



Cunninghame House,
Irvine.

18 October 2012

Local Review Body

You are requested to attend a Meeting of the above mentioned Committee of North Ayrshire Council to be held in the Council Chambers, Cunninghame House, Irvine on **WEDNESDAY 24 OCTOBER 2012 at 2.30 p.m., or at the conclusion of the meeting of the Planning Committee, whichever is the later** 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. Minutes

The Minutes of the previous meeting of the Committee held on 5 September 2012 will be signed in accordance with paragraph 7(1) of Schedule 7 of the Local Government (Scotland) Act 1973 (copy enclosed).

3. Hearing Session

In accordance with the Hearing Session Rules contained in the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008, and with the approved North Ayrshire Council Hearing Session Rules and Procedures, the Local Review Body will conduct a hearing in respect of the undernoted Notice of Review.

3.1 Notice of Review: 12/00106/PP: Erection of Detached Dwellinghouse and Formation of a New Access Road: Site to North of Hillhome: Portencross: West Kilbride

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).

4. 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)
Elizabeth McLardy	(Vice-Chair)
Robert Barr	
John Bell	
John Bruce	
Joe Cullinane	
John Ferguson	
Ronnie McNicol	
Tom Marshall	
Jim Montgomerie	

Chair:

Attending:

Apologies:

Meeting Ended:

Local Review Body
5 September 2012

IRVINE, 5 September 2012 - At a Meeting of the Local Review Body of North Ayrshire Council at 2.40 p.m.

Present

Matthew Brown, Elizabeth McLardy, Robert Barr, John Ferguson, Ronnie McNicol and Tom Marshall.

In Attendance

J. Miller, Senior Planning Services Manager, K. Smith, Planning Advisor to the Local Review Body and J. Law, Legal Adviser to the Local Review Body (Corporate Services); K. Dyson, Communications Officer and D. McCaw Committee Services Officer (Chief Executive's Service).

Chair

Councillor Brown in the Chair.

1. Declarations of Interest

There were no declarations of interest by Members in terms of Standing Order 16 and Section 5 of the Code of Conduct for Councillors.

2. Minutes

The Minutes of the previous meeting of the Committee held on 15 August 2012 were signed in accordance with paragraph 7(1) of Schedule 7 of the Local Government (Scotland) Act 1973.

3. Notice of Review: 12/00106/PP: Erection of detached dwellinghouse and formation of a new access road: Site to North of Hillhome: Portencross: West Kilbride

Submitted 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 for the erection of a detached dwellinghouse and formation of a new access road on a site to the north of Hillhome, Portencross, West Kilbride. The Notice of Review documentation, the Planning Officer's Report of Handling, a location plan and a copy of the Decision Notice, were provided as Appendices 1-4 to the report.

At its meeting on 15 August 2012, the Local Review Body, agreed (a) that, subject to a site familiarisation visit being undertaken, it had sufficient information before it to determine the matter without further procedure; and (b) to note that only those Members of the LRB who attended the site visit would be eligible to participate in the determination of the review request.

A site familiarisation visit was duly held on 31 August 2012, attended by Councillors Brown, McLardy, Barr, Ferguson, McNicol and Marshall.

The Local Review Body agreed (a) following the site familiarisation visit, to continue consideration of the Notice of Review to a future meeting for a hearing to be conducted in terms of the Hearing Session Rules set out in Schedule 1 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008, to examine further the relevant Council policies; and (b) that the applicant/applicant's representative, any interested parties who made representations, and officers of the Council's Planning Service be invited to attend and address the hearing in relation to the relevant policies.

The meeting ended at 2.45 p.m.

NORTH AYRSHIRE COUNCIL

Agenda Item 3.1

24 October 2012

Local Review Body

Subject: **Notice of Review: 12/00106/PP: Erection of detached dwellinghouse and formation of a new access road: Site to North of Hillhome: Portencross: West Kilbride**

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 has been 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 12/00106/PP for the erection of a detached dwellinghouse and the formation of a new access road on a site to the north of Hillhome, Portencross, West Kilbride.
- 2.2 The application was refused by officers for the reasons detailed in the Decision Notice at Appendix 4.

- 2.3 At its meeting on 5 September 2012, the Local Review Body agreed (a) following the site familiarisation visit, to continue consideration of the Notice of Review to a future meeting for a hearing to be conducted in terms of the Hearing Session Rules set out in Schedule 1 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008, to examine further the relevant Council policies; and (b) that the applicant/applicant's representative, any interested parties who made representations, and officers of the Council's Planning Service be invited to attend and address the hearing in relation to the relevant policies.
- 2.4 In accordance with the hearing procedure and rules, the applicant and his representative, interested parties, and officers of the Council's Planning Service were invited to attend the Hearing Session and to submit a Hearing Statement and supporting documentation in advance of the session.
- 2.5 The following related documents are set out in the appendices to this report:-
- Appendix 1 - Notice of Review documentation;
Appendix 2 - Report of Handling;
Appendix 3 - Location Plan;
Appendix 4 - Decision Notice;
Appendix 5a - Applicant's Hearing Statement; and
Appendix 5b - Council's Planning Service Hearing Statement.
- 2.7 Only those Members of the Local Review Body who attended the site visit on 31 August 2012 are eligible to participate in the determination of the review request following the hearing (Councillors Brown, McLardy, Barr, Ferguson, McNicol and Marshall).

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 initially invited to submit representations in terms of the Notice of Review. No such representations were received. Interested parties were subsequently invited to submit a hearing statement in advance of the session. No such statements were received from interested parties.

6. Conclusion

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

ELMA MURRAY
Chief Executive

Reference :

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

Background Papers

Planning Application 12/00106/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 MR & MRS F. CRAWFORD

Address HILLHOME
PORTENCROSS
WEST KILBRIDE

Postcode KA23 9PZ

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail*

Agent (if any)

Name TOM HARDIE

Address 9 KERR AVENUE
ESKBANK, DALKEITH
MIDLOTHIAN

Postcode EH22 3SW

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail*

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

Yes ☒ No ☐

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

Yes ☒ No ☐

Planning authority

NORTH AYRESHIRE COUNCIL

Planning authority's application reference number

12/00106/PP

Site address

NORTH OF HILLHOME, PORTENCROSS, WEST
KILBRIDE, AYRESHIRE

Description of proposed
development

ERECTON OF DETACHED DWELLING HOUSE AND
FORMATION OF A NEW ACCESS

Date of application

27/02/12

Date of decision (if any)

26/4/12

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) ☒
2. Application for planning permission in principle ☐
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) ☐
4. Application for approval of matters specified in conditions ☐

Reasons for seeking review

1. Refusal of application by appointed officer ☒
2. Failure by appointed officer to determine the application within the period allowed for determination of the application ☐
3. Conditions imposed on consent by appointed officer ☐

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 ☐
2. One or more hearing sessions ☒
3. Site inspection ☒
4. Assessment of review documents only, with no further procedure ☐

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:

GIVEN THE IMPORTANCE OF THE ISSUE OF DESIGN AND THE AMOUNT OF SUPPORTING INFORMATION (PRODUCTIVE), A HEARING WOULD ENABLE THIS TO BE DISCUSSED IN FULL.

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 checked="" type="checkbox"/> | <input 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:

AN ACCOMPANIED SITE VISIT WOULD BE BETTER AS PREVIOUS DISCUSSIONS WITH PLANNING AUTHORITY WOULD HAVE TO BE EXPLAINED WITH REGARD TO SITING OF PROPOSAL.

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.

PLEASE SEE SEPARATE ATTACHMENT.

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

Yes ☒ No ☐

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.

RECENTLY PUBLISHED SCOTTISH GOVERNMENT GUIDANCE IS RELEVANT. WE FEEL IT NECESSARY TO EMPHASISE THIS AND RELEVANT EXTRACTS HAVE BEEN PRODUCED. THE MATERIALITY OF PLDP ENV2 IS ALSO RELEVANT.

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 (STATEMENT OF APPEAL);
 PRODUCTION 1 - SCOTTISH PLANNING POLICY, Paras 92-96;
 PRODUCTION 2 - COUNCIL APPROVED RURAL HOUSING POLICY, NOV 2010;
 PRODUCTION 3 - RURAL DESIGN FUTURE LANDSCAPES, SCOTTISH GOVT
 NOV 2011;
 PRODUCTION 4 - DESIGNING PLACES, Pages 4, 5 and 18. THE
 SCOTTISH GOVERNMENT, 2010.
 PRODUCTION 5 - POLICY ENV 2, NORTH Ayrshire COUNCIL
 PROPOSED LOCAL DEVELOPMENT PLAN, PUBLISHED
 2010.

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

Notice of Review

Planning Application Ref: 12/00106/PP

Proposed erection of detached dwellinghouse and formation of a new access road, Hillhome, Portencross, West Kilbride, Ayrshire

1. Introduction

1.1 We wish to seek a review to the Local Review Body (LRB) of the above application and explain and provide justification in the following Notice of Review.

1.2 The Decision Notice (dated 26/4/12) stated the following reasons for refusal:

1.21. Reason 1 - The proposed development does not accord with Policy H2 of the North Ayrshire Local Plan, excluding the Isle of Arran (NALP), and the Council's approved guidance on Single Houses in Rural Areas, in that by reason of siting, design and appearance, the proposed dwellinghouse is not of distinct design nor would it make a positive design contribution to the locality of the area or enhance the established character of the area.

1.22. Reason 2 - That there is no locational need for the dwellinghouse which would be i) contrary to Policy ENV1 of the NALP, ii) detrimental to the amenity and appearance of the countryside, and iii) establish an undesirable precedent for further similar developments.

1.23. Reason 3 - That the proposed development would be contrary to criteria a), b) and c) in that by reason of its siting, design and impact on the landscape the proposal would be detrimental to the amenity and character of the area.

2. Appellant's Response to Reason 1

2.1 Approved Scottish Planning Policy (SPP), paras 92-96, covers national policy and objectives regarding rural development. We would refer to paragraph 94 in particular (*Production 1*), which states that:

"Development Plans should support more opportunities for small scale housing development in all rural areas, including new clusters and groups, extensions to existing clusters and groups, replacement housing, **plots on which to build individually designed houses**, holiday homes **and new build** or conversion housing which is linked to rural businesses or would support the formation of new businesses by providing funding."

2.2 The proposal at Hillhome is for an individually designed house of high quality in keeping with the existing rural environment and respectful of the rural location and landscape quality of the area. It includes an integral live work business office space. Policy H2 of the Proposed Local Development Plan (PLDP) is

meant to reflect this national objective and support such development. Given this overarching national objective and consequently, the PLDP, we have been alarmed at the cynicism and negativity that our proposal has evoked with the development planners at North Ayrshire Council, especially on the issue of design, which is a highly subjective matter. A number of architectural experts in the field of design have acknowledged the quality and appropriateness of the proposed design. However, the planners have roundly ignored these views in the determination of the planning application. They have also ignored the overarching objectives of the approved SPP and their own emerging PLDP policy ENV2 both of which promote quality design in the countryside.

2.3 Instead they have rested this decision on the adopted 2005 NALP and policies H2 and ENV1 of that document and ignored the materiality of the more recent SPP, the new PLDP Policy ENV1 and the Committee approved Rural Housing policy of 29th November 2010 (*Production 2*).

2.4 More specifically, to say that the house is not of distinctive design, nor would it make a positive design contribution to the locality or enhance the character of the area is a highly subjective and overly negative view from officials who are not professional experts in design matters, and flies in the face of the views of acknowledged architectural and design experts who were consulted on the application. Some of these wrote in to support the application during the consultation process.

2.5 Great care, including consultation with, and feedback from the NALP planners, has gone into the design process and the siting and layout. The proposed house would be complementary to the main art-deco house taking design cues from some of its essential elements but at a reduced and appropriate scale. The proposal is a bold statement of modern architecture and design, incorporating up to date energy efficiency measures throughout. In our opinion, it could be an exemplar of a modern, energy passive house and set a benchmark for others to follow. It is the very essence of an individually designed house for 2012.

2.6 As for the established character of the area, we consider that there exists a mixture of traditional and pastiche rural styles ranging from converted farm steadings to some modern fairly nondescript housing in the cluster nearby, which lack rural character and quality. The main house at Hillhome stands out as an art-deco exemplar and statement of its time. We, and those architectural experts who support us, believe we are adding to this character; not diminishing it in any way.

