

Public Document Pack

Argyll and Bute Council
Comhairle Earra-Ghàidheal Agus Bhòid

Executive Director: Douglas Hendry



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9 May 2024*

NOTICE OF MEETING

A meeting of the **ARGYLL AND BUTE LOCAL REVIEW BODY** will be held **BY MICROSOFT TEAMS** on **THURSDAY, 16 MAY 2024 at 3:00 PM, OR AT THE CONCLUSION OF THE ARGYLL AND BUTE LOCAL REVIEW BODY (2:00 PM), WHICHEVER IS THE LATER**, which you are requested to attend.

Douglas Hendry
Executive Director

BUSINESS

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST**
3. **CONSIDER NOTICE OF REVIEW REQUEST: ANDREWS GARAGE, TIGNABRUAICH, PA21 2DS (REF: 24/0003/LRB)**
 - (a) Notice of Review and Supporting Documentation (Pages 3 - 56)
 - (b) Comments from Interested Parties (Pages 57 - 138)
 - (c) Comments from Applicant (Pages 139 - 158)

Argyll and Bute Local Review Body

Councillor John Armour
Councillor Graham Hardie

Councillor Kieron Green (Chair)

Contact: Lynsey Innis, Senior Committee Assistant Tel: 01546 604338

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Ref: AB1

ARGYLL AND BUTE COUNCIL

www.argyll-bute.gov.uk/**

OFFICIAL USE

NOTICE OF REVIEW

Date Received

Notice of Request for Review under Section 43(a)8 of the Town and Country Planning (Scotland) Act 1997 and the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013

Important – Please read the notes on how to complete this form and use Block Capitals. Further information is available on the Council's website.

You should, if you wish, seek advice from a Professional Advisor on how to complete this form.

(1) APPLICANT FOR REVIEW

(2) AGENT (if any)

Name **Karen Raeburn**

Name

Address **House of Craigie**

Address

Craigie**South Ayrshire**Post Code **KA1 5NA**

Post Code

Tel. No.

Tel. No.

Email

Email

(3) Do you wish correspondence to be sent to you **Yes** or your Agent

(4) (a) Reference Number of Planning Application **22/00221/PP**

(b) Date of Submission **3 February 2022**

(c) Date of Decision Notice (if applicable) **2 February 2024**

(5) Address of Appeal Property

**Andrews Garage
Tighnabraich
Argyll and Bute
PA21 2DS**

(6) Description of Proposal

Erection of dwellinghouse

(7) Please set out detailed reasons for requesting the review:-

See attached 13 pages –

22/00221/PP

Erection of dwellinghouse

AT:

Andrews Garage Tighnabraich Argyll and Bute PA21 2DS

(7) Please set out the detailed reasons for requesting the review:-

If insufficient space please continue on a separate page. Is this attached?

Please tick to confirm

Y

(8) Have you raised any matters which were not before the appointed officer at the time determination of your application was made **Yes/No**

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

A large, empty rectangular box with a thin black border, intended for the applicant to provide a detailed explanation if they have raised new matters. The box is currently blank.

(9) If the Local Review Body determines that it requires further information on “specified matters” please indicate which of the following procedure you would prefer to provide such information:-

- (a) Dealt with by written submission Y
- (b) Dealt with by Local Hearing
- (c) Dealt with by written submission and site inspection
- (d) Dealt with by local hearing and site inspection

NB it is a matter solely for the Local Review Body to determine if further information is required and, if so, how it should be obtained.

(10) Please list in the schedule all documentation submitted as part of the application for review ensuring that each document corresponds to the numbering in the sections below:-

Schedule of documents submitted with Notice of Review (**Note if posting your paperwork 3 paper copies of each of the documents referred to in the schedule below must be attached**):

No	Detail
1	ALL DETAILED ON A SEPARATE PAGE No. 1 - 17
2	& DOCUMENTS ATTACHED
3	
4	
5	
6	
7	
8	
9	
10	

If insufficient space please continue on a separate page. Is this attached? Y
Please tick to confirm

Submitted by _____
(Please sign)

Dated 15 February 2024

Important Notes for Guidance

- (1) All matters which the applicant intends to raise in the review must be set out in or accompany this Notice of Review**
- (2) All documents, materials and evidence which the applicant intends to rely on in the Review must accompany the Notice of Review UNLESS further information is required under Regulation 15 or by authority of the Hearing Session Rules.**
- (3) Guidance on the procedures can be found on the Council's website - : <http://www.argyll-bute.gov.uk/planning-and-environment/local-review-body>**
- (4) In in doubt how to proceed please contact 01546 604392/604269 or email: localreviewprocess@argyll-bute.gov.uk**
- (5) Once completed this form can be either emailed to localreviewprocess@argyll-bute.gov.uk or returned by post to *Committee Services, (Local Review Body), Kilmory, Lochgilphead, Argyll, PA31 8RT***
- (6) You will receive an acknowledgement of this form, usually by electronic mail (if applicable), within 14 days of the receipt of your form and supporting documentation.**

