

**Argyll and Bute Council**  
Comhairle Earra Ghaidheal agus Bhoid

Customer Services  
Executive Director: Douglas Hendry



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26 September 2012

**ARGYLL AND BUTE LOCAL REVIEW BODY – RECONVENED MEETING –  
MONDAY 1 OCTOBER 2012 AT 11.45AM IN COLINTRAIVE VILLAGE HALL,  
COLINTRAIVE**

I attach hereto further written submissions which were requested by the Local Review Body at their meeting on 15 August 2012.

Douglas Hendry  
Executive Director - Customer Services

**BUSINESS**

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST (IF ANY)**
3. **CONSIDER NOTICE OF REVIEW REQUEST: LAND NORTH WEST OF ARDARE,  
COLINTRAIVE**
  - (a) **Further Written Submissions by Planning Department (Pages 1 - 8)**
  - (b) **Comments from Applicant on Further Written Submissions  
(Pages 9 - 12)**

**ARGYLL AND BUTE LOCAL REVIEW BODY**

Councillor Sandy Taylor (Chair)  
Councillor James McQueen

Councillor Robert Graham MacIntyre

Contact: Hazel MacInnes Tel: 01546 604269

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Milton House, Milton Avenue, Dunoon, PA23 7DU  
Tel: (01369) 708606 or 708607  
Fax: (01369) 708623

30<sup>th</sup> August 2012

Your Ref: 12/0007/LRB  
Our Ref: 12/00010/REFPLA  
Contact: Steven Gove  
Direct Line: (01369) 708603

Charles Reppke  
Head of Governance and Law  
Customer Services  
Argyll & Bute Council  
Kilmory  
Lochgilphead  
Argyll  
PA31 8RT

Dear Mr Reppke,

**LOCAL REVIEW BODY REF. 12/0007/LRB  
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997  
APPEAL REF. 12/00010/REFPLA  
ERECTION OF DWELLINGHOUSE, LAND TO THE NORTH WEST OF ARDARE,  
COLINTRAIVE**

I refer to the AB 7 form dated 17<sup>th</sup> August 2012 in which further information was requested by the Local Review Body prior to making a determination on the appeal. Please accept the following as this Department's response to this request.

**Advice from Planning Department**

It would be correct to state that the Planning Department did not unequivocally advise during correspondence with the agent and others acting on behalf of the applicant in the early part of the application's processing that the principle of the site would be contrary to Development Plan Policy.

The first written contact to advise the agent that the Department was minded to refuse the application, *inter alia*, by virtue of its location within 'Countryside Around Settlement' was in an e-mail dated 10<sup>th</sup> February 2012. An opportunity was given for the applicant to respond to the various matters raised and a letter was received from James Barr dated 21<sup>st</sup> February 2012. The contents of this letter were taken into account in the ultimate determination of the application.

The interpretation of the policy issues associated with the location of the site within 'Countryside Around Settlement' (which are examined in greater detail below) is not particularly straightforward and a fine judgement had to be arrived at. It was not until all of the information had been amassed, including issues such as the impact upon biodiversity and trees, that the application could be fully considered by the Department.

It can be made explicitly clear that there was no attempt on the part of any officer of the Department to deliberately mislead the applicant or any of his advisers. Likewise, the issue of '*Countryside Around Settlement*' was not deliberately left until late in the application's processing to provide an obstacle to approving the proposal. It is agreed, however, that greater emphasis should have been placed upon the '*Countryside Around Settlement*' designation at the beginning of the application process.

### **Extension of Established Settlement Boundary**

From a Development Plan perspective, Colintrave has historically been a settlement where residential development has had to be carefully considered. For the purposes of the Cowal Local Plan 1993 (adopted October 1995), Colintrave was described as a '*sensitive settlement*' where "*large scale or unsympathetic development could have a detrimental effect on the existing landscape setting and servicing*" (Policy POL HO 9). This policy was based upon the fact that the development pattern was of a dispersed linear nature, with wooded areas which were a dominant and important landscape feature between the housing groups. This description remains as relevant today as it did in October 1995. As a consequence, development was to focus on the existing clusters of dwellinghouses and the site that is the subject of this appeal was not within one of the preferred areas.