2.7 There is an urgent requirement for better designed houses in both urban and rural North Ayrshire, and this proposal would provide a much needed boost to the quality of the built environment of the area in line with SG objectives for design standards. The appellant has followed the principles outlined in the most recent

published Design Guidance from the Scottish Government, Rural Design Future Landscapes, November 2011 (*Production 3*).

2.8 The LRB should also bear in mind that these are very difficult economic times and the fact that the appellant is willing to invest in such a high quality building at this time should be a material consideration in their decision.

3. Response to Reason 2

3.1 We cannot understand why the Council is quoting this policy, ENV1 of the NALP (2005), as a reason for refusal and would argue that it should be given less material weight than new LDP policy. Although it may be the adopted policy, it is very out of date (2005) and predates, by some considerable time, the more up to date guidance on rural housing as mentioned above.

3.2 Both the SPP (2010) and the Council's own PLDP (December 2010) supersede it and we would argue that both these documents should be given more material weight in this case. The Council approved the PLDP in December 2010 and April 2011 (paper copy) for publication and consultation. Accordingly, the PLDP now becomes a material planning consideration in the determination of all planning applications.

3.3 The Council approved a new Rural Housing Policy in November 2010 and this too should be given more material consideration than the 2005 policy quoted. Paragraph 2.3, bullet 5 of the approved policy (see *Production*) states that:

"Policies will be in favour of:

- Exemplar single houses, subject to a satisfactory design statement and landscape evaluation".

3.4 One must ask why this council approved policy has been ignored in this case, and why too the SPP's objectives (paras 94 and 95) for rural development, and even the Proposed Local Development Plan policies, all of which should be given more material weight in deciding planning applications of this kind?

3.5 The PLDP policy ENV2: Housing Development in the Countryside, allows single houses on the basis of design alone and omits any requirement for 'locational need' for such a house. In short rural planning and rural housing policy has moved on and to quote an out of date policy as a reason for refusal shows a lack of awareness for current rural economic realities and puts an unnecessary emphasis on over-regulation to the detriment of common sense.

3.6 On the issue of precedent, this is continually trooped out as an added on reason for refusal. However, we believe that good design and quality housing, which this proposal is, would be an exemplar and set a standard for others to achieve. In this case it may be a precedent but only in the sense that it is an

exemplar of quality design and would thus set an important quality benchmark for rural housing in North Ayrshire.

4. Response to Reason 3

4.1 Again it is necessary to read the Report of Handling as it is unclear from the Decision Notice which policy is being quoted here as a reason for refusal; one of a number of typos / errors with the decision notice as issued to the appellant.

4.2 We have responded on the basis that the criteria being referred to in this reason are from policy ENV1A, and not policy ENV1 from the NALP (2005), as mentioned in the previous reason for refusal. However, we are not entirely sure if this is the case (perhaps they relate to policy H2 but if so, this is also not clear). In any event, it should not be necessary for us to have to make this deduction as it should have been made explicit in the Decision Notice which policy these criteria a), b) and c) are referring to, before it was signed and issued. This significant error alone should invalidate Reason 3 as a reason for refusal.

4.3 Of the criteria mentioned:

The siting, design and impact on the landscape issues have been discussed with the council's planners at pre-application and have been undertaken according to the design process framework outlined in the Scottish Government's most recent guidance, Rural Design – Future Landscapes (published in November, 2011). Appendices A and B of this document show how the siting process was undertaken and are submitted as *Production 3*.

4.4 We would emphasise the overall aim of this document, which is to raise the standard of design and to be innovative in rural areas as this brings added value to the local community. This message is also made clear in Designing Places (published 2010), at pages 4, 5 and 18 (*Production 4*). Of particular note is the message that "good design is a means of achieving added value", not only for the landowner but also the wider community.

4.5 Both the Design and Access Statement and the Landscape Capacity Statement submitted with the application go into the detail of the design process which was undertaken at some considerable expense to the appellant. However, these documents, and the SG advice and guidance on which they have been founded, seem to have been largely ignored by the case officer in his determination of the planning application.

4.6 We would therefore reiterate some of their main points which are:

- The garden ground at Hillhome is much larger than most of the village / urban gardens where single houses have already been allowed and developed in North Ayrshire. There would be a more than adequate area

of garden ground retained for all the residents within the curtilage at Hillhome. Incidentally, nowhere does it explicitly state in any of the advice published by NAC that houses would not be allowed in garden ground in rural settings such as this, so why is the case officer taking such a negative interpretation of policy H2 in this case? We think this is over-regulatory and entirely questionable. The important point is that the substantial garden at Hillhome is of a scale and character that could easily absorb a new house at an appropriate scale.

- The live work element is innovative too. This would create an integral office with its own separate access and parking space that would allow the new owner to operate his business from home. There is a high, unmet demand for this type of dedicated office space in new build housing and the lifestyle choice that it offers (see www.liveworknet.com). Live work is also supported by paragraph 94 of the SPP (*Production 1*).
- The proposed house would have a 'passive' energy profile and include the most up to date materials and design in this regard. Again this aspect has been overlooked despite being supported by The Climate Change (Scotland) Act 2009 and advice put forward and North Ayrshire Council's Rural Design Guidance.

5. Issue of Precedent

5.1 We also respond that the proposal would not establish a bad precedent as very few properties have the character and scale of garden ground as at Hillhome, which, although rural and "located a sufficient distance from a village" (*Production 5*), is also well connected to the village.

5.2 When considering the relevance of the issue of precedent we would remind the LRB that planning policy states that each application should be "treated on its merits" and the case for development has to be made each time. The merits of each will be quite different. The uniqueness of the Hillhome main residence and its site should rule out any possibility of "an undesirable precedent" as referred to in the decision notice.

5.3 One could argue that if the precedent being set is good, innovative housing design that creates an exemplar and standard for other developments to achieve locally then it should be supported.

6. Conclusion

6.1 Finally, we would remind the LRB that there have been no objections at all to this proposal, indeed only letters of support from qualified architects and expert designers. Indeed, the appellants have received only good wishes from their neighbours and the surrounding landowners.

6.2 Design is a subjective area and the adage that “one man’s meat can be another man’s poison” has a tendency to ring true when the subject of design is being discussed.

6.3 However, there can be no doubting the professional approach adopted by the appellants in this case. They have undertaken the planning and design process with thoroughness, spent a great deal of time and money in so doing to try and achieve something that will be distinctive, innovative, yet complementary, to the quality that already exists at Hillhome. In short, they are trying to raise the housing standard in this part of North Ayrshire and this objective should be supported at this difficult economic time when very little new quality housing is being delivered in North Ayrshire.

6.4 The appellants have followed the relevant planning policies and published guidance, both of the Council and the Scottish Government but have been frustrated by the negative attitude of the council planners and their interpretation of their own policies, including the lack of weight given to the materiality of the Council’s own emerging PLDP policies, which are more proactive and supportive of the proposal’s aims.

5.5 Whilst this proposal may be considered technically to be a departure to the 2005 adopted Local Plan, it is in line with the emerging policy in the PLDP and certainly recently published Scottish Government advice and guidance, both of which should be given considerable material weight in the determination of the appeal.

5.6 It is a sorry fact that the original art-deco house at Hillhome, which is a unique and undoubtedly distinctive building, would not be permitted at Hillhome in North Ayrshire today under the current planning regulations or the 2005 adopted local plan, or be supported by the planners at NAC. At its time, it was a bold, modernist, innovative statement that required ‘a leap of faith’ from the decision makers. We would argue that the proposed house is also a modern and innovative building, reflecting the art-deco quality of the main residence and it too deserves belief and support from the LRB now.

5.7 For these reasons we respectfully request that this appeal be supported.

Supporting Documents

The following documents have been referred to in this Notice and are put forward for scrutiny by the Local Review Panel.

Production 1 - Scottish Planning Policy, paras 92-96

Production 2 - Council approved Rural Housing Policy, November 2010

Production 3 - Rural Design Future Landscapes, Scottish Government, November 2011

Production 4 - Designing Places, pages 4,5 and 18, The Scottish Government, published 2010

Production 5 – Policy ENV2, North Ayrshire Council Proposed Local Development Plan, published 2010

Tom Hardie (Agent)
2 July 2012

RURAL DEVELOPMENT

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.
93. The character of rural areas and the challenges they face vary greatly across the country, from remote and sparsely populated regions to pressurised areas of countryside around towns and cities. The strategy for rural development set out in the development plan should respond to the specific circumstances in an area whilst reflecting the overarching aim of supporting diversification and growth of the rural economy. Development plans should promote economic activity and diversification in all small towns and rural areas, including development linked to tourism and farm diversification, whilst ensuring that the distinctiveness of rural areas, the service function of small towns and the natural and cultural heritage are protected and enhanced. Developments which provide employment or community benefits should be encouraged, particularly where they involve the imaginative and sensitive re-use of previously used land and buildings. Planning authorities should also support and promote opportunities for environmental enhancement and regeneration in rural areas, particularly areas of previous mining and industrial activity.
94. The requirement for development plans to allocate a generous supply of land to meet housing requirements, including for affordable housing, applies equally to rural and urban areas. Development plans should support more opportunities for small scale housing development in all rural areas, including new clusters and groups, extensions to existing clusters and groups, replacement housing, plots on which to build individually designed houses, holiday homes and new build or conversion housing which is linked to rural businesses or would support the formation of new businesses by providing funding. Opportunities to replace rundown housing and steadings, and to provide limited new housing along with converted rehabilitated buildings, should be supported where the new development is designed to fit in the landscape setting and will result a cohesive grouping. Modernisation and steadying conversion should not be constrained within the original footprint or height limit unless there are compelling design or conservation reasons for doing so.
95. The aim is not to see small settlements lose their identity nor to suburbanise the Scottish countryside but to maintain and improve the viability of communities and to support rural businesses. In more accessible and densely populated rural areas most new development should be in or adjacent to settlements. In less populated areas, small scale housing and other development which supports diversification and other opportunities for sustainable economic growth whilst respecting and protecting the natural and cultural heritage should be supported in a range of locations. In these areas, new housing outwith existing settlements may have a part to play in economic regeneration and environmental renewal. All new development should respond to the specific local character of the location, fit in the landscape and seek to achieve high design and environmental standards, particularly in relation to energy efficiency. Planning authorities should apply proportionate standards to access roads to enable small developments to remain viable.
96. It is essential that rural communities have reasonable access to good quality services. Major facilities are usually concentrated in larger settlements, and wherever possible they should be accessible by a range of transport modes including public transport. However, planning authorities should be realistic about the availability or likely availability of alternatives to access by car as not all locations, particularly in remoter areas, can be served by public transport.

May 2007 to Present

**NORTH AYRSHIRE COUNCIL
Local Development Plan Committee
Agenda Item 4**

29 November 2010

Subject: **Proposed Plan Policy - Rural Coastal and Island Development:**
Rural Housing

Purpose: To advise the Committee of proposed policy regarding Rural Housing.

Recommendation: That the Committee approves policy regarding Rural Housing for the Local Development Plan (LDP) Proposed Plan.

1. Introduction

1.1 With regard to the issue of Rural, Coastal and Island development, the Committee has already approved reports in respect of Definition of the Coast, Tourism Proposals, Hunterston and Coastal Access. This report addresses Rural Housing and completes the proposed policy response to this Main Issue. In the LDP context, Rural Housing policies apply to all areas outwith settlements. It should be noted that the Local Housing Strategy only recognises Arran and Cumbrae as Rural with the LDP including countryside areas on the mainland.

2. Current Position

2.1 Representations made to the Main Issues Report (MIR) on Rural Housing substantially focussed on the Isle of Arran. More diversity and flexibility in allowing housing in smaller villages or the countryside is advocated by many, with a clear message that more innovative approaches to providing infrastructure should be considered. Representations were in favour of rural housing being sympathetically designed and most agree that there are some locations which are not suitable for development. Some want to restrict development so as not to compromise the tranquil character of the island that attracts visitors and state that demand is in the settlements, not in isolated areas.

2.2 Attendees at the Garnock Valley Planning Forum (March 2010) were mostly in favour of a more flexible approach to housing in the Countryside within the Garnock Valley, as suggested by the Main Issues Report, although there was some concern regarding the sustainability of rural housing because of poorer accessibility. It was suggested that rural housing should demonstrate exemplar renewable energy features. This has not, however, been progressed by anyone through the formal consultation process.

