



## *Delegated Report*

*Report of Handling*

<b>Application Number:</b>	2013/0278/DET
<b>Location:</b>	Tighairn Cottage, Arrochar, Argyll And Bute G83 7AH
<b>Proposal:</b>	Partial change of outbuilding to holiday let accommodation (retrospective)
<b>Case Officer:</b>	Craig Jardine
<b>Target Decision Date:</b>	30 Dec 2013
<b>Decision Level:</b>	Delegated

<b>1.</b>	<b>Introduction:</b>
	<p>The application site consists of an existing one and a half storey detached dwellinghouse located on a long narrow plot between the shore of Loch Long and the A814 road, approx. one kilometre to the south-west of Arrochar. There is an existing access to the site from the A814. The existing house was built circa mid to late 1990s and replaced the original Tighairn Cottage.</p> <p>Permission was approved in 2010 for a detached double garage with upper floor ancillary accommodation sited to the south-west of the house. The building footprint of the garage is 48m<sup>2</sup>; finished with random sized natural stone base walls and underbuilding, vertical cedar cladding on the walls, natural slate clad roof and timber framed windows and rooflights. The building was considered, and approved, as being part of the domestic use of the site. A planning condition restricting the use of the upper floor to ancillary accommodation only, and not for use as a separate dwelling, was attached to the 2010 planning permission.</p> <p>It was brought to the attention of the planning authority (towards the end of 2013) that the upper floor accommodation of the garage has been operating as a holiday let unit. As this use runs contrary to the aforementioned planning condition the options were presented to the owner and they decided to submit a retrospective planning application for the use. It is this proposed change of use that is now under consideration.</p>
<b>2.</b>	<b>Relevant Planning History</b>
	<p>2010/0141/HAE - Erection of extensions to dwelling and erection of detached garage with ancillary accommodation. Approved with conditions on 30 July 2010.</p>

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<b>3. Policy Context</b>	
<p><u>National Park Aims</u></p> <p>The four statutory aims of the National Park are a material planning consideration. These are set out in Section 1 of the National Parks (Scotland) Act 2000 and are:</p> <ul style="list-style-type: none"> <li>(a) to conserve and enhance the natural and cultural heritage of the area,</li> <li>(b) to promote sustainable use of the natural resources of the area,</li> <li>(c) to promote the understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public and</li> <li>(d) to promote sustainable economic and social development of the area's communities.</li> </ul> <p><u>National Park Local Plan (Adopted 2011)</u>  <u>Relevant Policies:</u>  Policy TOUR1 – New Tourism Development  Policy TOUR2 – Supporting and Retaining a Range of Quality Tourism Accommodation  Policy TRAN3 – Impact of New Development on the Road Network  Policy TRAN6 – Parking Provision</p> <p><u>Other Material Considerations</u></p> <p><u>National Park Partnership Plan (2012-2017)</u>  <u>Relevant Policies:</u>  VE Policy 2: Sustainable Tourism  RD Policy 2: Spatial Development Strategy</p>	
<b>4. Consultations</b>	
<p><u>Argyll &amp; Bute Council - Roads</u>  <b>Objection.</b>  This objection could be amended to “<i>approve subject to conditions</i>” if the following conditions can be met:</p> <ul style="list-style-type: none"> <li>• Visibility splays of 120 x 2.4 x 1.05m required. No walls, fences, hedges etc. permitted within the visibility splays. No obstructions to visibility over 1.05m in height permitted within the visibility splays;</li> <li>• Access to be constructed as per drg. No. SD/08/002a minimum width 4.5m and surfaced in bitumen or concrete for the first 5m from the edge of the public road. (Road Opening Permit required).</li> </ul>	
<b>5. Summary of Representations</b>	
<p>One letter of representation has been received which, in summary, raises the following concerns:</p> <ul style="list-style-type: none"> <li>• Planning permission (ref: 2010/0141/HAE) for the garage was restricted to ancillary use to the existing house and not to be used as a separate dwelling/holiday let. To give planning in retrospect sends a message that planning conditions can be ignored;</li> <li>• Concern that approval of this application could set a precedent for letting of other residential properties in the area;</li> <li>• The access to the site is unsafe. Holiday let guests, not accustomed to the exit, pose a danger to themselves and other road users;</li> <li>• There is limited parking within the grounds of Tighairn Cottage and it is not unusual for vehicles visiting the property to have to park on the A814 outside the gate. This is a considerable road hazard for other vehicles using the road and this situation can only be made worse by allowing holiday letting with the inevitable additional parking requirements.</li> </ul>	
<b>6. Summary of Supporting Information</b>	
<p>None submitted</p>	
<b>7. Planning Assessment</b>	

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This application is for a retrospective change of use of an ancillary domestic building to enable it to be used as a separate dwelling for short-term holiday occupancy. Permission was previously approved for the upper floor to be used as ancillary accommodation (and this was controlled through planning condition occupancy restrictions). Regardless, this application must be duly considered with regard to the relevant provisions of the development plan, and to any other material considerations.