The Argyll and Bute Structure Plan 2002 and, in particular, the Argyll and Bute Local Plan 2009 have reinforced the historical attitude to residential development within Colintrave. Due to its dispersed nature, rather than there being a single '*settlement zone*', there are six. It is within these six zones that, subject to there being no environmental, servicing or access constraints, there is support in principle for residential development. The appeal site is clearly not within any of the six '*settlement zones*' but is within land designated as '*Countryside Around Settlement*'. One of the reasons for this designation is due to the presence of a Tree Preservation Order stretching from the south eastern boundary of the property known as Milton Wood to the south eastern boundary of the property known as Millhouse.

As evidenced in the reason for refusing the application, the Department considers that the site is a key environmental feature in that it acts as a break between the dwelling to the north west (Milton Wood) and Ardare itself. The site is clearly adjacent to one of the six '*settlement zones*' and, therefore, if the appeal was to be upheld, the development would result in an extension of the boundaries of one of the six '*settlement zones*'.

Members have sought clarification as to why the Department considers that the proposed dwellinghouse would "*extend the ribbon development*". This is not the Department's contention; as stated in the justification for Policy LP HOU 1 within the Argyll and Bute Local Plan 2009, development is unacceptable within '*Countryside Around Settlement*' where it would result in "*undesirable forms of settlement coalescence, the extension of the established settlement boundary or ribbon development*". The Department considers that the proposal would extend the established settlement boundary as explained in the preceding paragraphs.

### **Tree Preservation Order 7/92**

The Department has enclosed the following:

- The map associated with Tree Preservation Order 7/92 showing the geographical area that the TPO covers;

- The First Schedule of Tree Preservation Order 7/92 which describes the trees that are covered by the TPO and its situation;
- A current map produced by the Planning Department which identifies in a clearer fashion the extent of the TPO area. As Members will note, the TPO incorporates the whole of the appeal site.