2.3 There is evidence from the responses received from the Isle of Arran that there are difficulties in interpreting current policies, which already provide for a range of appropriate development. Policies are in favour of:

- Housing associated with agriculture, forestry and small scale business (falling within class 4 of the Use Classes Order),

- where there is a genuine operational need for a worker to live on site in pursuance of the established activity or business;
- Conversion, rehabilitation or replacement of existing buildings in the Countryside, where the proposal is of an appropriate scale and character and capable of being satisfactorily serviced;
- A single house or enabling development (not exceeding 4 houses) in support of an acceptable new economic development or diversification;
- Small scale growth and extension of existing rural housing groups (4 or more houses with a maximum of 4 new housing units) ;
- Exemplar single houses, subject to a satisfactory design statement and landscape capacity evaluation; ✓
- Securing a percentage contribution for affordable housing from developers through an Affordable Housing Policy (Arran);
- Working from home.

2.4 The preparation of an information leaflet and an information day on the island, as most responses related to issues on Arran, will be included in the work programme for 2011. This will be progressed with Housing Services.

In respect of infrastructure and design:

- NAC Infrastructure and Design Services are dealing with rural roads standards on a case by case basis and are keeping the possibility of retaining tracks as they are, or with slight improvements, as the first option.
- The LDP Committee approved Rural Design Guidance in May 2009. This provides clarification on the policy and addresses interpretation regarding the definition of a nucleated group. This will be formally adopted within the Proposed Plan process.

Proposed Response:

2.5 There is no evidence that the policies indicated above need any major change. The policies have been supported by Reporters considering planning appeals and appeals have been dismissed on the grounds of impact on character of the surrounding area and landscape, visual appearance with poor siting and design and loss of amenity with damaging visual effects. There are environmental and archaeological constraints on Arran which must be acknowledged. Scottish Planning Policy still requires the majority of housing land requirements to be met within or adjacent to existing settlements to minimise servicing costs and to sustain local facilities. The unique rural environment has to be respected.

2.6 Some flexibility has been requested to count conversions as part of a group of 4 units (Policy H1 Small-Scale Growth of Existing Rural Groups). It is proposed that conversions completed before 1 January 2005 can be counted within the terms of this policy. This date is established by the adopted rural alteration. The policy would now apply to "a well defined group of 4 or more houses (including conversions) in close proximity to one another and visually identifiable as a group with some common feature e.g. sharing access. Expansion of such a group will be limited to 50% of dwellings existing in that group as of 1 January 2005 up to a maximum of 4 new

4.6 Local outcome 12a of the Single Outcome Agreement requires that "our environment is protected and enhanced".

5. Consultations

5.1 Housing Services have been consulted on the terms of this report.

6. Conclusion

6.1 Members are asked to agree the policy approach to rural housing . to be incorporated into the LDP Proposed Plan.

IAN T MACKAY
Solicitor to the Council

Reference : MF

*For further information please contact Margaret Ferrier . on 01294 324755.
Background Papers : 0*



RURAL DESIGN FUTURE LANDSCAPES

Guides and projects



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APS Group Scotland
DPPAS10380 (09/11)

W W W . S C O T L A N D . G O V . U K

A. DESIGN CONSIDERATIONS

The following is a list of design considerations which can be tailored to suit all local authorities.

Consideration	Design Consideration	Design Consideration	Design Consideration	Design Consideration	Design Consideration
The location of your site within the wider landscape	The positioning of your house within the landscape	New houses should nestle within the landscape and respect traditional settlement patterns	Landscape Orientation	Nestle your house into the landscape a. Roads Assess proximity and relationship to the road b. Buildings Look at the orientation of surrounding buildings c. Weather Maximise sunshine and minimise wind	Do sit the house low and within the natural lie of the land where it will not occupy a dominant position. Don't break the skyline or the waterline. Do build close to the road if this has been established as the traditional pattern. Do build either parallel or perpendicular to the road depending on the established pattern. Do follow the established building lines i.e. look at where the front door and the main wall faces on existing houses.
Responsibility to the character of your site	The positioning of your house within the boundary of the site	Analysing the physical characteristics of your site will guide you towards achieving a well considered layout. For example, through minimising the impact of the house in the landscape and maximising shelter and solar gain	Slope	Develop on flat land where possible or use sloping sites to create a difference in level	Do break down the size of the house to create levels that work with the natural contours of the land Don't mound your site. Don't create excessive under-build or excavation
The appearance of your house	This includes the size and shape of the roof and walls, as well as the finer details, such as the positions and proportions of windows and doors. It also includes materials and colours. These features should remain consistent throughout the design and should be simple, proportionate, whilst avoiding over ornamentation.		Size	Ensure your house fits well within your plot and relates to the scale of traditional houses in the area	Do make sure your house does not dominate the plot leaving no space around it. Sufficient open garden space should be considered from the beginning as an integral part of your development
			Shape	Create the right shapes and proportions	Do break up the mass of your house to create the right footprint. Do use narrow plan forms or break up the size of the house into an arrangement of narrow plan forms.
			Roof	Use plain and simple roof structures, pitches and finishes	Do use a symmetrical pitch of 40-45 degrees and a simple roof form/layout. Do prioritise dual pitch roofs with gables. Do ensure the same pitch is used for the entire roof structure. Do avoid using a hipped roof unless it works well with the proportions of the rest of the house
			Walls	Avoid too much decoration	Do keep walls plain and simple Don't use decorative features such as archways, chimney stacks and ornate brickwork.
			Windows	Keep windows vertical	Do ensure that all windows have a vertical emphasis and a simple design. Do ensure that the proportions and shapes of windows is consistent throughout the house and have a definite lintel so that windows are clear of the eaves. Do make sure that no more windows are of the same style, proportion and have the same pitch of the roof
			Doors	Keep doors consistent	Do ensure doors are simple with a vertical emphasis. Don't build up steps to the front door or set it behind a quoin arch.
			Materials	Use local, natural materials that are both sustainable and visually harmonious with the landscape	Do allow for finishes, where possible, to be in natural stone, wet dash render and slate. Timber, artificial slates, profile sheeting or turf roofs are alternatives. Do try to use sustainable building materials.
			Ornamentation	Avoid excess decoration and embellishments	Don't create complex or certain cut away porch designs; set out or slender chimney stacks; feature panels; or quoins and arches.

B. DESIGN STATEMENT CHECKLIST

To assist applicants in collating information, a design statement checklist has been provided as a template for details to be inserted.

The template is set out in two sections – A and B. Section A (below) relates to basic information about your site, whilst Section B directly corresponds to the design considerations set out in Part 2 of this guidance.

The questions in section B (right) act as a prompt when developing your design, and your design statement should demonstrate how your proposal has addressed them. The questions will also be used by the Council as a checklist to determine the extent to which you have responded to the design considerations. Where particular design considerations have not been met, it is important that this is explained, as well as indicating the alternative solution(s).

Section A. Background information about your site

- Applicant name
- Architect/agent/design adviser
- Planning history
- Ownership of the site
- Pre-application discussions
- Description of proposal
- Location
- General description of surroundings

Section B. How have the design characteristics been applied?

Suggested drawings and info	Key questions to consider	Effectively addressed
<ul style="list-style-type: none"> • Location plan • Aerial photograph 	<ul style="list-style-type: none"> • How does the site relate to its context? Is it a key or historic site? • How does the site relate to its surroundings? Is it a key or historic site? • How does the site relate to its surroundings? Is it a key or historic site? 	✓
<ul style="list-style-type: none"> • Siting • Site plan • Cross section • Concept sketches • Landscaping • Boundary treatment 	<ul style="list-style-type: none"> • How does the site relate to its context? Is it a key or historic site? • How does the site relate to its surroundings? Is it a key or historic site? • How does the site relate to its surroundings? Is it a key or historic site? 	✓
<ul style="list-style-type: none"> • Design • Sketches • Photographs • Materials • Colour palette 	<ul style="list-style-type: none"> • How does the site relate to its context? Is it a key or historic site? • How does the site relate to its surroundings? Is it a key or historic site? • How does the site relate to its surroundings? Is it a key or historic site? 	✓
<ul style="list-style-type: none"> • Infrastructure • Infrastructure plans such as a technical site survey 	<ul style="list-style-type: none"> • How does the site relate to its context? Is it a key or historic site? • How does the site relate to its surroundings? Is it a key or historic site? • How does the site relate to its surroundings? Is it a key or historic site? 	✓



Social, economic and environmental goals

Good design has always been valued by those who appreciate architecture. Today its value is recognised also as a practical means of achieving a wide range of social, economic and environmental goals, making places that will be successful and sustainable.

At one end of the scale, sensitive siting and design of single houses in the countryside can help support and revitalise rural communities without undermining the area's distinctive qualities. At the other end, Scotland's cities challenge us to find forms of sustainable development that will renew urban life.



The design of places plays a large part in determining what impact we have on the land and other scarce resources. Decisions about design determine how much energy we will use, how efficient transport systems will be, and what people and economic activities will flourish in a particular place.

In recent years we have learned a great deal, often through painful experience, about design principles and how to apply them. Opportunities for design to make successful places are taken, or missed, every day.

Every day countless decisions are made that have the potential to make a piece of a city, town or village a little more lively, welcoming and pleasant, or a little more hostile, unpleasant or unsafe; or to enhance or erode the character of some corner of rural Scotland. These are design decisions, even though they may well not be taken by designers.

The real trail of responsibility may lead back to people who write policy, set standards, draft briefs, select consultants, issue design guidance and decide whether to give a proposal planning permission. Alternatively the trail may begin with a developer or client who places little value on good design.

5

opportunities

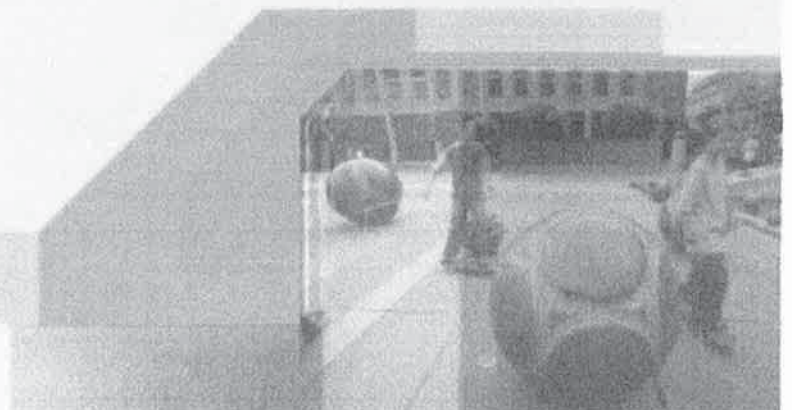
for design to make successful places are taken, or missed, every day