If you have any queries relating to the completion of this form please contact Committee Services on 01546 604392/604269 or email: localreviewprocess@argyll-bute.gov.uk

For official use only

Date form issued

Issued by (please sign)

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22/00221/PP
Erection of dwellinghouse
AT:
Andrews Garage Tighnabruaich Argyll and Bute PA21 2DS

(7) Please set out the detailed reasons for requesting the review:-

Pages 1 – 13

AND

Schedule of Documents

Nos 1 – 17

22/00221/PP

Erection of dwellinghouse

AT:

Andrews Garage Tighnabraich Argyll and Bute PA21 2DS

(7) Please set out the detailed reasons for requesting the review:-

Pages 1 – 13

22/00221/PP

Erection of dwellinghouse

AT:

Andrews Garage Tighnabruaich Argyll and Bute PA21 2DS

(7) Please set out the detailed reasons for requesting the review:-

We received a **Pre Application Advice Report** dated 17 August 2021 from Steven Gove which gave us comfort to progress to submitting a planning application.

In the **Pre Application Advice Report** Local Development Plan Policies were detailed as having been taking into consideration. The proposal was considered as “consistent with the Settlement Strategy”, “given the nature of the fire station building on the land immediately to the south east, it is considered that there is scope for a building of contemporary design such as is proposed at this location” and “it is acknowledged that the long-standing previous use of the site has been as a vehicle repair garage”.

However, there are actually two elements to the entire site –

1. the actual “vehicle repair garage”, a large, curved corrugated metal shed to the south east of the proposed house site with **forecourt access onto Village Brae** – see **Schedule of documents 1**.

and

2. the “vehicle parking and storage” facility forming the proposed house site to the north west of the site with **two accesses onto Village Brae** – see **Schedule of documents 2**. That use, in existence since 1983, is confirmed by **stamped, approved plans “Argyll and Bute District Council, As relative to Warrant No. 19/83, Date 13/4/83”** – see **Schedule of documents No 3**. In 1983 we understand the previous owner had purchased and built the larger garage which exists on site to be used as the “vehicle repair garage”.

There are multiple, simply untrue statements in the Decision Notice dated 5 February 2024 which are easily open to challenge.

Having paid almost £ 5 000 to the Council two years ago to submit planning applications for our two sites in the village this we feel is hugely insulting and represents a waste of our time for two years.

These untrue statements are extracted, detailed and rebuffed on the following pages.

Supporting evidence in that regard is attached in the Schedule of Documents, in triplicate.

“REASONS FOR REFUSAL RELATIVE TO APPLICATION NUMBER 22/00221/PP

1 The proposal, by reason of its size...”

We disagree that the proposal “*would have an adverse visual impact on the immediate and wider surroundings and would be detrimental to the character and appearance of the village centre of Tighnabruaich and the wider Area*” for the following reasons -

See Schedule of documents No. 1 and No. 4 showing different styles of neighbouring buildings. Tighnabruaich village centre buildings are very varied in design and roof styles.

The proposed house site is bounded by -

to the south east downhill on Village Brae-

- i) a **large, curved corrugated shed** the former vehicle repair garage
- ii) then a **mono-pitched, white cement rendered house, with a large wrap round balcony**, a residential conversion of the old fire station
- iii) then a **concrete panelled shed**, at an oblique angle onto the Brae once the original inshore lifeboat shed
- iv) and directly across the village Main Street the **irregular curved roof of the roughcast Lifeboat Station**

to the south by -

- i) the grounds and building of the **Tighnabruaich Hotel** with roof ridge height higher than the proposed house

to the north west at an elevated level, above our proposed house site on the opposite side of Village Brae by -

- i) three **Victorian 1 ½ storey houses**

and to the north east by

- i) a **single storey stone and slate outbuilding** used as a garage currently with access directly onto and across the pavement on Village Brae

We agree that the site is “*in an elevated position on Village Brae*”.

We disagree that “*It will be highly visible and intrusive in the skyline when viewed from the village shops ...*” for the following reasons –

The proposed house will be behind the large, curved roofed former vehicle repair garage and will not be highly visible from the village shops nor will it break the skyline.

See Schedule of documents No. 5 streetviews of the proposed house site from the village shops and street.

On the front balcony elevation the proposed house will have approximately only the upper half of the ground floor bedroom level and the upper living accommodation visible above the neighbouring curved roofed garage. The basement garage and most of the bedroom level is completely below the roof height of the adjacent curved roofed garage.

The northeast gable with basement garage entrance is the only elevation where three storeys will be visible and then only immediately on Village Brae. The Brae falls almost 3m around the corner from the front door of the proposed house to the basement garage entrance.

The southwest gable facing the Tighnabraich Hotel will certainly have the basement level hidden by existing vegetation/small trees so the three storeys will not be seen, certainly not from the village Main Street.

