plan	194.PL.00	
Existing Floor Plans	194.PL.01	
Existing Elevations	194.PL.02	
Existing Elevations	194.PL.03	
Existing Elevations	194.PL.04	
Proposed Floor Plans	194.PL.05	
Proposed Floor Plans	194.PL.06	
Proposed Elevations	194.PL.07	
Sections	194.PL.08	
Proposed Elevations	194.PL.09	
Sections	194.PL.10	
Proposed Elevations	194.PL.11	

Local Review Body

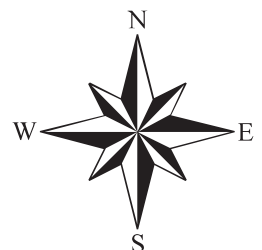
12/00098/PP



NORTH AYRSHIRE
COUNCIL

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Not To Scale





IAN T. MACKAY : Solicitor to the Council (Corporate Services)

No N/12/00098/PP

(Original Application No. N/000035368-001)

Type of Application: Local Application

REFUSAL OF PLANNING PERMISSION

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT, 1997,
AS AMENDED BY THE PLANNING ETC (SCOTLAND) ACT 2006.
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND)
REGULATIONS 2008**

To : Mr David Hutchison
c/o Hutchison Kivotos Architects Fao Gavin Hutchison
The Robert Eliot Centre
1 Old Nichol Centre
London
E2 7HR

With reference to your application received on 22 February 2012 for planning permission under the above mentioned Acts and Orders for :-

Erection of detached dwellinghouse and refurbishment of existing outbuilding with addition of a greenhouse and landscaping

at Site To East Of
Myrtle Cottage
Whiting Bay
Brodick
Isle Of Arran

North Ayrshire Council in exercise of their powers under the above-mentioned Acts and Orders hereby refuse planning permission on the following grounds :-

1. That, the proposed development would be contrary to Policy ENV 1 of the adopted Isle of Arran Local Plan, in that the dwellinghouse is not required for persons employed in agriculture, forestry or an established rural business and consequently there is no justification for the dwellinghouse which, if approved, would establish an undesirable precedent for unnecessary residential development in the countryside, to the detriment of its appearance and amenity.
2. That, the proposed development would be contrary to Policy RES 1 of the adopted Isle of Arran Local Plan, in that it would comprise residential development outwith the settlement boundaries and within the countryside, for which there is no specific locational need which would be detrimental to the amenity and appearance of the countryside and set an undesirable precedent for further similar developments.
3. That, the proposed development would be contrary to: (i) Policy H 1 and criteria (a) and (b) of the Development Control Statement of the Isle of Arran Local Plan, in that the proposed dwellinghouse would not constitute an acceptable addition to an existing grouping, as it would not be sympathetic to the character and form of the existing group with regard to its siting, design and external appearance; and (ii) Policy H 2 of Alteration No. 1 and the Council's Approved Addendum to the Rural Design Guidance given its proximity to the existing group.

Dated this : 1 August 2012

.....
for the North Ayrshire Council

(See accompanying notes)



NORTH AYRSHIRE
COUNCIL

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
AS AMENDED BY THE PLANNING ETC (SCOTLAND) ACT 2006.
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND)
REGULATIONS 2008 – REGULATION 28

IAN T. MACKAY : Solicitor to the Council (Corporate Services)

FORM 2

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to Committee Services, Chief Executive's Department, Cunninghame House, Irvine, North Ayrshire, KA12 8EE.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