1: Gaelic College, Skye, Highland
2: Festival Square, Edinburgh

town

village

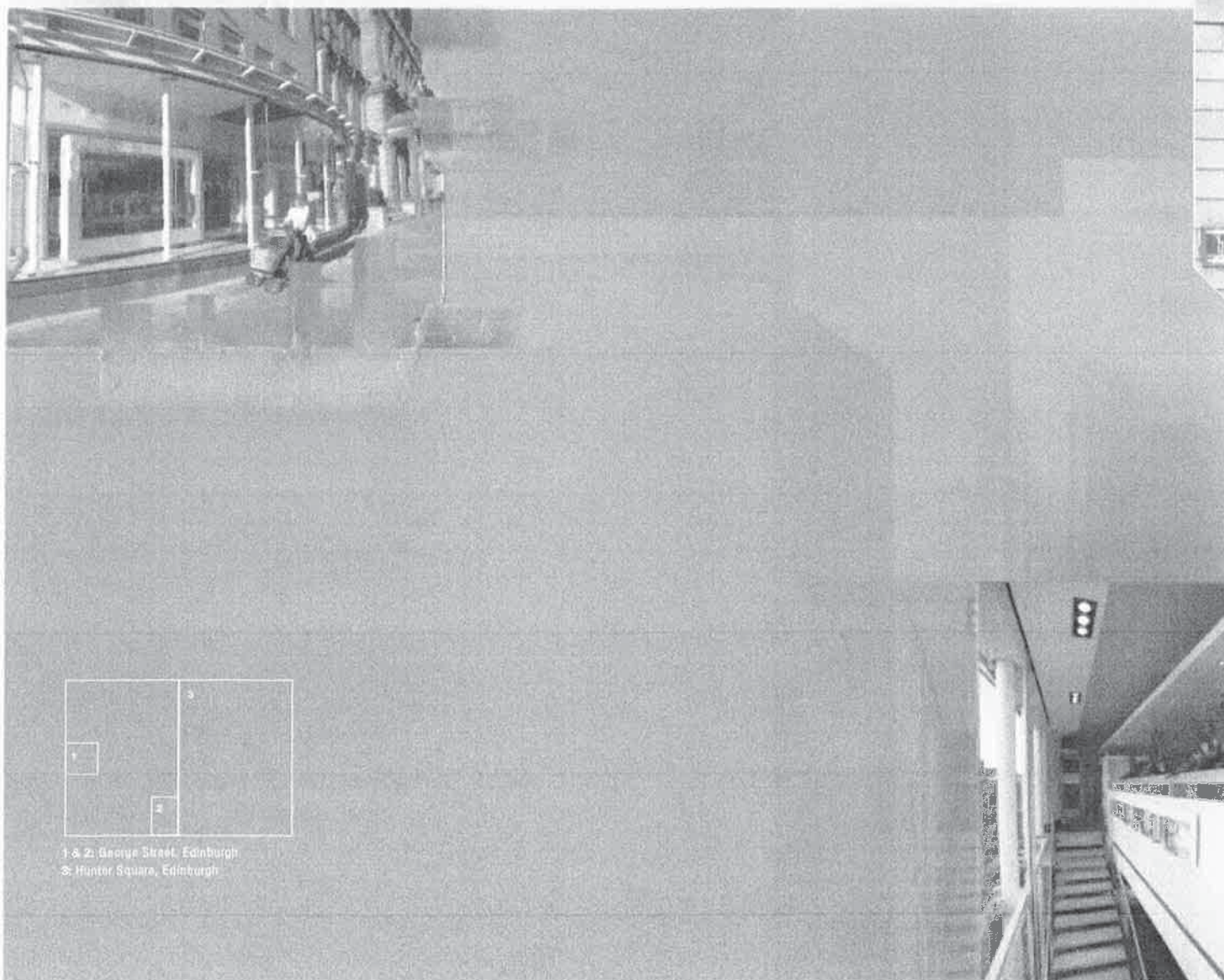


The value of good design

Good design is a means of achieving aims and adding value:

- A well thought out design process, for example, with urban design frameworks and development briefs, can provide a clear basis for communication and negotiation. Developers benefit from a good degree of certainty about what is expected, avoiding delay and saving abortive work and unnecessary expense. The design process can resolve conflicts that might otherwise emerge, messily and expensively, at a later stage.
- Good design adds value to the investment that any development scheme represents.
- Good design creates places that work. People will use and value such places, supporting regeneration and bringing long term economic benefits. Well designed places attract customers and their workplaces keep their staff.
- Good design can reduce the long term costs of energy, maintenance, management and security.
- Well designed places establish and maintain a distinct identity, to the benefit of users and investors.
- Well designed places are easy to get to and move around. The thought put into connecting them into their surroundings pays off.
- Good design is a key to achieving social, economic and environmental goals of public policy, as laid down by central and local government. It can bridge the gap between aspirations and reality.

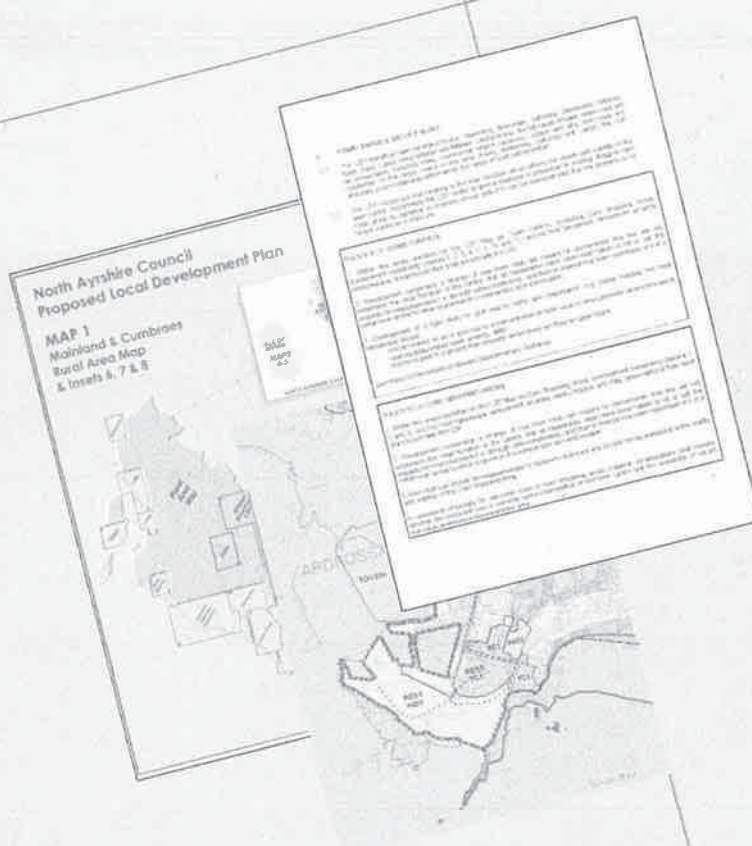
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1 & 2: George Street, Edinburgh
3: Hunter Square, Edinburgh

Production 5.

North Ayrshire Council Proposed Local Development Plan Part 2 - Detailed Plan Policies



April 2011



**NORTH AYRSHIRE
COUNCIL**

POLICY ENV 2: HOUSING DEVELOPMENT IN THE COUNTRYSIDE

Single houses in rural areas

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

- a) the proposal demonstrates outstanding quality of design; **AND**
- b) is distinctive and responsive to its setting, making a positive contribution to the locality of the area; **AND**
- c) the proposal integrates with, complements and enhances the established character of the area and the cumulative impact on the landscape of the development is acceptable; **AND**
- d) is located a sufficient distance from a village or settlement to ensure that the development is considered as part of an established rural area rather than a built up area; **AND**
- e) account has been taken of the possibility of converting, rehabilitating or replacing an existing building in the countryside or of locating a new building in a brownfield location; **AND**
- f) the development is not proposed in an area of sensitive countryside, is not of a suburban character and takes cognisance of the Rural Design Guidance where applicable; **AND**
- g) the proposal has been closely scrutinised and positively endorsed by a design review panel (internal to the Council) and/or Architecture and Design Scotland.

Small scale growth of existing rural housing groups

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

- a) the proposal constitutes a small-scale, sympathetic addition to an existing well-defined nucleated group of 4 or more houses (including conversions) in close proximity to one another and visually identifiable as a group with some common feature e.g. shared access. Expansion of such a group will be limited to 50% of dwellings existing in that group as of 1 January 2005 up to a maximum of 4 new housing units (rounded down where applicable); **AND**
- b) the proposal is not suburban in character and takes cognisance of the approved Rural Design Guidance; **AND**
- c) any individual proposal does not prejudice a future development opportunity; **AND**
- d) the proposal complies with relevant Roads Guidelines.

The sensitive infilling of any available gap sites consolidating existing groups will be particularly encouraged.

Housing for workers engaged in a rural business

Proposals for housing for workers engaged in an appropriate rural business (such as agriculture, forestry, or other operations provided for under Policy ENV 1) shall accord with the LDP subject to the following criteria:

1. The dwelling is for a farmer who owns and operates a viable agricultural holding full time which has no farmhouse at present; **OR**
2. A farmer is the owner and occupier of an agricultural holding and proposes to erect a dwelling for a family member in full time employment on the farm and who intends to take over the farm in time; **OR**
3. A genuine operational need for a worker to live on site in pursuance of an established rural business

has been demonstrated; **AND**

4. All proposals will also be required to demonstrate that:

- a) accommodation cannot be reasonably provided by another existing dwelling on site or in the area (including by any buildings after re-use, replacement, conversion or rehabilitation at reasonable cost) or within existing rural housing groups suitable for expansion under the other provisions of this policy;
- b) there are no existing planning consents (not time expired) for residential developments which have not commenced and would provide a suitable accommodation arrangement;
- c) the siting, design and external appearance of the new development (including any conversion) complements any existing building group on the site;
- d) the scale of the housing provided is commensurate with the need of the person or persons who will occupy it; and
- e) cognisance has been taken of the Council's Rural Design Guidance.

Note:

In the case of housing for a worker engaged in a rural business, where an operational need requires to be demonstrated, this should take the form of an independent report/business plan prepared by a suitably qualified professional. This justification should demonstrate the ongoing viability of the business and provide reasons why residential accommodation located on site is essential to the functional needs of the business, and is not merely for convenience.

For housing justified as 'housing for workers engaged in a rural business', occupation of such shall be limited to persons employed (and any dependents) in agriculture, forestry or other rural activities allowed under Policy ENV 1 and this will be secured via planning condition and/or legal agreement as appropriate.

All proposals will require to be supported by a design statement, inclusive of landscaping proposals particularly in regard to urban fringe sites, to assist the Council to fully assess the proposal.

The submission of an area landscape capacity evaluation will normally be required for all development in the countryside.

It will be a condition that the development be commenced within two years to prevent land-banking.

In the case of single houses in rural areas, permitted development rights may be removed in recognition of the high standard of design required from the development.

No applications for planning in principle shall be accepted for development. Pre-application discussions are encouraged prior to the submission of a full application.

Existing Buildings in the Countryside

- 8.6 The suitable conversion and rehabilitation of existing buildings in the countryside is supported by the Plan. This policy aims to promote sustainable land-use management by encouraging the sympathetic re-use of traditional rural buildings.

REPORT OF HANDLING



Reference No:	12/00106/PP
Proposal:	Erection of detached dwelling house and formation of a new access road
Location:	Site To North Of Hillhome, Portencross, West Kilbride, Ayrshire
Local Plan Allocation:	Countryside/Rural Community
Policies:	POLICY H2
Consultations:	Yes
Neighbour Notification:	Neighbour Notification carried out on 27.02.2012 Neighbour Notification expired on 19.03.2012
Advert:	Regulation 20 (1) Advert Published on:- 07.03.2012 Expired on:- 28.03.2012
Previous Applications:	None

Description

The proposed detached villa would comprise two bedrooms, an office, utility room and entrance hall on the ground floor and an open plan living/kitchen area leading to a terrace on the upper floor. It is rectangular in plan with a flat roof and a single storey extension to one side containing an en-suite bathroom and dressing room, also with a flat roof. A detached double garage is proposed which would be square in plan with a flat roof.

The proposed external finishes would be off-white render to the walls while windows and doors would be black aluminium framed. Roof parapets would be finished with granite stone square edged coping.

The site is located less than 1 mile to the north-west of West Kilbride and on the north side of Portencross Road. It is currently garden ground attached to a large, three storey Art Deco style inter-war villa known as Hillhome which has been subdivided into a number of residential units. The site is bisected by the driveway leading to Hillhome from a single track road to the north. The proposed house, an independent driveway and private garden would lie to the west of the driveway while the garage and an attached area of decking, further areas of garden and a pond lie to the east.

In the adopted North Ayrshire Local Plan (excluding Isle of Arran) the site is located within a countryside area. Policy ENV1 is opposed to new housing in the countryside unless related to agriculture, forestry or other rural activity where there is an occupational need to be resident on the site. The site furthermore is at the southern extremity of a larger area where Policies IND4 and TRA6B specifically apply.

Policy IND4 safeguards the site for large scale trading and industrial development of significant national importance requiring deep water access. Development unrelated to the deep water access and considered to be otherwise acceptable should, the policy states, be located to the south of the electricity pylon lines. Policy TRA6B states that proposals for industrial development of significant national importance Hunterston shall be subject to an integrated transport study.

Policy H2 is also relevant as it relates to single new houses in rural areas. It states that such developments 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 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.

All development proposals require to be assessed against the relevant criteria of the Development Control Statement of the Local Plan.

A design and access statement has been submitted in support of the application, as required by Policy H2, which analyses the site and landscape, outlines the design process and applicant brief and explains the reasoning behind the siting/orientation – at an angle to Hillhome to ensure privacy between neighbouring properties and the new dwelling – and the building design which takes influences from Hillhome and complements the 1930's style, form and structure. It points out that the building has been “kept simple with mass formed by three cuboid units of varying heights, utilising linear shapes, vertical forms and cubic structures as reflected within the adjacent building.” The southern elevations feature large expanses of fenestration to benefit from solar gain, while east and north elevations would be “solid providing for heat storage and enhanced insulation surpassing current standards.”