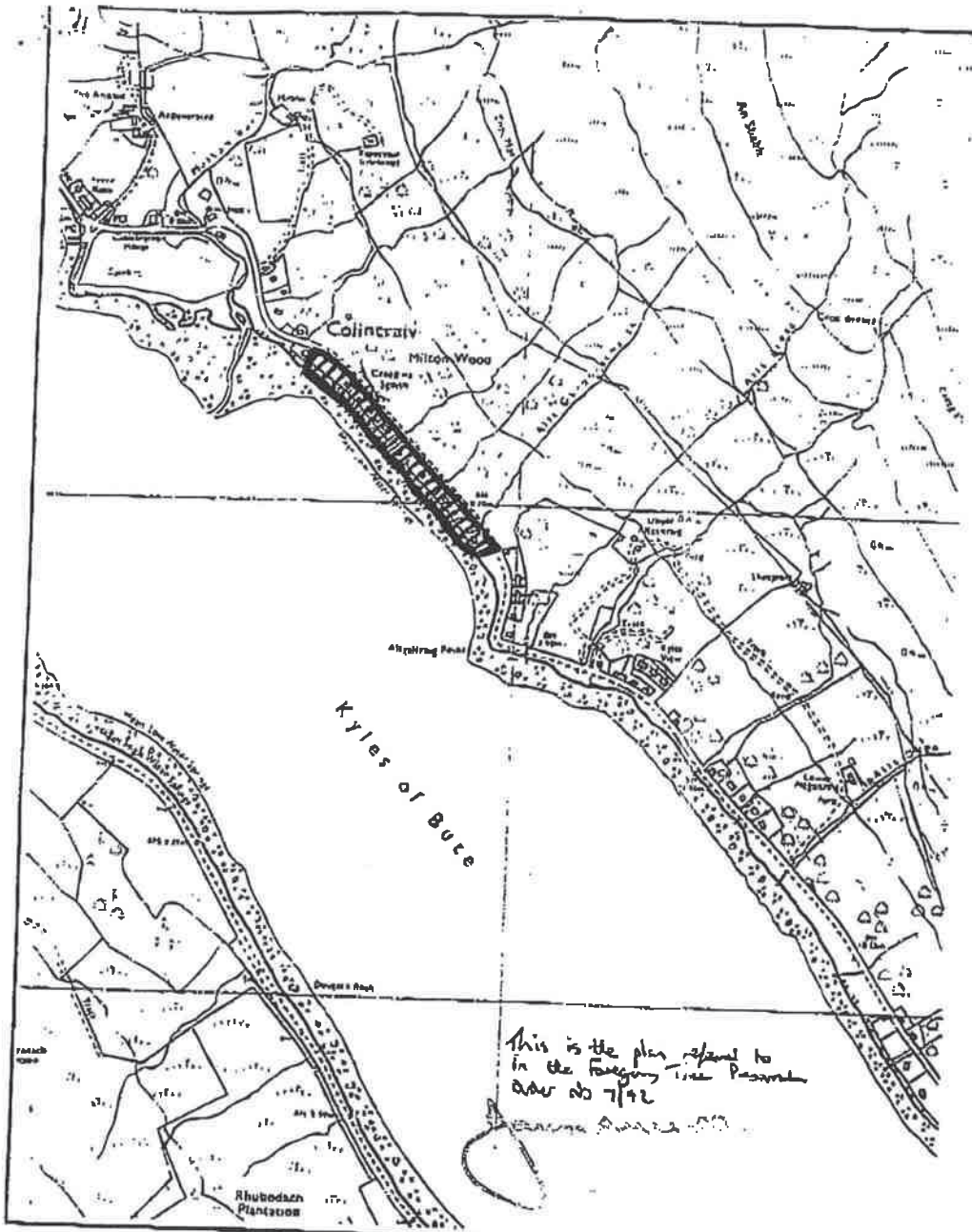
I would be grateful if you could convey the above comments to the Local Review Body.

Yours sincerely

Planning Officer  
Development Management  
Bute and Cowal

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**FROM THE NATIONAL ARCHIVES OF SCOTLAND  
NOT TO BE REPRODUCED WITHOUT PERMISSION**



*This is the plan referred to  
in the Foregoing Title Pursuant  
Order No 7/92*

Title : <b>SITE PLAN RELEVANT TO T.P.O. REF. No. 7/92</b>		N A	Argyll & Bute District Council Department of Planning Development & Tourism Kilmory, Lochgilphead Argyll PA31 8E
Scale : 1:10,000	Date : 10/6/92		

482.106

15

**FROM THE NATIONAL ARCHIVES OF SCOTLAND  
NOT TO BE REPRODUCED WITHOUT PERMISSION**

5.

Article 2

## FIRST SCHEDULE

## Groups of Trees

Description	Situation
That area of mature deciduous wood at Colintraive shown delineated and hatched in black on the plan annexed and signed as relative hereto	ALL and WHOLE that are of woodland between the public road and the foreshore to the North of Aitgaltraig Point at Colintraive in the County of Argyll as shown delineated and hatched in black on the plan annexed and signed as relative hereto.