The proposed house roofline height is below the ground floor window sills of the three Victorian 1 ½ storey houses immediately across and above Village Brae on their elevated site.

We had those sill heights detailed on our topographic survey submitted with our application.

This was a deliberate decision to preserve their ground floor views out to sea. Plus, the proposed house roofline height is less than the roofline height of the adjacent Tighnabraich Hotel.

We disagree that the “*design is inappropriate because of ...white render to the eaves, to the height of 3 storey...the mass of the building which is not broken up...sited on an already elevated site....does not integrate with surrounding townscape and adversely affects the sense of place and character of this attractive village centre. There are no other Art Deco...no design cues taken from buildings around it including neighbouring garage, fire station and the stone/slate traditional buildings*” due to the following reasons i) – v) –

- i) as explained above the full 3 storeys will not be seen all round the proposed house, only the northeast elevation giving access to the basement garage seen directly from Village Brae will reveal three storeys
- ii) the mass of the building is mostly hidden by the curved garage in front, vegetation/small trees on the south west and the fact that only two storeys are visible on the NW elevation, the basement being largely built into the topography of the site on that elevation. We produced a full topographic survey to planning giving site heights and heights of roofs/window sills in the immediately surrounding buildings

- iii) it is on an elevated site but that is mitigated by all of the above and the change of level as you travel up Village Brae, around 3m from our proposed garage basement door to the proposed front entrance of the house up and round the corner
- iv) to integrate with the immediate surrounding townscape we have a choice of styles to draw on, there appears no hard and fast rule to the design of buildings in the immediate vicinity
- v) cues have been taken from surrounding buildings contrary to what is stated –
 - a) the three round windows on the northeast gable of the proposed house are similar to the three on the rear elevation of the Lifeboat Station – see Schedule of documents **No. 4** middle photo
 - b) the wrap round balcony of the converted Old Fire Station – see Schedule of documents **No. 5** page 2, top streetview
 - c) the full length glazing onto the balcony of the Old Fire Station – see Schedule of documents **No. 5** page 2, top streetview
 - d) the almost flat roof of the Old Fire Station – although actually mono-pitched it looks almost flat from the village Main Street, see Schedule of documents **No. 5** page 2, top streetview
 - e) the garage door in the slated single-storey outbuilding across Village Brae – see Schedule of documents **No. 6**

Also, we took cues to build a three storey modern house on an elevated position from the permission granted by the Council for one of most prominent sites in the West Kyle on the site of the old Chalet Hotel.

Planning application ref **19/02633/PP** was approved for the site of the old Chalet Hotel to build a **circular/elliptical, three storey, stone/metal clad house with a room on the fourth storey at one end of the flat roof, with wrap round balconies and a roof terrace.**

This house will be further along from Main Street, past the pier in a part of the village where the majority of immediate neighbours are Victorian or have conventional sloping slated or tiled roofs.

There are no anomalous building examples in that part of the village unlike Village Brae or on the village Main Street with the Lifeboat Station.

The proposed house on the site of the old Chalet Hotel takes absolutely no cues from its surrounding, or indeed any, properties in Tighnabruaich being circular/elliptical.

From seaward, sailing from Rhubaan buoy the Chalet Hotel was always the most prominent building in that part of Tighnabruaich.

This new building would appear to be a little bit of the Hollywood hills dropped in. See Schedule of documents **No.7** pages 1 – 7

There are seven design cues, immediately apparent, that our proposed house, also in Tighnabruaich, can take from the approval at the old Chalet Hotel 19/02633/PP –

- i) Advantage taken of change of levels around house to form Lower Ground Floor space – No. 7 page 7. On our plans labelled as “Basement”
- ii) Flat roof – No. 7 pages 6 and 7
- iii) Full height glazing and openings onto balcony – No. 7 page 6
- iv) Wrap round balcony extending out from first floor with partial over-sheltering from flat roof – No. 7 page 7
- v) Minimal windows on east elevation – No. 7 page 7
- vi) Main living space – kitchen, dining, sitting – on first floor – No. 7 page 3
- vii) Bedrooms on ground floor – No. 7 page 2

“REASONS FOR REFUSAL RELATIVE TO APPLICATION NUMBER 22/00221/PP

2 The development would not provide...”

We do not agree that our proposed house “*would not provide an adequate standard of residential amenity for the occupiers*” or that “*the terrace [balcony] is limited*” or that the “*rear space proposed will provide poor quality amenity by reason of lack of daylight and proximity to traffic using the adjacent road*” for the reasons –