#### Principle of Use

Policy TOUR1 sets out the criteria for which new tourism development will be supported. The site is located outwith, and approx. 1km south-west of the settlement boundary of Arrochar. Policy TOUR1, and its associated Schedule 5, do not explicitly define this site and this type of development as being located within the “West Loch Lomond Villages and Arrochar Alps” Tourism Sub Destination Area (considered as the most applicable sub-destination area for this location).

The National Park Partnership Plan highlights Arrochar and Succoth as being an area for Strategic Tourism Opportunities. With respect to smaller-scale tourism development opportunities in the wider countryside the Arrochar area is not highlighted as a priority (as listed within RD Policy 2: Spatial Development Strategy).

Despite the fact that the abovementioned policy guidance does not expressly identify this type of proposal, it is considered that this small-scale tourism accommodation unit does comply with the Policy TOUR 1 visitor management strategy on the basis of the following considerations:

- The proposal presents an opportunity to increase the variety and range of tourist accommodation for the Sub Destination Area by offering a small, short-stay single bed unit that is close to Arrochar;
- Although the site is located 1km from Arrochar, and will undoubtedly result in vehicle trips to and from the unit, it is not unreasonable to assume that the provision of this accommodation for tourism could assist with the Sub-Destination Area aims of increasing exploration of the area around Arrochar through cycling, walking and water transport and also helping support the services located within that area.
- The proposal utilises an existing building and therefore the proposal would have a neutral effect on the visual appearance and landscape setting of the surroundings.
- This small-scale proposal, although in the grounds of an existing dwelling, can operate independently (but under supervision), and without undue impact on the amenity of this, or neighbouring properties (which are located a distance from the unit).

Therefore, it is concluded that the principle of this proposal can be supported through Policy TOUR1 of the National Park Local Plan, given the additional merits of the case.

A letter of representation received raised concern that the approval of this use for tourism would set a precedent for letting of other residential properties. In response, the letting of residential properties for holiday accommodation does not always require planning permission, providing that there would be no material change of use from Class 9 of the Town and Country Planning (Use Classes)(Scotland) Order 1997. Class 9 defines a dwellinghouse (which need not be the person’s sole or main residence) as being used by:

- i. *A single person or by people living together as a family, or by*
- ii. *Not more than 5 residents living together (including a household where care is provided; or*
- iii. *As a bed and breakfast establishment or guesthouse where at any time not more than 2 bedrooms are, or in the case of premises having less than 4 bedrooms 1 bedroom is used for that purpose.*

New self-contained holiday accommodation units would be assessed in relation to the development plan and other material considerations - as with this application.

#### Roads & Access

The vehicle entrance to the site is existing and leads directly from the A814 public road. The frontage of Tighairn Cottage is lined with a high fence. To the south of the site entrance, and outwith the ownership of the applicant, is a separate high close boarded fence sited along the roadside edge up to the entrance to ‘Tigh-Beag’ and the Ardmay Outdoor Centre.

Upon exiting the entrance and looking south-west, the road sweeps, and the fencing is situated in such a

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way that a clear line of sight is not possible. Looking north-east, towards Arrochar, the road sweep enables a clear line of sight.

The Roads Authority were consulted on the application and responded with an objection. They confirmed that this objection could be removed if the required sightlines could be achieved and maintained in perpetuity.