Solar panels would also be deployed on the flat roof structure tilted at an angle but hidden by the feature parapet walls. The document concludes that a house in this location can be justified on both design and live/work grounds in line with Policy H2 and the prepared Local Development Plan. The proposal is in line with national planning policies which aim to promote good quality design in new housing and the creation of live/work opportunities in rural areas. The garden ground at Hillhome has capacity to take a new house without detrimentally impacting on the amenity of the original house or its neighbours. The house can be justified in terms of its unique design potential and maintenance of residential plot ratios commensurate with other garden ground development in North Ayrshire.

The Design Statement notes that the visual impact on road users, both vehicular and pedestrian would be non-existent as the building would be screened by existing hedgerows, tree line and buildings. However new tree, shrub and landscaping to the proposed development would enhance the setting in conjunction with the existing pond and water feature.

A Landscape Capacity Evaluation has been submitted in addition which analyses the site and its surroundings and the impact of the dwelling on the landscape. It concludes that the landscape character of the area will be largely unaffected by the proposal and indeed would be enhanced. The landscape capacity it states is able to accommodate the proposed alterations and changes without negative impact on its character.

Consultations and Representations

Neighbours were notified on 27th February 2012 and an application was placed in the local newspaper on 7th March 2012 for neighbour notification purposes. No objections were received. Three letters of support were received from a firm of architects, an architect and the managing director of a local construction company.

Reasons for support:

1. The design has been carefully thought out and the building has been designed to suit the site. The garage adjacent to the pond offers good visual and material links between the garden areas on either side of the driveway.

Response: The Design Statement as noted above details the process that led to the selection of the proposed design.

2. The design statement makes reference to the history of the property suggesting that originally a chauffeur's dwelling was proposed in the grounds. Without this realisation the development at Hillhome remains incomplete.

Response: The original intention in the 1930's regarding development of the ground is not a material planning consideration in this case.

3. The design complements the simple cubic form of Hillhome which is based on the Art Deco style. The finishes are also in Art Deco style. The architecture is in context with the existing dominant building and its setting.

Response: Noted. See Analysis.

4. The sympathetic orientation of the proposed dwelling minimises overlooking of neighbouring properties.

Response: Noted. This was indicated in the Design Statement.

5. The live/work concept, incorporating an office with an independent access accords with Scottish Government Policy on new housing in the countryside.

Response: While it has an independent external access the office is also linked internally to the house and is therefore ancillary to the main use as a residence.

6. The plot size is generous, the site is well concealed and the development proposed would not cause offence to anyone.

Response: It is accepted that the plot size is generous. The site is visible from nearby rural roads and a core footpath/national cycle route some 200m to the east.

7. The house would make full use of renewable energy sources and would utilise passive energy thereby in line with Scottish Government's zero carbon objectives.

Response: Noted.

Infrastructure & Design Services (Roads): No objection.

Response: Noted.

Office for Nuclear Regulation: No objection. The site does not fall within the consultation criteria for a development in the middle zone of a nuclear installation.

Response: Noted.

SEPA: No objection. SEPA's preferred method for disposal of septic tank effluent is the provision of sub-soil soakaway system. The possibility of this should be investigated. Percolation testing will also be required. To comply with the Water Environment (Controlled Activities) (Scotland) Regulations 2011 the applicant must register the discharge of treated sewage effluent with SEPA. Surface water from the site should be treated in accordance with SUDS. Construction works associated with the development site must be carried out with due regard to SEPA's guidelines on avoidance of pollution.

Response: Conditions could be imposed with regard to disposal of foul and surface water drainage. The applicants could be advised by note to contact SEPA with regard to registering the discharge of treated sewage effluent with SEPA and also with regard to their guidelines on avoidance of pollution.

Analysis

The site is located within a countryside area in the adopted local plan. Policies IND4 and TRA6B are specifically applicable to this area. They relate to large scale trading and industrial development of significant national importance and are therefore not relevant to the current application.

Policy ENV1 is opposed to new residential development in the countryside other than housing for workers in agriculture, forestry or other established rural business where there is a genuine operational need for the worker to live on the site. The applicant is not seeking permission for a house due to an employment related need and therefore the proposal does not accord with Policy ENV1.

The main determining issues therefore are whether the proposal accords with Policy H2 and the relevant criteria of the Development Control Statement of the Local Plan. The Council's recently approved Guidance on Single Houses in Rural Areas is also a material consideration.

The aim of Policy H2 is to permit development of stand alone dwellings of exemplar design within their own setting in a rural location. As indicated in the Design Statement, the style of the house proposed is substantially influenced by that of Hillhome and it cannot therefore be considered to be unique or distinctive. It is situated within garden ground attached to Hillhome and some 60m from it. Rather than making a positive design contribution to the locality, it mimics Hillhome. Furthermore it is considered that it would detract from its architectural significance and setting. While it is noted that the house would make full use of renewable energy sources and would utilise passive energy this is not sufficient to overcome the shortcomings of the development in relation to Policy H2.

With regard to the criteria of policy H2, (a) requires that the proposal is distinctive and responsive to its setting, making a positive design contribution to the locality of the area. While the proposal is unusual in form it is not considered to be distinctive as it makes reference to the unique design of Hillhome which with its distinctive Art Deco style is inconsistent with the general scale and design of properties in this rural area. This "non-conforming" building stands in isolation thereby contributing to its uniqueness and appeal. It is considered that given the proximity of the proposed house to Hillhome, it would result in a negative cumulative impact which would contribute to an increased level of residential development in the locality. As such it is not considered that the proposal meets with the requirements of criterion (a).

Criterion (b) requires the proposal to integrate with and complement and enhance the established character of the area and the cumulative impact on the landscape of the development should be acceptable. The character of the area is that of relatively open farmland. As noted above, Hillhome is inconsistent with the general scale and design of properties in the area. The proposed dwellinghouse reflects the unique style of Hillhome and accordingly it is considered that it does not complement or enhance the established rural character of the area. The cumulative impact on the landscape would not therefore be acceptable.

Criterion (c) requires that 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 land. There are not in this case any suitable buildings for a conversion, rehabilitation or replacement to provide a new building on the site.

In view of the foregoing therefore it is considered that the proposed development can not be justified in terms of Policy H2. Essentially, the house is not in an appropriate location nor is it of exceptional architectural quality to merit approval under policy H2.

The relevant criteria of the Development Control Statement are the siting, design and external appearance of the house and its impact on amenity and landscape character.

The siting of the proposed dwellinghouse is considered to be unacceptable as it would be located within the countryside and as noted above is not justified under Policy ENV1 or Policy H2. The angling of the dwellinghouse to its boundaries, brought about by the need to avoid creating a backland situation and an outlook towards the rear of Hillhome, places its orientation in conflict with that of Hillhome which it is considered would be detrimental to the setting of Hillhome and visual amenity. The design and appearance of the house are not sufficiently unique or exceptional to justify approval.

With regard to amenity, as there is no justification for the dwellinghouse in this location it would represent an unnecessary intrusion into an area of relatively open countryside which would be detrimental to visual amenity and establish an undesirable precedent for unnecessary residential development within the countryside.

The site is located within the “raised beach coast” landscape character type which broadens at Hunterston. It is strongly contained by steep hill slopes and is intensively farmed. The development would represent an unnecessary intrusion into the landscape and intensification of residential development which would be detrimental to the landscape character of the area.

Accordingly, in view of the foregoing the proposal does not accord with the Development Control Statement.

Finally with regard to the Council’s approved Guidance on Single Houses in Rural Areas this reinforces the Council’s aim to encourage new homes of exemplar design quality in appropriate locations. As discussed above the design of the proposed house is not considered to be exemplar nor is the location considered appropriate. Therefore the proposal does not accord with the Design Guidance.

In view of the foregoing, the proposed development is contrary to local plan policy and the Development Control Statement and planning permission should therefore be refused.

Decision

Refused

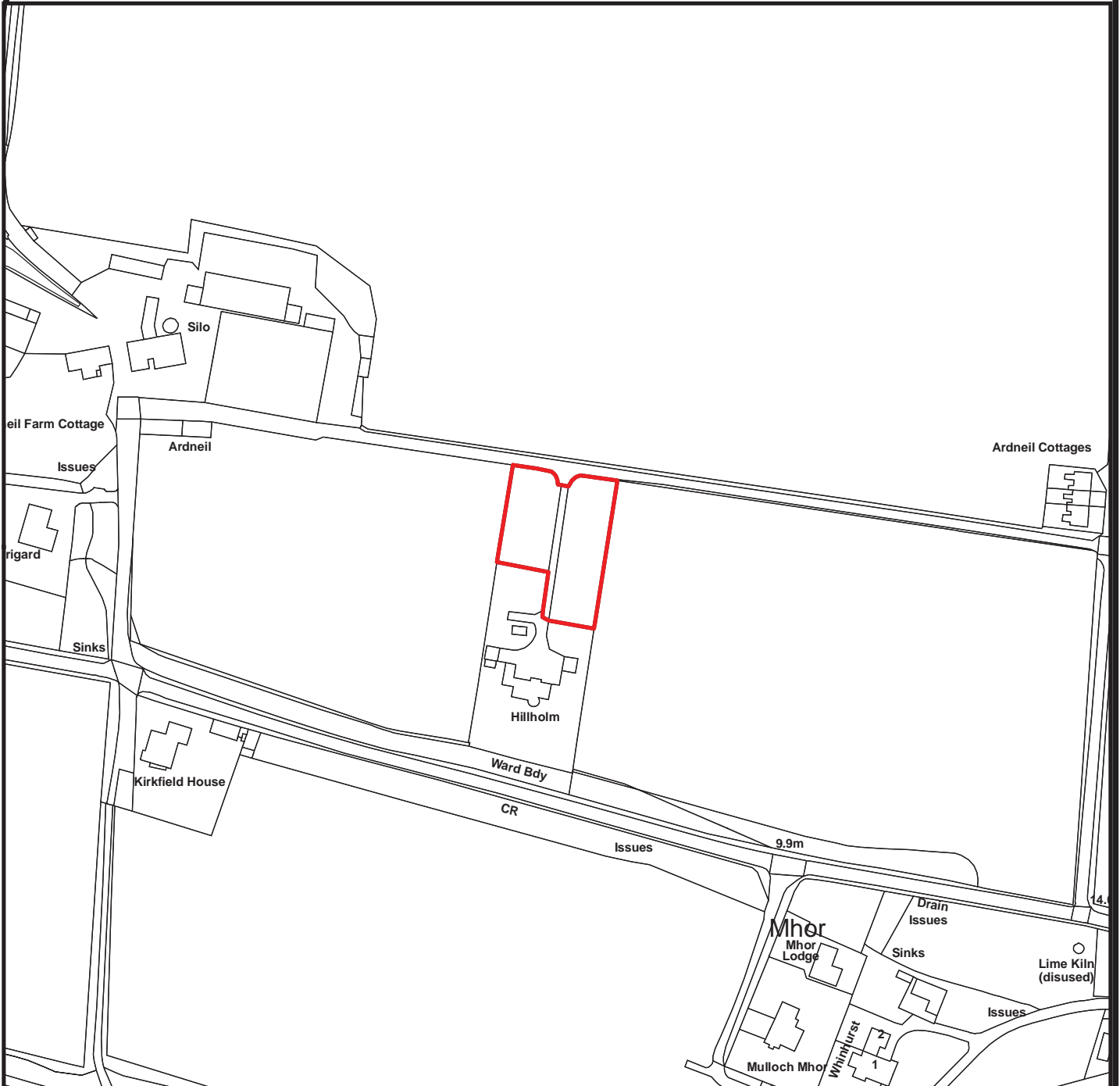
Case Officer - Mr John Michel

Appendix 1 - Drawings relating to decision

Drawing Title	Drawing Reference (if applicable)	Drawing Version (if applicable)
Location and Block Plan	11.151.001A	
Proposed Floor Plans	11.151.002A	
Proposed Elevations	11.151.003A	
Proposed Plan	11.151.004	

Local Review Body

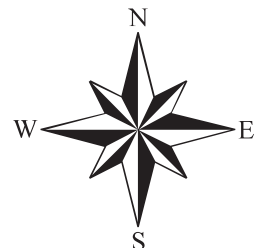
12/00106/PP



NORTH AYRSHIRE
COUNCIL

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Not To Scale





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

No N/12/00106/PP

(Original Application No. N/000035502-001)

REFUSAL OF PLANNING PERMISSION

Type of Application: Local Application

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 Frank Crawford
c/o Thomson Architects Fao Neil Rodgers
21 Portland Road
Kilmarnock
KA1 2BT

With reference to your application received on 27 February 2012 for planning permission under the above mentioned Acts and Orders for :-

Erection of detached dwelling house and formation of a new access road

at Site To North Of Hillhome
Portencross
West Kilbride
Ayrshire

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 does not accord with Policy H2 of the North Ayrshire Local Plan (excluding Isle of Arran) and North Ayrshire Council's approved Guidance on Single Houses Rural Areas, in that by reason of its siting, design and appearance, the proposed dwellinghouse is not of distinct design nor would it make a positive design contribution to the locality of the area or enhance the established character of the area.
2. That there is no locational need for the dwellinghouse which would be : (i) contrary to policy ENV1 of the adopted North Ayrshire Local Plan (excluding Isle of Arran); (ii) detrimental to the amenity and appearance of the countryside; and (iii) establish an undesirable precedent for further similar developments.
3. That the proposed development would be contrary to criteria (a), (b) and (c) in that by reason of its siting, design and external appearance, would detract from the setting of Hillhome and would have an unacceptable cumulative impact on the landscape which would be detrimental to the amenity and character of the area.