- i) We, and many similar to us, look for simpler homes as we approach old age and with a smaller garden to tend. This house is future proof for us.
- ii) We have designed a far from limited balcony of 29 sq.m. in total. In “old feet & inches”, 312 sq.ft giving an equivalent space of 17 feet X 17 feet much larger than most sitting rooms or garden patios; partially sheltered, directly accessible from our living accommodation, large enough to place comfortable outdoor dining and lounging furniture and facing mainly south and west to take advantage of available sun, or at least light, all year round.
- iii) The “*rear space*” proposed will definitely not have “*poor quality amenity by lack of daylight*” it faces south and west which means maximum light year round. Anyone who has sat out on the neighbouring Tighnabruaich Hotel’s terrace will confirm this - see Schedule of documents **No. 8** – our proposed house faces the same way and if anything our “*rear space*” is slightly more protected from the easterly wind and does not have an overshadowing building to the west like on the Hotel terrace when the evening sun begins to sink.
- iv) The proximity to the road – the quiet Village Brae – we do not see as an issue when practically every house in Tighnabruaich and Kames has garden area beside a road. Most houses along the front just beyond the Lifeboat Station use their front gardens beside the road to take advantage of sunshine when their back gardens are in shadow. Even some of the back gardens enjoyed by residents at newly developed Kyles Court are within 10 – 15m of the main road out of the village which is the through road for buses, timber lorries and traffic from the Tarbert – Portavadie ferry.

“REASONS FOR REFUSAL RELATIVE TO APPLICATION NUMBER 22/00221/PP

3 The proposal is considered contrary to ...”

It is suggested that the proposal “*has unsuitable visibility onto Village Brae*” where we are proposing one access for residential use.

Yet by contrast what the Council appear to be agreeing with is that the two existing accesses on this part of the site alone can continue to be used for a higher intensity use.

We understand that within the Class Use as existing we can use the site for storage or distribution as alternatives to the overall use as a vehicle recovery service and repair garage with a total of 3 accesses directly onto Village Brae, one being an open forecourt access for several vehicles at once. See Schedule of documents **No. 1** and **No. 2**.

Obviously if our proposed house site is not granted permission we will have to consider alternative uses for the site under its existing Use Class.

Research tells us there are local contractors and tradesmen who lack secure storage for materials and machinery and we would have space to offer this facility to several individual companies or tradesmen, even those not local but carrying out temporary jobs in the area.

We would not expect the Council to refuse permission to reinstate a new and improved building the size of the original on our proposed house site where “Use” is unchanged, under Permitted Development as has already been confirmed by our planning officer.

The overall site would then take advantage of parking/access using the three existing accesses – one forecourt access for larger vehicles at the larger shed and two to the reinstated building with parking area behind.

Sense does tell us that our proposed residential use on the upper part of the site and our intended storage and personal use of the larger shed for our boats, as is the case presently, would see a de-intensification of traffic movements to and from the site as a whole.

Our proposal has suggested a 1.8m fence but we recognise that this is not a sensible solution to the boundary of our site. The Council could impose boundary conditions.

It should be noted that at the corner of the proposed house site Village Brae changes from two lane to single track. The bin lorry and fuel tankers have to reverse up that upper part of the Brae. There are no “fast” traffic movements on Village Brae dictated by its very nature.

We simply cannot demonstrate visibility from our proposed house site of 20m, set back 2m in either direction. However, we can continue the commercial, higher intensity use, using the three existing accesses which does not seem to make any sense to us from the Council’s perspective or indeed from a road safety perspective.

It is also noted that the Council has recently developed facilities, to provide EV charging points, at its Council owned Coach and Car Park.

This Council owned facility neighbours the other commercial site we own in the village at Susy's Tearoom further along the village towards the pier.

The Coach and Car Park already has a long-standing large bottle bank facility of several bottle bins placed by the Council adding to the intensification of use there.

The Council when carrying out the most recent development of providing EV charging points, intensifying the use of its Coach and Car Park, very obviously did not assess the visibility splays there. Nor did the Council assess and provide pavements to provide pedestrian safety when exiting and accessing its facility on foot; there are none.

We assessed the visibility there ourselves and sitting in our car took photographs from the drivers' line of sight position, on this much busier and faster stretch of road than Village Brae, with the front of the car at the edge of the junction from the car park.

See Schedule of documents **No 9**. pages 1 & 2 scale on googlemaps and photos of visibility.

We could not see on-coming traffic when trying to turn right across that on-coming traffic onto the opposite lane to return to the Village Main Street and to exit Tighnabraich. The only solution was to nudge the car out slowly onto the main road to try to see any on-coming traffic.

In contrast, we have received a "Recommendation for Refusal" from the Council's Roads Department at our proposed house site on Village Brae due to lack of visibility splays.

The Council has ignored roads legislation and regulations for visibility splays to develop its own site, yet imposes that legislation on the general public and, more pertinently, on us as an objection to our obtaining consent for our proposed house. At best this appears hypocritical and at worst, illegal.

We think we are justified to request an explanation in that regard.

In our Pre Application Advice Report dated 17th August 2021 Steven Gove commented in relation to Village Brae "The point of access onto Village Brae is not ideal as it is in close proximity to the bend in the road. Having said that, vehicles will have been manoeuvring in this location for many years in association with the garage and one would assume that, given the obvious bend in the road, cars coming down the brae from the west would be exercising suitable care and attention."