  
 JAMES A. McLELLAN

Director of Administration

Kilmory,  
Lochgilthead,

7 July, 1992

444 83.166

18



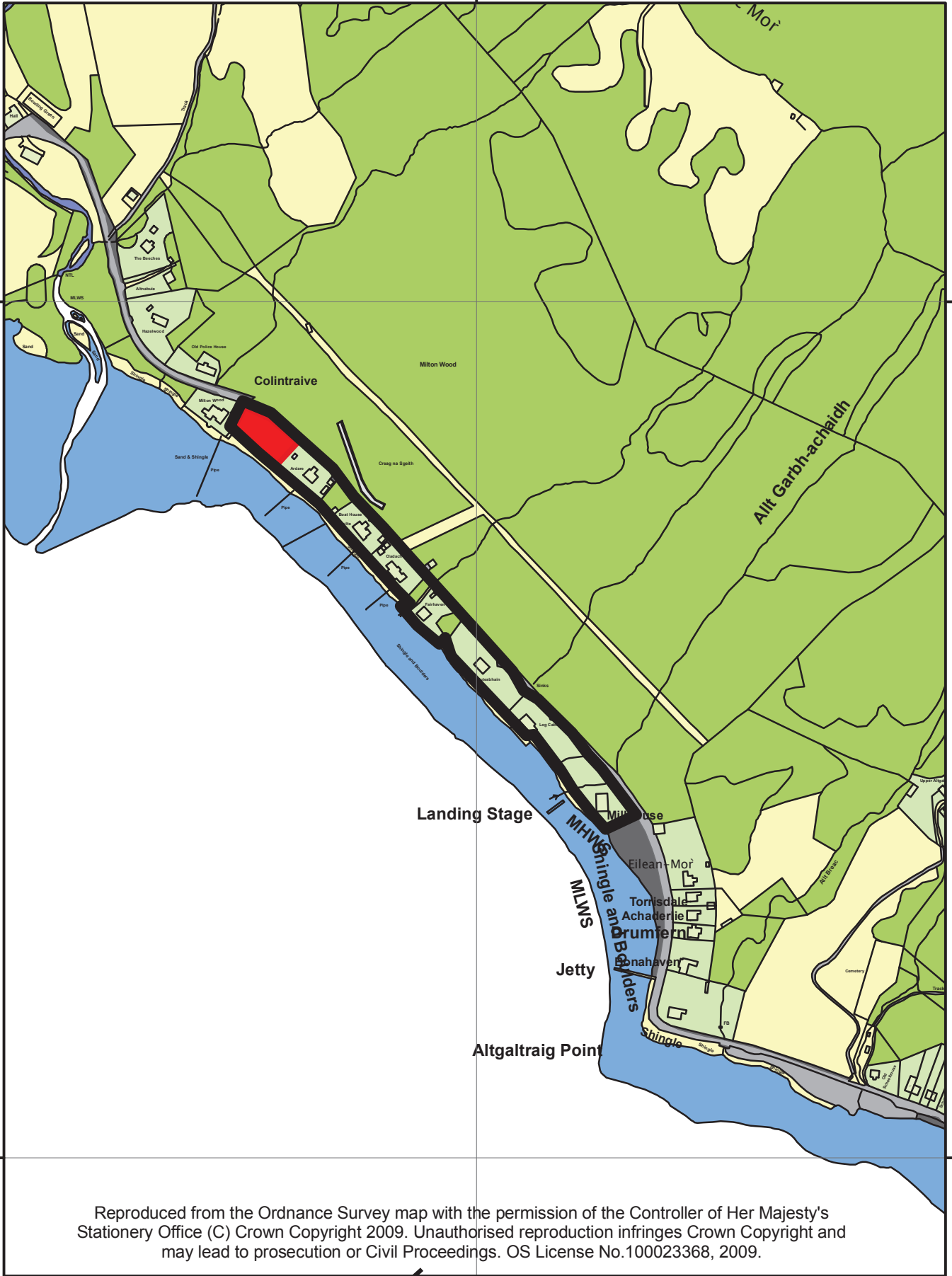
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**Area covered by TPO 7/92**  
**Application Site**



Date: 28.08.12

Scale: 1:5,000

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# James Barr

Our Ref: EA/PC56975  
Your Ref: 12/0007/LRB

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Argyll & Bute Council  
Committee Services  
Local Review Body  
Kilmory  
LOCHGILPHEAD  
PA31 8RT  
By Email & Post

7 September 2012

Dear Sir/Madam,

**LOCAL REVIEW BODY REF: 12/0007/LRB  
ERECTION OF DWELLINGHOUSE ON LAND NORTH WEST OF ARDARE, COLINTRAIVE**

I wish to take this opportunity to write on behalf of Mr. Nicholas Staunton in response to the further written submissions lodged by Argyll & Bute's Planning Department in relation to the appeal against the refusal of planning permission for the erection of a dwellinghouse on land northwest of Ardare, Colintraive.