Dated this : 26 April 2012

.....
for the North Ayrshire Council

(See accompanying notes)



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.

hardie planning

**Appellants' Statement of Case for Local Review Body Hearing on 24th
October 2012
Planning Application: 12/00106/PP
Site North of Hillhome, Portencross, West Kilbride**

1. Introduction

1.1 The following statement of case outlines the main points the appellants, Mr and Mrs Crawford, intend to put forward on the relevant Council policies and refers to the documents (or parts thereof) that they intend to rely on in making their case at the LRB hearing. This statement complements the previous (and more detailed) Notice of Review already submitted by the appellants to the LRB on 2/7/12.

1.2 The appellants understand that the elected members of the LRB have the power, delegated to them directly from the Scottish Parliament, to make a final decision and that the LRB will consider the application entirely afresh. The appellants also understand that any decision will be based on councillors' interpretation of their own current and up-to-date policies whilst taking cognisance of national policies and advice upon which their own policies should be based.

1.3 The appellants' case is straightforward. They wish to build a modern 21st century dwelling that will enhance the character of the local environment. They have:

- a great interest in design, having lived in the 1930s art-deco building that is Hillhome for nearly 17 years and have worked to sustainably develop it;
- received good wishes from neighbours and have had very positive responses from independent architects;
- gone to considerable lengths to develop a high quality and professional proposal that meets the requirements of 21st century sustainable living in the countryside;
- spent considerable time, effort and money in attempting to follow and meet the requirements of officers made at pre-planning meetings. After initial encouragement about the design, they placed the building where officers suggested (in the garden) and followed every detail of the latest planning requirements both locally and nationally.

1.4 The proposal would be an exemplar of good design but not a precedent since each such decision on rural new buildings is made on its own merits. Mr Crawford is semi-retired and part-time self-employed and works from home, so the proposal includes a home office in line with sustainable practice in developing the economy of rural areas.

1.5 The appellants are directors of the local charity that runs Portencross Castle and are actively engaged in local community events. This proposal would enable them to stay in the area they love, to employ local expertise, contractors and suppliers and to leave a lasting, sustainable and high quality development as a legacy.

2. Planning Policy

2.1 The appellants' primary argument on planning policy is that the decision to refuse the application in April 2012 was based on out of date rural housing policies, and reasoning, taken from the adopted 2005 North Ayrshire Local Plan. In making the decision, the Planning Officer (under delegated powers) did not give sufficient weight to the more recent published Scottish Government Planning Policy (SPP) and Government design advice, or the approved (2007) AJSP objectives, or the Council's emerging PLDP Policy on housing in the countryside, all of which are more proactive and supportive of this type of rural housing proposal.

2.2 The appellant contends, therefore, that a departure to the adopted Local Plan is warranted (under Section 25 of the Planning etc. [Scotland] Act 2006 – new production 7) in this case where “other the material considerations” are significant and include:

- Scottish Planning Policy, approved 2010, paragraphs 94-95 (Production 1, previously submitted);
- The Ayrshire Joint Structure Plan (AJSP) approved 2007, paras 80-82 and Policy Comm 5, (newly submitted Production 6):
- North Ayrshire Council's approved Rural Housing Policy, November 2010 (Production 2, previously submitted); and
- Policy ENV2, North Ayrshire Council's Proposed Local Development Plan, published 2010 (Production 5, previously submitted).

2.3 All of these more up to date national, regional and local policies support “individually designed houses” of quality design that are both energy efficient and appropriate in rural landscapes that can absorb such development without detriment. The appellants contend that this additional material policy guidance should favour approval for the proposal at Hillhome.

3. The Council's decision to refuse

3.1 The policies highlighted in the Reasons for Refusal of the decision Notice are not only somewhat out of date, especially ENV1, which does not allow for a new dwelling house unless there is a genuine operational need for a worker to live on the site in pursuance of an established rural business. It is, in our opinion, not strictly relevant to the application when considered against the new rural housing and planning policy that has been developed and approved by The Scottish Ministers over the last six years.

3.2 Policy H2: Single Houses in Rural Areas, is also not as positive as it could be in its support for “individually designed houses”. Indeed the term does not even feature. Its three main criteria (a, b and c) are also subject to a large degree of interpretation and are not entirely clear. For example, the term “distinctive and responsive to its setting could be argued either way. The appellants have the support of independent practising architects who acknowledge that the proposal at Hillhome is “highly distinctive and would fit in well with the existing setting”. However, the case officer uses the

derogatory term that the new house only “mimics” the original art-deco house but does not complement it. This seems more like biased opinion.

3.3 Both H2 and the new PLDP Policy, ENV2, are restrictive in their tone and require the applicant to meet a number of rigorous criteria which, in turn, are subject to a great deal of interpretation regarding design matters and the potential impact in the landscape. This is not the tone supposed to be set by Councils in their new LDPs for Rural Housing when compared to the tone expressed by the SPP or the AJSP. It is also not the tone expressed in the NAC Committee approved Rural Housing Policy of 29th November 2010 (Production 2, previously submitted) for Rural Coastal and Island Development, which is relevant to the Hillhome application as it is located on the coast.

3.4 The emerging PLDP, Policy ENV2, does try to improve on this approach by adding a more objective criterion, “that it should also make a positive contribution to the locality”. However, the appellants would argue that this too is subjective and the assessment of this not as transparent as it should be and begs the question:

- Why, in North Ayrshire, are so many strict criteria being put in the way of applicants who are trying to bring about improvement and sustainable development in the rural housing fabric through innovative design of much needed exemplar houses in the countryside? This, despite the published SPP’s objective of supporting such development in the rural areas of Scotland.

3.5 The emerging Policy ENV2 sets out 7 criteria that have to be met for new single houses in rural areas. These are that the proposal has:

- to be of outstanding quality and design, which in turn has to be endorsed by a design review panel (internal to the Council) and/or ADS;
- to be distinctive and responsive to its setting, making a positive contribution to the locality;
- to integrate with, and complement the established character of the area and that the cumulative impact on landscape be acceptable;
- to be located a sufficient distance from a village or settlement to ensure its rurality;
- to show that account has been taken of conversion / rehabilitation / replacement of existing dwelling;
- not to be in an area of sensitive countryside, or of suburban character and takes cognisance of the Council’s Rural Design Guidance.

3.6 Furthermore, the application has to be a detailed application and it is made clear that a PPP application would not be accepted and also PDR rights would be removed. In addition, development must be commenced within two years to avoid land banking. All proposals must also be supported by a design statement (in this case a Design and Access statement was prepared) and a landscape capacity appraisal. The applicants have met all these burdens and contend that they have met the criteria.

4. Design

4.1 The appellants' agents have had two meetings with the case planners on the design and have taken on board their feedback and comments each time. The officers, despite initial encouragement, have not stated in explicit terms what their ideals would be in design terms for the site at Hillhome. We have therefore had to interpret any design advice received as best we could.

4.2 **Why this location?** – Numerous locations for realising development at Hillhome have been considered throughout the design process including:

- Adjoining and extending – this would visually detract from the original dwelling;
- Realigning the drive – positioning the new dwelling at the centre of the plot would involve realignment of the drive access and change the character of the estate;
- Orchard location - Maintaining the original drive access assures sense of place for the existing building at Hillhome. Positioning the new proposal within the orchard ensures that the estate can be completed and seen as a whole;
- Use of landscape - the building mass ensures flow from one space to another, inside and out.
- Building orientation and distance (some 45metres) - ensures that there will be no overlooking between properties. This orientation also allows the building to utilise sun paths for renewable energy sources and enjoyment of the view and its location.

4.3 **Why this style and design?** - The buildings close to the proposal are of a style that merits a sympathetic approach to a design that would gel the built form as a whole. The aim is to create a new dwelling to complete the development at Hillhome. The proposal:

- forms an access to the new dwelling that will not detract from the original driveway and presence of Hillhome;
- gels together Hillhome as one entity. Access and driveways connect the development with the pond, landscape and existing buildings at Hillhome;
- utilises architectural design and setting are to ensure sympathy to the current buildings at Hillhome;
- uses cuboidal form and structure design elements that complement the adjacent dwelling at Hillhome;
- fully embraces the live/work ethic and policy promoted by the SPP;
- is unique and one that will not set a precedent for rural development within North Ayrshire. This is due to the special setting of Hillhome and Portencross, the design of the original Hillhome, and the sympathetic response to the site in terms of building design and access to the property;
- would utilise solar energy through passive gain as it would have south facing glazing and incorporate renewable energy systems to ensure optimum efficiency throughout;
- is distinctive and responsive to its setting and would integrate and enhance Hillhome with an acceptable impact on the landscape.

5. Further Policy Issues

5.1 A further comment the appellants received from the case officer was that the Council's adopted Houses in Garden Ground policy is "only an urban policy". However, nowhere in the adopted guidance or development plans does it actually say this. The important criterion in this respect is whether the site can absorb the development within the garden area involved, and not have any detrimental effect on surrounding properties. Hillhome readily meets both these criteria.

5.2 One can only conclude, therefore, that there has been a great deal of subjectivity on the part of the deciding planners with regard to the assessment of the quality of the design. The appellants have in their view reasonably met the criteria of policies H2 and new PLDP policy ENV2. Indeed it is difficult to see what more they could do and yet they are being told, but not explicitly why, they are still falling some way short.

5.3 Approved NAC Rural Housing Policy of 29th November 2010 has now been modified and couched in even less positive terms in the new ENV2 policy of the PLDP. This approved policy (Production 5, previously submitted) stated that:

"There is evidence from responses to consultation that there is difficulty in interpreting NALP adopted policies and presents a more simple approach, e.g. "Policies are in favour of"... 7 types of development, described in bullets. The 5th bullet unequivocally supports exemplar single houses, subject to a satisfactory design statement and landscape capacity evaluation."

5.4 This is clear-cut and not open to interpretation unlike the new PLDP policy subsequently developed, or the altered 2007 H2 policy. The policy as presented in this paper to the Local Development Plan Committee (para 2.2) recognised *innovative design based on new technologies being used, particularly in favour of rural housing that demonstrates exemplar renewable energy features*. It also acknowledged (para 2.9), that there is *capacity to absorb viable small-scale housing development without detriment to the environment*.

5.5 The appellants would like to point out that the approved 2007 structure plan (AJSP - para 80) supports the overall aim of increasing housing choice in the countryside and "satisfying demand for individually designed homes." Para 81 acknowledges that design and energy efficiency of the development will be a significant factor in determining its acceptability.

5.6 It is clear that Policy H2, which was adopted in 2005 and altered in April 2007 (5.5 years ago) is a policy relevant to its time. It precedes, by some considerable margin, the more recent SG policies and objectives on rural planning and housing, as published in the 2010 SPP and the raft of design guidance (previously submitted as Productions 3 and 4) that has also been published since then by the Scottish Government.