We are not aware of any RTA's on Village Brae over the many years we have been around the village.

“REASONS FOR REFUSAL RELATIVE TO APPLICATION NUMBER 22/00221/PP

4 The proposal is considered contrary to ...as it has not been demonstrated, to the satisfaction of the council, that the site is and can be made safe and suitable for the proposed house. There are [sic] a list of outstanding requirements in relation to the Contaminated Land Assessment that have not been adequately responded to.”

Kirsty Sweeney, Area Team Leader (Bute, Cowal, Helensburgh and Lomond), our planning officer Steven Gove’s line manager, took over our two cases just before Christmas 2023.

On 20th December she emailed us with regard to our sites in Tighnabruaich and the live planning applications – Andrew’s Garage and Susy’s Tearoom.

See Schedule of documents **No 10** that email of 20 December 2023.

As you can read in her email Kirsty Sweeney referred to the issue -

“Contaminated land – I do not know the detail of this but from the looks of the emails below this looks like something that is resolvable and is being resolved separately with Environmental Health. **It is not a reason for refusal.**”

Yet we see a contradictory approach since this very issue is cited in our Decision Notice as No. 4 in Reasons for refusal. The Decision Notice is available on the public planning portal.

The Area Team Leader (Bute, Cowal, Helensburgh and Lomond) Development Management tell us one thing, that this particular issue is “not a reason for refusal”

The Decision Notice for refusal of our proposed development reference 22/00221/PP tells us another, citing the issue as Reason 4 for refusal.

All in all, the process with Environmental Health has been difficult and glacially slow.

Environmental Health Officer, Anthony Carson firstly made contact in an email dated 5 Nov 2021 to an architect we had first approached to explore timber buildings for our proposed house site, passed to us by the architect.

Mr Carson reminds the architect that they “spoke in early September regarding the **redevelopment of the filling station** in Tighnabruaich.” See Schedule of documents **No 11**

We have no idea how Mr Carson could have been talking with anyone regarding our site in the context of it being a “**filling station**”. The proposed site has never been a filling station.

We responded directly to Mr Carson - See Schedule of documents **No 12** – correcting him.

We also informed Mr Carson that we were fully aware of our obligations. And that we had employed a licensed waste contractor at our other site in the village, Susy's Tearoom, to dispose of asbestos roofing panels when we began to demolish the building there – Chris Wright & Sons Ltd in Greenock who collected all asbestos bearing material from that site. We received advice from Gareth Garrett who we had contacted in Building Control at that time. We had a Warrant to Demolish and satisfied all Council conditions.

We gave a detailed description of the construction of the building on our proposed house site. There was no material present which indicated the presence of asbestos.

We bought the site with two curved roof sheds – one larger downhill used as a vehicle repair garage and the other smaller, uphill, on our proposed house site, now demolished.

The smaller shed was first labelled as a vehicle repair workshop or garage in 1979 but the previous owner bought the larger shed when the rig-building activity ceased at Port a'Mhadaidh and installed it on site during 1983.

This is confirmed in Warrant drawing stamped by Argyll and Bute District Council 13/4/83 - See Schedule of documents **No 3** – “vehicle parking and storage”, the smaller shed being reassigned to the vehicle recovery part of the previous owner's business when he operated agencies with AA, RAC, etc while the new larger shed became the garage workshop.

Therefore, the smaller shed on the proposed house site had been a vehicle repair workshop for only 4 years between 1979 and 1983.

The use of the smaller shed when we bought the property was clearly as vehicle parking and storage. The recovery vehicles were being offered for sale, two 4 X 4's and two low loader recovery trucks, but we had no use for these and the previous owner who was a member of SVRA – Scottish Vehicle Recovery Association - sold them privately.

We had test pits dug for foundations and the site conditions investigated by The Structural Partnership and soil testing carried out by Crossfield Consulting. These are on the public portal for 22/00221/PP via the Documents tab –

General Supporting Documentation – Public - **Site Investigation and Environmental Report 24.06.2022 Published 15 July 2022

Environmental Report – Environmental Assessment Report Crossfield Consulting Ltd January 2023 Published 23 January 2023

Further Documentation – Response from Crossfield Consulting to Env Protection Officer Comments 10.07.2023 Published 11 July 2023

However, Mr Carson EHO has challenged the competency of all of the people who wrote these reports on our proposed house site.

The Structural Partnership's Ian Gass is BSc, CEng, MICE, MIStructE, MaPS and Iain Donnachie is BSc, IStructE.

Crossfield Consulting's John Whittle BSc MSc FGS MICE CEng SiLC, is a gentleman of almost 4 decades experience in his field, and has "acted as an expert witness at planning enquiries for residential developments, contaminated land remediation and mineral extraction proposals and has published a number of papers in the promotion of best practice, value engineering and the use of novel approaches in the consideration of 'difficult' sites".