We acknowledge that the planning officer's response was received in our offices on 3rd September 2012. We intend to address each point as identified in the letter date 30<sup>th</sup> August 2012.

#### **Advice from Planning Department**

We acknowledge that the Council has accepted that advice given throughout pre-application discussions and throughout the planning application process may have been misleading. We still question their need for tree and ecological surveys in order to assist in determining whether the principle of development is acceptable at Colintraive.

We do not believe that it was necessary to request additional information to determine that the principle of development, in terms of extension of settlement boundaries.

This matter has been raised in our original submission to the Local Review Body.

#### **Extension of Established Settlement Boundary**

Local Plan policy LP HOU 1 recognises that in terms of housing in the designated "Countryside Around Settlements", development that is considered small-scale and on infill sites is favoured. Therefore, in that respect the proposal is in accordance with local plan policy.

Within the wider area of Colintrave, there are existing residential properties that are not covered by the designated settlement zones of the adopted local plan. In addition, it should be stressed that local plan policy allows for limited development within the designated Countryside Around Settlement areas.

It is considered that the approval of development on land northwest of Ardare does not necessarily lead to the extension of the settlement boundary. As stated, the current local plan does not include all existing properties in Colintrave within the designated settlement zones. In that respect, there is no requirement for any proposed development to be seen as an extension to the existing settlement zones, but rather a small-scale infill development within the wider countryside around the settlement of Colintrave, in accordance with planning policy.

The development would not lead to further expansion or ribbon development along the coastline, and as an infill site should be recognised as a suitable opportunity for small-scale housing development.

Our original statement lodged in association with the appeal to the Local Review Body covers this matter.

#### **Tree Preservation Order 7/92**

We acknowledge the provision of the map identifying the wider designation of the Tree Preservation Order of Milton Wood. We note that this designation covers a large area along the coastline, starting at the application site to the north, and extending southwards towards Mill House.

The Tree Preservation Order covers a much wider area where there is a mix of development and woodland. In that respect, the TPO includes existing housing plots and developed sites along the coastline. It is considered that the wooded area provides a sensitive and attractive setting within which residential properties are sensitively situated.

It is acknowledged that the development will require the loss of 9 trees from the site, but the proposal promotes the replanting of 12 new trees within the application site, over compensating for the loss of trees on site and - as stated by Argyll & Bute Council's Service Officer for Grounds and Horticulture - assisting in the longevity of wood cover. It is believed that the site can accommodate the proposed development and improve tree cover with minimal impact on the wider setting of the woodland at Milton Wood.

In that respect, there is no reason to assume that the sensitive development of the site would lead to the loss of the distinctive wooded appearance of the site, and therefore the wider National Scenic Area, as states in the Council's reason for refusal.

Based on the overall size of the TPO, and the proposed tree works promoted as part of the development; we do not believe that the proposed development would have a significant impact on the wider Tree Preservation Order.

#### **Conclusion**

In conclusion, we believe that the case set out in our original statement lodged to the Local Review Body is still valid as this proposal progresses towards determination.

We note the comments received from the Planning Department in response to the request for additional information; however, none of the information received outweighs the supporting case as provided on behalf of the applicant.

We trust that this is acceptable. Please note that we intend to attend the proposed site visit for this appeal, and look forward to receiving details of the visit once planned.

If you require anything further, please do not hesitate to contact us.

Yours sincerely

A handwritten signature in black ink that reads "E Anderson". The signature is written in a cursive style with a large initial 'E'.

Elaine Anderson MRTPI  
Senior Planner

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Enc  
Cc: Client

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