5.7 It is therefore evident that the policies used to determine this application are open to great deal of subjective interpretation and lack clarification on a number of important points, for example, on what is meant by the 'distinctiveness' of the design, and the impact on the landscape and whether the Council's policy on 'Development in Garden Ground' should apply to a site like Hillhome. These points are all open to subjective interpretation.

6. Conclusion

6.1 Against this background the appellants have met, to all intents and purposes, the policy requirements and undertaken due diligence in the design process they have undertaken with the council both at pre, and post-application and in the documentation and quality of their presentation and supporting information provided.

6.2 They would contend that the proposal at Hillhome draws considerable material support and weight from other, more up-to-date sources, namely the SPP, the approved AJSP, and the Council's approved Rural Housing policy with regard to support for "individually designed houses" of innovative and energy efficient design.

6.3 In planning policy terms, the appellants contend that other material considerations should allow favourable interpretation of policy to be granted in this case.

6.4 In design terms, the appellants would reiterate the statement made in the Notice of Review that "one man's meat can be another man's poison" has a tendency to ring true when the subject of design is being discussed. That is, design is too subjective an issue on which to base a decision on this particular planning application.

6.5 Similarly, the appellants would repeat that it is entirely probable that the original art-deco house at Hillhome, which is a unique and undoubtedly distinctive building, would not be permitted at Hillhome in North Ayrshire today under the current planning processes. At its time, it was a bold, modernist, innovative statement that required 'a leap of faith' from the decision makers. We would argue that the proposed house is also a modern and innovative building, reflecting but not 'mimicking' the art-deco quality of the main residence and it too deserves belief and support.

6.6 For these reasons we respectfully request that this appeal be supported by the LRB.

Attachments:

Production 6 – Ayrshire Joint Structure Plan approved 2007

Production 7 – Production 7 – Page 30, Section 25, Status of Development Plan (General), Planning etc. (Scotland) Act 2006

Tom Hardie (Agent)

8 October 2012

Housing Development in the Countryside

79 Housing represents the single most significant development that takes place within the countryside. While existing towns, villages and hamlets are the preferred locations for the majority of new housing it is recognised that, outside existing communities there is also scope to allow for further expansion of housing. This should generally comprise the re-use of existing buildings, the provision of replacement housing, infill development within existing clusters or groups of housing, the development of new small groups and possibly, in appropriate cases, the development of individual plots. Wherever possible, the development of brownfield, derelict or degraded land for such purposes is advocated in preference to the development of greenfield sites.

80 The overall appearance of the countryside is an important factor in the economic development of the area and any proposed development in the countryside will require to be considered carefully. It is not considered appropriate to allow a free-for-all approach to development in the countryside. However, there is evidence of a strong market for housing in the countryside throughout Ayrshire and an increase in provision would support the overall aim of increasing housing choice and satisfying demand for individually designed homes and second and holiday homes.

81 To meet the objectives of sustainability, the provision of new housing in the countryside would need to be integrated with accessibility, landscape protection and maintaining the role of communities. In this regard the design and energy efficiency of the development will be a significant factor in determining its acceptability. Councils will also need to assess the capacity of the rural landscape to absorb new housing development that may be proposed.

82 Planning policies that positively promote new rural housing development of high quality within appropriate areas shall be incorporated within local plans or supplementary planning guidance. In these areas of the countryside positive consideration will be given towards the provision of housing to meet the operational requirements of rural businesses and towards development that will facilitate significant environmental improvements or the establishment of new innovative businesses.

COMM 5 Housing in the Countryside

Throughout the rural areas there shall be a general presumption in favour of housing development within existing communities, the reuse and redevelopment of redundant buildings for housing, the development of infill sites within existing housing groups and clusters and the development of housing to meet the operational requirements of agriculture and other rural businesses.

The three Councils shall identify in local plans or supplementary planning guidance policies where various types of residential development in the countryside would be considered acceptable, and establish criteria against which single or small scale residential development in the countryside can be assessed.

Production 7 – Page 30, Section 25, Status of Development Plan (General), Planning etc. (Scotland) Act 2006

*Part 3—Development management
General*

25 Status of development plan

(1) Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination is, unless material considerations indicate otherwise—

(a) to be made in accordance with that plan, and

(b) if the development in question is a national development, to be made in accordance with any statement under section 3A(5) which—

(i) relates to that national development,

(ii) is expressed as applying for the purposes of development management, and

(iii) is to the effect that the development in question (or a development such as the development in question) could and should occur.

(2) For the purposes of paragraph (b) of subsection (1)—

(a) statements in the National Planning Framework which do not fall within sub-paragraphs (i) and (ii) of the paragraph are to be treated as “material considerations” (but this paragraph is without prejudice to the generality of that expression), and

(b) in the event of any incompatibility between the National Planning Framework and the development plan, whichever of them is the later in date is to prevail.

(3) For the purposes of subsection (2)(b)—

(a) the date of the National Planning Framework is the latest date on which it was published under section 3A(6) or (8),

(b) the date of a strategic development plan is the date on which it was published under section 14(1) (the date of any supplementary guidance issued being disregarded), and

(c) the date of a local development plan is the date on which it was constituted under section 20 (the date of any supplementary guidance constituted under section 20 (the date of any supplementary guidance issued being disregarded)).”.

Hearing Statement: Planning Application Reference 12/00106/PP

Specified Matter: 'to examine further the relevant Council policies'.

North Ayrshire Local Plan (excluding Isle of Arran) Adopted 2005

Policy ENV1 of the adopted Local Plan was applied, as this policy corresponds to countryside allocations. This policy does not support residential development in the countryside, unless for workers in an established rural business. This is not the case for this application, and we understand that the Council and applicant are agreed that the proposal does not accord with ENV1.

North Ayrshire Local Plan (excluding Isle of Arran) and Isle of Arran Local Plan Alteration No. 1 2006

The alteration was drafted in 2006 in response to changes to national planning policy which were more supportive of rural development, and provided additional policy provision for housing in the countryside. Policy H1 is for small scale growth of existing rural housing groups, and Policy H2 is for single, stand alone houses in the countryside in their own setting.

The proposed dwellinghouse did not satisfy Policy H1, in that it did not represent growth of an existing group (as this is defined as four or more houses). Policy H2 was applied, though the proposals did not satisfy this policy either for the reasons outlined in the Report of Handling and reinforced in this Hearing Statement.

It should be noted that the applicant was advised from the outset that Planning Services' view was that the proposed site did not constitute a suitable Policy H2 site.

Policy H2

Policy H2 (a). The key here is the statement 'distinctive and responsive to its setting'. In applying this to proposals, a proposed development should be distinctive, in that is unlike any other building in the locality. It should be responsive to its setting, in that it bears a positive relationship with its surroundings through, for example, innovative use of natural features. The need for proposals to 'make a positive design contribution to the locality' is to put emphasis on the proposal being of such a high standard that it has a wider, positive impact on the locality.

It is agreed that the proposed house is of architectural merit, as evidenced by the representations from architectural professionals. **The issue is that the policy does not provide support for buildings of architectural merit, which could be developed anywhere.** The policy provides opportunities for new dwellings which are distinctive from anything else in the locality and which sit in their own setting, and not in competition with other buildings. In many ways, the existing building adjacent, 'Hillholme', is an example of the type of proposal that would be supported under this policy- a unique design unlike anything in the locality.

Policy H2 (b). This criterion places emphasis on the need for proposals to complement and enhance the established character of the area.

The established character of the area is not intended to include another building, as the policy is applicable to sites able to accommodate a single, stand alone dwelling in its own setting. Whilst the

proposed dwellinghouse has architectural merit, it mimics the adjacent dwelling and would detract from its setting through taking away the open setting around 'Hillholme', which currently contributes to its appeal.

Policy H2 (c). The proposal was considered to satisfy this criterion.

North Ayrshire Local Plan Adopted 2005 Development Control Statement

Criteria (a), (b) and (c) of the Development Control (DC) Statement were cited as reasons for refusal.

DC Statement (a) Siting, Design and External Appearance. This criterion is to ensure that new buildings bear an appropriate relationship to existing development, and have regard to the visual effects of the development on the surrounding area. It also states that siting should not reflect 'backland' development.

The siting of the proposal is not appropriate. The orientation of the proposed new dwelling is contrived in order to avoid an outlook to the rear of Hillholme, and to mask the fact that the proposal is backland development. The proposed siting results in an incongruous development pattern.

DC Statement (b) Amenity. This criterion is to protect amenity, which takes many forms (visual, noise, privacy, traffic movement).

The proposal is considered to be inappropriate as it represents a visual intrusion into a relative open rural farmland landscape. Development would establish an undesirable precedent for residential development in the countryside.

DC Statement (c) Landscape Character. This criterion is to ensure that new development has adequate regard of the landscape features and character of the area.

The development would represent an unnecessary intrusion into the landscape and intensification of residential development which would be detrimental to the landscape character of the area.

Modified Local Development Plan, September 2012

Policy ENV2 of the Local Development Plan (LDP) will replace Policy H2 on adoption of the new LDP, and includes some additional clarification. It introduces additional criteria which expressly state that the proposal is located a sufficient distance from a village, existing grouping, building or settlement. This reinforces the point that the houses acceptable under this policy should be in their own setting and not competing with other buildings of exceptional quality; or diluting their own exemplar qualities through co-location with other building(s).

Design Guidance: Single Houses in Rural Areas, May 2012

This design guidance was prepared in order to bring clarity to Policy H2 (ENV2 in the new LDP).

It sets out that the first step to securing an acceptable development under Policy H2 is to find a site, on the basis of its suitability and **not just because it is available** (para 1, p13). It sets out that a fundamental question to ask is 'where is the site relative to other buildings?' (page 13). For the

reasons outlined above, the proposal site is not a suitable H2 site, and the applicant was advised of this at an early stage.

List of Documents

1. North Ayrshire (excluding Isle of Arran) Local Plan, Adopted 2005
2. North Ayrshire (excluding Isle of Arran) Local Plan and Isle of Arran Local Plan Alteration No. 1, September 2006
3. Modified Local Development Plan, September 2012
4. Design Guidance: Single Houses in Rural Areas May 2012

NORTH AYRSHIRE LOCAL PLANS
ALTERATION No. 1 - RURAL
DEVELOPMENT POLICIES
POLICIES H1 & H2

2. Housing in Rural Areas

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.

Note:

The development will require to be supported by a design statement, inclusive of landscaping proposals particularly in regard to urban fringe sites, to assist the Council to fully assess the proposal.

The sensitive infilling of any available gap sites consolidating existing groups will be particularly encouraged.

It will be a condition that the development be commenced within two years to prevent land banking.

The submission of an area landscape capacity evaluation

will normally be required for all development in the countryside.

Outline planning applications shall not conform to the policy. Pre-application discussions are encouraged prior to the submission of a full application.

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.

Note:

The development will require to be supported by a design statement, inclusive of landscaping proposals particularly in regard to urban fringe sites, to assist the Council to fully assess the proposal. This could be submitted to the Council for approval prior to the submission of any planning application.

The submission of an area landscape capacity evaluation will normally be required for all development in the countryside.

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

It will be a condition that the development be commenced within two years to prevent land banking.

Permitted development rights will be removed in recognition of the high standard of design required from the development.

Outline planning applications shall not conform to the policy. Pre-application discussions are encouraged prior to the submission of a full application.

**NORTH AYRSHIRE LOCAL PLAN
(EXCLUDING ISLE OF ARRAN)**

ADOPTED NOVEMBER 2005

**DEVELOPMENT CONTROL STATEMENT
CRITERIA A, B & C**

DEVELOPMENT CONTROL STATEMENT:

CRITERIA FOR ASSESSING ALL DEVELOPMENT PROPOSALS

(a) Siting, Design and External Appearance:

- ◆ Siting of development should have regard to the relationship of the development to existing buildings and the visual effects of the development on the surrounding area and landscape.
- ◆ Design should have regard to existing townscape and consideration should be given to size, scale, form, massing, height, and density.
- ◆ External appearance should have regard to the locality in terms of style, fenestration, materials and colours.
- ◆ Development may need to consider the principles of "Secured by Design" as required by Planning Advice Note 46, Planning for Crime Prevention.
- ◆ Consideration should be given to proper planning of the area and the avoidance of piecemeal and backland development.