In response to John Whittle's 81 page, Phase 1 & 2 Environmental Assessment Report January 2023, Mr Carson came up with 40 Concerns & Considerations on 25 May 2023. His first "Concern" is that "The description of the automotive repair garage doesn't provide a full indication of site operations which may be relevant to consideration of the relative intensity of vehicle repair activity".

All the EHO comments and answers from John Whittle are contained in –
Further Documentation – Response from Crossfield Consulting to Env Protection Officer Comments 10.07.2023
Published 11 July 2023

We cannot possibly comment on that "activity" since for over 4 decades "vehicle repair activity" has not taken place on the proposed house site.

John Whittle in his response to that Concern pointed out the only "sensitive element of the proposed development" is the "very small size of the private garden proposed".

Further John Whittle emailed Steven Gove, cc to Anthony Carson, etc on 10 July 23 having received 40 comments from Anthony Carson labelled as "Concerns" with associated "Considerations". See Schedule of documents [No. 13](#)

In that email John Whittle comments amongst others that "the site is not located in an environmentally sensitive location, (i.e. does not adjoin a watercourse and is not underlain by a significant aquifer)." He also makes reference to that in his 81 page, Phase 1 & 2 Environmental Assessment Report January 2023 at 7.2 - In addition, the site is located over 70 m from the nearest surface waters and is underlain by relatively low permeability strata. On this basis, it is evident that the site is not associated with a significant potential source of contaminants and a valid migration pathway is not indicated such that a significant risk to the water environment is considered to be absent. On the planning portal -

Yet Mr Carson in his list of 40 “Concerns” at number 22 stated that “Consideration of the potential impacts to water environment not aligned with SEPA guidance” going on to state under the heading “Consideration” that “The pollutant linkages to the water environment require to be considered and assessed in line with the SEPA approach”. On the planning portal –

Further Documentation – Response from Crossfield Consulting to Env Protection Officer Comments 10.07.2023 Published 11 July 2023

John Whittle’s response to that is “This is included in Section 7.2 of the report” as highlighted above in the directly copied extract from his response to that at 7.2.

Mr Whittle made several appeals to Mr Carson to get in touch for a discussion about his misunderstanding and “to clarify and resolve any misunderstanding”.

We are not aware that any contact was made by Mr Carson to attempt resolution.

Instead he followed up by not responding to John Whittle’s clarification of the 40 points he had raised in May 2023 and then in September 2023, 4 months later, raised different issues questioning Crossfield Consulting on their adherence to procedural legislation.

John Whittle <jhw@crossfield-consulting.co.uk>
To:karen raeburn
Tue, 31 Oct at 14:27
Our Ref. JHW/jw/CCL03617.016

Dear Karen,

Proposed Single Dwelling at former Andrews Garage, Tighnabruaich PA21 2DS
Planning Ref: 22/00221/PP

Thank you for your email. We are sorry to hear that approvals are still not forthcoming. Unfortunately, the *Comments prepared by Anthony Carson 11 September 2023*, as provided, do not appear to consider the specific items we raised in our last correspondence (July 2023) and now relates to other issues associated with the general implementation of standards/guidelines etc.

It appears that these two professionals are going round in circles, largely caused by the lack of communication from Anthony Carson and his clear misunderstanding of the issues here.

He is insisting that the proposed site was a vehicle repair facility which we cannot comment on since that was not the use when we took over and as far as we know had been a vehicle parking and storage facility as confirmed by the Stamped plans from Argyll & Bute District Council dated 13/04/83 – See Schedule of documents **No.3** – indicating that the proposed house site had been a vehicle repair workshop for only around 4 years.

Comments in addition -

Having spent almost £ 5 000 to lodge our two applications almost exactly two years ago, plus c. £ 2 500 in consultancy fees, we feel the service is far from what we expected. We have been subject to what can only be described as a “slap dash” approach to citing reasons for refusal that can be so easily challenged.

The Local Review Body should be aware that there are some malign forces at work although how far their influence extends we do not know.

One of the objectors on the public planning portal is - **Contributor: Objection - Colin Slinger - 26/07/2022** – Schedule of documents **No. 14** This objector is a liar, and his “Objection” is malicious lies.

When we became aware of this, we were not in Tighnabruaich at the time or checking the planning portal every 5 minutes, we immediately alerted Ross MacArthur Ltd of Mr Slinger’s false allegations.

Their secretary wrote to the Council right away – see Schedule of documents **No. 15**. Ironically, the digger had been working on Village Brae for the Council. The decision had been made to safely store the machine overnight on our unused, empty site. Received by the Council on 3 August 2023 this was not published on the portal until 7 October 2022 for some reason. We corresponded with Steven Gove about this since the rebuttal by Ross MacArthur Ltd was therefore disassociated on the portal from Mr Slinger’s lies.