Subsequently, in order to investigate all alternative options and to fully understand the situation, a site meeting was convened with the applicant, the Council's Roads Officer and the Planning Officer in attendance. The options and items discussed were as follows:

- To obtain a clear line of sight to the south-west, the applicant's fence, and the fence of their neighbour, would require to be removed or lowered considerably.
- It was highlighted by the Roads Officer that in the event that a traffic speed survey (commissioned by the applicant) identified that common speeds on this section of road were lower than the 50mph speed allocated in their consultation response, the fencing would still be an obstruction within the requisite splay distances (i.e. 75m splay distance at 45mph; and 42m splay distance at 30mph). The Roads officer stated that the low likelihood of a survey identifying speeds of an lower than 45mph. This option of undertaking a survey was therefore dismissed.
- Formation of an alternative access and parking/turning area to the north of Tighairn Cottage was discussed. However, this would require significant infilling and engineering to create a level platform for the purposes, and even then the fencing would still cause an obstruction within the required splay distance. The Roads Officer confirmed that dual access would not be acceptable and that one of the accesses would require to be closed. This option was dismissed.
- Formation of a remote lay-by on the opposite side of the road was suggested by the applicant. This option was dismissed on the grounds of road and pedestrian safety.
- Subsequent to the site meeting the planning officer discussed with the Roads Officer the options of utilising mirrors and/or concealed entrance signs as a possible solution. It was confirmed that these would be problematic due to the lack of roadside verge. Regardless, these would only be accepted as secondary measures to the primary objective of achieving the required visibility splays.

It was agreed with the applicant that the most viable option was to concentrate on utilising the existing access and improving the sightlines by removing/reducing fencing to a height of 1.05 metre (as viewed from the setback distance of 2.4m). Following consideration, the applicant subsequently confirmed in writing that they would not be asking their neighbour to reduce the height of their fence and that they would not be pursuing this further.

Having investigated all suitable options, and with the Roads Officer's objection remaining unaltered, it is now for the planning authority to make an assessment on the basis of the above points and any other material considerations. An objection from the Roads Authority on the grounds of road safety must be taken seriously and an overpowering reason for not following this recommendation would be required. It is agreed that the site access is considerably restricted, as is the available parking and turning area. It is normally accepted that residential occupants, and to an extent their family/friends, can become accustomed to an existing sub-standard access and exit in an according cautious manner. However, it is likely that visitors will be less aware and will be unaccustomed to the character of an access. Therefore, the approval of this commercial use, rather than the currently approved use which is restricted to ancillary domestic use, brings with it a higher risk that an accident could result.

The applicant questioned why the access was not an issue with their previous application for the garage with ancillary accommodation. In response, the Roads Authority was not consulted on this application, as it did not constitute a material change of use of the site and as an ancillary structure would not result in an intensification of traffic volume.

Furthermore, the applicant questioned why they would have the ability to let their main house as holiday accommodation, or operate a bed and breakfast establishment, without the need for planning permission - even though the sub-standard access could remain unaltered regardless of its use by visiting holiday/B&B residents. It is true that these options could be undertaken outwith the scope of a planning application as the legislation makes these provisions; however, these circumstances do not overcome the Roads Authority objection. Therefore, although there is sympathy with the applicant's position and frustration, it is considered that these subtleties of the law are not a significant material consideration that

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could hold sufficient weight to enable the Roads Authority's recommendation being overturned.

A letter of representation raised concern that the access and parking area is restricted and unsafe. These matters are discussed above.

Conclusion

In conclusion, taking all of the above into account, it is considered that there are no significant material considerations or overpowering reasons for taking a contrary position to the Roads Officer's recommendation. It is therefore, recommended that planning permission be refused on the sole basis of the current access situation and the related road safety concerns.

Given this recommendation to refuse this application for retrospective permission, the applicant must cease operating the upper floor accommodation as a commercial holiday accommodation unit. The use of this unit will be required to return to its approved use as ancillary domestic accommodation only. It is recommended that the applicant be advised in writing of this requirement through a 'breach of condition notice' served in tandem with the planning decision notice. Any subsequent identified breach of this condition would require to be addressed and applicable enforcement proceedings considered.

Should the applicant and the adjacent landowner remove/reduce the roadside fencing, thus enabling the required visibility splays to be achieved, then this proposal could be revisited and could potentially result in a positive planning recommendation.

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**Recommendation:**

Refuse

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**Reason for Decision**

The proposal is contrary to the aims of Policy TRAN3 of the approved National Park Local Plan 2010-2015 in that the access for the proposed use is deemed unsafe by the Roads Authority and therefore in the interests of road safety the application should be refused.

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**List of Plans**

The plans to which this decision relates are listed below:

Title	Reference	Date on Plan*	Date Received
Location Plan	146(L)000		30/10/13
Site Plan	146(L)100		31/10/13

\*Where no specific day of month has been provided on the plan, the system defaults to the 1<sup>st</sup> of the month.

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Signed: Craig Jardine  
**Development Management Planning  
Assistant**

Dated: 23/01/14

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