(b) Amenity:

Development should have regard to the character of the area in which it is located.

Regard should be given to the impact on amenity of:

- ◆ Levels and effects of noise and vibration.
- ◆ Smell or fumes.
- ◆ Levels and effects of emissions including smoke, soot, ash, dust and grit or any other environmental pollution.
- ◆ Disturbance by reason of vehicular or pedestrian traffic.

Development should have regard to the preservation and planting of trees and hedgerows.

In relation to neighbouring properties regard should be taken of privacy, sunlight and daylight.

(c) Landscape Character:

Development should have regard to landscape features and the landscape character of the area.

The Ayrshire Landscape Character Assessment, March 1998, will be used to assist assessment of significant development proposals. (Ayrshire Joint Structure Plan Technical Paper 16).

MODIFIED LDP PUBLISHED SEPT 2012
POLICY ENV 2

POLICY ENV 2: HOUSING DEVELOPMENT IN THE COUNTRYSIDE

Single houses in rural areas

Proposals for a single new stand alone house within its own established setting in a rural area shall not accord with the LDP unless it can be demonstrated that:

- (a) the proposal demonstrates outstanding quality of design; **AND**
- (b) is distinctive and responsive to its setting, making a positive contribution to the locality of the area; **AND**
- (c) the proposal integrates with, complements and enhances the established character of the area and the cumulative impact on the landscape of the development is acceptable; **AND**
- (d) is located a sufficient distance from a village, existing grouping, building or settlement to ensure that the development is considered as part of an established rural landscape; **AND**
- (e) account has been taken of the possibility of converting, rehabilitating or replacing an existing building in the countryside or of locating a new building in a brownfield location; **AND**
- (f) the development is not proposed in an area of 'sensitive countryside' (see glossary), is not of a suburban character and takes cognisance of the Rural Design Guidance; **AND**
- (g) the proposal has been closely scrutinised and positively endorsed by a design review (internal to the Council) and/or Architecture and Design Scotland.

Small scale growth of existing rural housing groups

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

- (a) the proposal constitutes a small-scale, sympathetic addition to an existing well-defined nucleated group of 4 or more houses (including conversions) in close proximity to one another and visually identifiable as a group with some common feature e.g. shared access. Expansion of such a group will be limited to 50% of dwellings existing in that group as of 1 January 2005 up to a maximum of 4 new housing units (rounded down where applicable); **AND**
- (b) the proposal is not suburban in character and takes cognisance of the approved Rural Design Guidance; **AND**
- (c) any individual proposal does not prejudice a future development opportunity; **AND**
- (d) the proposal complies with relevant Roads Guidelines.
- (e) the proposal is not located within an area of 'sensitive countryside' (see glossary).

The sensitive infilling of any available gap sites consolidating existing groups will be particularly encouraged.

Housing for workers engaged in a rural business

Proposals for housing for workers engaged in an appropriate rural business (such as agriculture, forestry, or other operations provided for under Policy ENV 1) shall accord with the LDP subject to the following criteria:

1. The dwelling is for a farmer who owns and operates a viable agricultural holding full time which has no farmhouse at present; **OR**
2. A farmer is the owner and occupier of an agricultural holding and proposes to erect a dwelling for a family member in full time employment on the farm and who intends to take over the farm in time; **OR**

3. A genuine operational need for a worker to live on site in pursuance of an established rural business has been demonstrated; **AND**
4. All proposals will also be required to demonstrate that:
 - (a) accommodation cannot be reasonably provided by another existing dwelling on site or in the area (including by any buildings after re-use, replacement, conversion or rehabilitation at reasonable cost) or within existing rural housing groups suitable for expansion under the other provisions of this policy;
 - (b) there are no existing planning consents (not time expired) for residential developments which have not commenced and would provide a suitable accommodation arrangement;
 - (c) the siting, design and external appearance of the new development (including any conversion) complements any existing building group on the site;
 - (d) the scale of the housing provided is commensurate with the need of the person or persons who will occupy it; and
 - (e) cognisance has been taken of the Council's Rural Design Guidance.

Note:

In the case of housing for a worker engaged in a rural business, where an operational need requires to be demonstrated, this should take the form of an independent report/business plan prepared by a suitably qualified professional. This justification should demonstrate the ongoing viability of the business and provide reasons why residential accommodation located on site is essential to the functional needs of the business, and is not merely for convenience.

For housing justified as 'housing for workers engaged in a rural business', occupation of such shall be limited to persons employed (and any dependents) in agriculture, forestry or other rural activities allowed under Policy ENV 1 and this will be secured via planning condition and/or legal agreement as appropriate.

All proposals will require to be supported by a design statement, inclusive of landscaping proposals particularly in regard to urban fringe sites, to assist the Council to fully assess the proposal.

The submission of an area landscape capacity evaluation will normally be required for all development in the countryside.

It will be a condition that the development be commenced within two years to prevent land banking.

In the case of single houses in rural areas, permitted development rights may be removed in recognition of the high standard of design required from the development.

No applications for planning in principle shall be accepted for development. Pre-application discussions are encouraged prior to the submission of a full application.

Provision of temporary accommodation for an agreed period in pursuance of a viable rural business, requiring an operational need for a worker to live on-site, will be in accordance with the Plan subject to compliance with other policies.

RURAL DESIGN GUIDANCE
SINGLE HOUSES IN THE COUNTRYSIDE
PUBLISHED MAY 2012 (EXTRACT)

Getting Started – Agreeing Consideration under Policies H2/ENV2

Your Proposed Site

The first important step in all developments is obtaining a site. In applications submitted under policies H2 and ENV2 this is of fundamental importance, and your site will require to be chosen because of its suitability, rather than simply because it is available. Not all rural locations will be deemed suitable for H2 and ENV2 proposals. Areas of sensitive countryside are not suitable for any development, and other sites may be too close to existing buildings. For most sites under this policy you will also require to consider the environmental impacts of getting road access and services to the site.

You will be asked to provide an analysis outlining the sensitivity of the existing landscape - generally prepared by a landscape architect. This will consider the topography, views to the site and the existing development pattern in the wider area. There may also be sensitive habitats or archaeology on or near your site that will require you to provide a report by an ecologist or archeologist.

You have to accept that if your proposed site is not agreed as being in compliance with the policy it will not be considered for consent, and therefore any work you or your agents do will be in vain. You must therefore ensure that you adopt a staged approach to developing proposals consulting with planning as outlined here.

As a first step you are strongly encouraged to contact planning once you have carried out preliminary investigations regarding the availability of the site, services and roads access but before commissioning other reports, and certainly before developing any design proposals. In this way you will avoid abortive design costs and time wasting.



Where is the site relative to other buildings?



What will the impacts and costs of getting access be?

NORTH AYRSHIRE COUNCIL

Agenda Item 4

24 October 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.

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 Hawthorne 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.

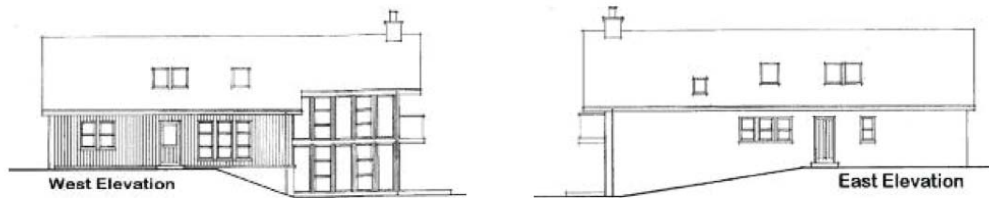


fig 5 Kelvinhaugh, Smiddy Road, Whiting Bay



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

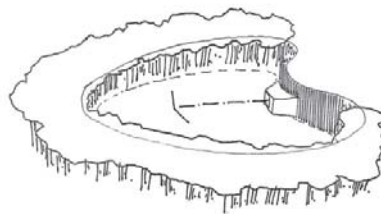
The design of this new house has been developed with a detailed understanding of its historical and environmental context, as explained by the Design Statement appended to the original application. We consider the submitted proposals to be a sensitive response to this context which successfully integrates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

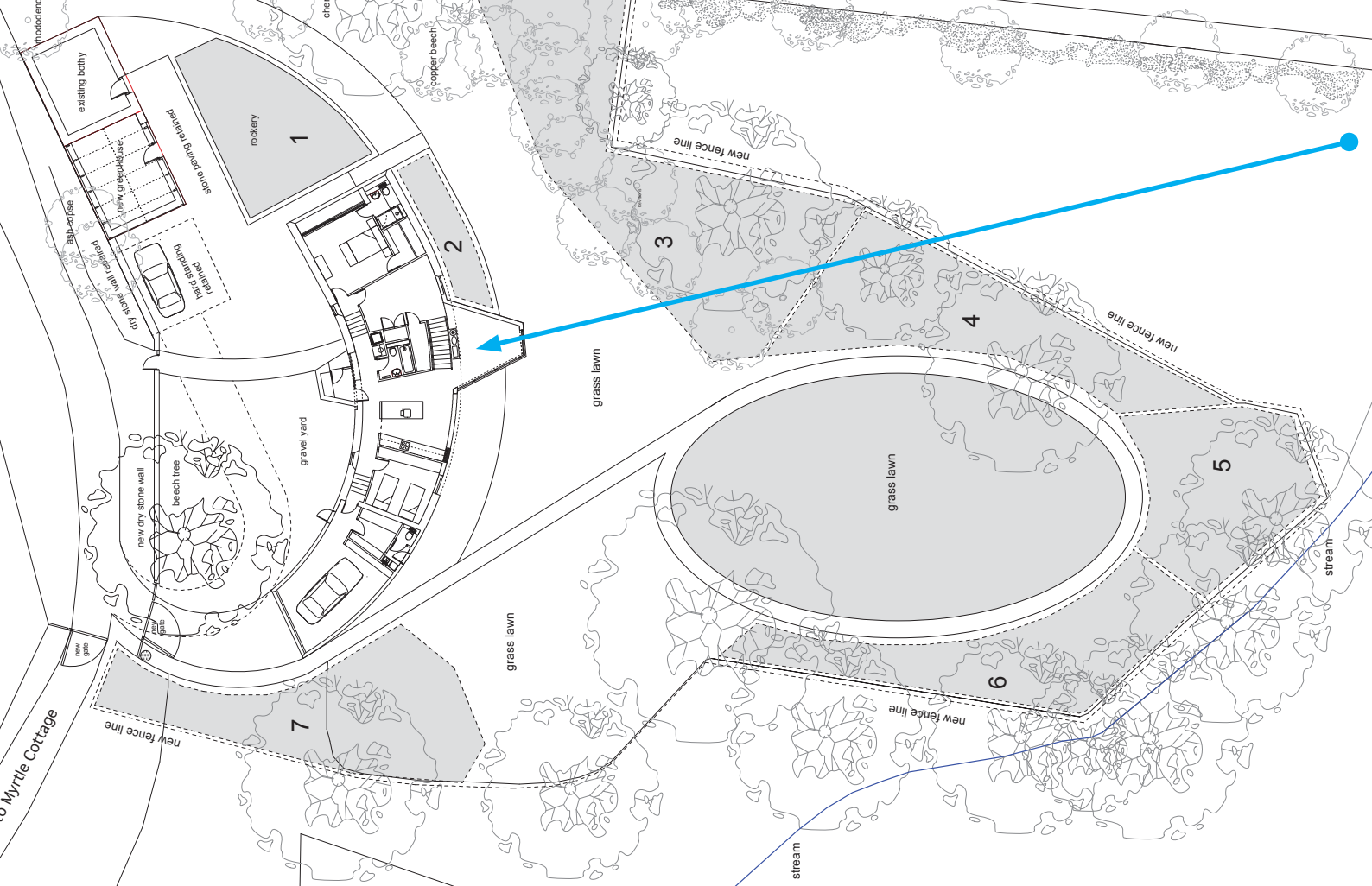
The policies central to officer's rejection are important checks on inappropriate development in the countryside, which we fully support. As we believe we comply with these policies when applied as described we are not seeking any dispensations.

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



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

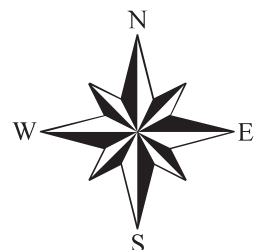
12/00098/PP



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)

REFUSAL OF PLANNING PERMISSION

Type of Application: Local Application

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.