Paul Paterson another “objector”, as far as we know unemployed, who with very expensive camera equipment claims to be a “Press Photographer”, journalist friends have never heard of him. There is no applicable legislation to govern people masquerading as such. His latest fantasy is just that and we believe he is well known to the Council. See Schedule of documents **No.16 - Contributor: Objection - Paul Paterson 31 January 2024**

He made similar allegations regarding our other site at Susy’s Tearoom, we responded - see Schedule of documents **No.17**. The small shed at Andrew’s Garage was simple to take apart - corrugated sheeting screwed onto a rotten wood frame with portions of single skin brick at the gables. There was no asbestos present in or around that building.

Susy’s Tearoom, was a much more complicated and potentially dangerous building to dismantle where there was asbestos material. We were in full consultation with the Council at outset, obtained a Warrant to Demolish **19/01608/NDOM6**, and in full consultation with the Council employed a Licensed Waste Contractor to dispose of asbestos material. The Council noted in their Report of Handling for our application at Susy’s Tearoom “the applicant has demonstrated that the previous building was demolished and any waste, including asbestos, was disposed of appropriately. There are no concerns in relation to any other contaminants on site and the proposal is considered to be compliant with policy.”

There has been no “illegal dumping or burning of asbestos” as Mr Paterson would have everyone believe. These are not the only examples of his behaviour towards us. He is obviously fixated on us for some reason which we find a bit disturbing.

At Andrew’s Garage, for the record, from the Council public planning portal under 22/00221/PP from the Report of Handling at **History** we submitted an application – “**21/02096/PNDEM Prior Notification for Demolition of buildings**. – This application was returned and refund provided. Notification of demolition is not required for buildings that are not residential.”

So, before setting out to be malicious, objectors should ensure they are better informed before making wild, libellous allegations.

22/00221/PP
Erection of dwellinghouse
AT:
Andrews Garage Tighnabruaich Argyll and Bute PA21 2DS

Schedule of documents submitted with Notice of Review

1	Streetviews of Andrew's Garage large shed (& Old Fire Station) forecourt access	
2	Streetviews of proposed house site with shed still present – existing two accesses	
3	Stamped Plans 13/4/1983 Proposed house site – Vehicle Parking and Storage	
4	Village Brae and Village Centre streetviews	
5	Shops on Main Street streetviews towards Andrew's Garage	2 PAGES
6	Garage door directly across Village Brae streetview	
7	Plans approved by Argyll & Bute Council for circular/elliptical, stone/metal clad, 3 storey house with flat roof and wrap round balconies in most prominent position in village on site of old Chalet Hotel	7 PAGES
8	View of Tighnabruaich Hotel terrace	
9	Council owned facility – intensification of use. Comparative visibility splays at recently developed Council owned facility	2 PAGES
10	Contaminated Land – not a reason for refusal	
11	Error by EHO redevelopment of “filling station”	
12	Response to EHO	2 PAGES
13	Crossfield Consulting to Council	
14	Colin Slinger malicious lies in Objection 26 July 2022	
15	Ross MacArthur Ltd refuting Colin Slinger's Objection 3 August 2022	
16	Paul Paterson false allegations in Objection 31 January 2024	2 PAGES
17	Refuting of Paul Paterson's false allegations in past	

Schedule of documents submitted with Notice of Review

No. 1

22/00221/PP
Erection of dwellinghouse
AT:
Andrews Garage Tighnabraich Argyll and Bute PA21 2DS

FULL FORECOURT ACCESS AT VEHICLE REPAIR WORKSHOP ONTO VILLAGE BRAE



Entire site outline (roughly)



Proposed house site (roughly)



Schedule of documents submitted with Notice of Review

No. 2

22/00221/PP
Erection of dwellinghouse
AT:
Andrews Garage Tighnabraich Argyll and Bute PA21 2DS

TWO EXISTING ACCESSES TO VEHICLE PARKING AND STORAGE FACILITY FROM PROPOSED HOUSE SITE



Entire site outline (roughly)



Proposed house site (roughly)



Schedule of documents submitted with Notice of Review

No. 3

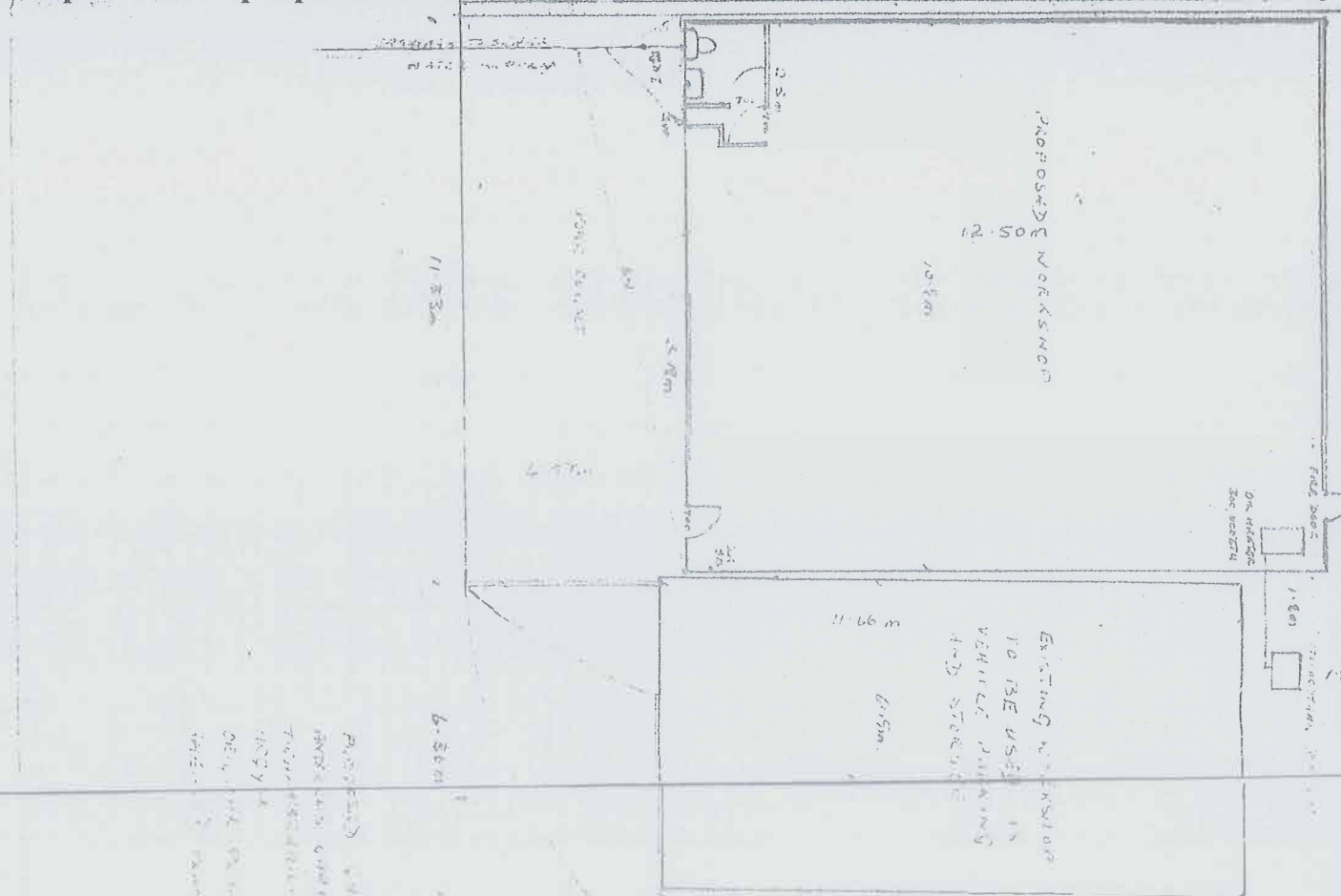
22/00221/PP

Erection of dwellinghouse

AT:

Andrews Garage Tighnabraich Argyll and Bute PA21 2DS

1983 Stamped Plans & proposed house site use "VEHICLE PARKING & STORAGE"



PROPOSED WORKSHOP
 12.50m
 10.80m
 11.83m
 6.58m
 10.00m
 4.00m
 11.06m
 6.15m

AMENDED PERITON
 ATTACHED TO MAIN PLAN

ARGYLL AND BUTE DISTRICT COUNCIL
 Approved
 As relative to Warrant No. 19/83
 [Redacted Signature]
 Director of Administration
 Date 13/4/85

Schedule of documents submitted with Notice of Review

No. 4

22/00221/PP

Erection of dwellinghouse

AT:

Andrews Garage Tighnabraich Argyll and Bute PA21 2DS

The village centre view downhill from proposed house site



View along the village Main Street from adjacent to the bottom of Village Brae



View taking in village centre and Village Brae showing blue end of curved roofed garage.



Schedule of documents submitted with Notice of Review

No. 5 page 1 & 2

22/00221/PP

Erection of dwellinghouse

AT:

Andrews Garage Tighnabraich Argyll and Bute PA21 2DS

View from southern extremity of Main Street shops Tighnabraich showing top of blue end of curved roof garage to the left of the Tighnabraich Hotel building. Proposed house could not possibly break skyline from this vantage point – only a high rise block of flats would.



View from roughly midpoint of Main Street shops Tighnabraich showing top of blue end of curved roof garage to the left of the Tighnabraich Hotel building behind a cherry tree. Proposed house could not possibly break skyline from this vantage point -



5 pg 2

View from three shops from northernmost end of Main Street Tighnabruaich showing top of blue end of curved roof garage behind the mono-pitched roof of the converted old Fire Station. Proposed house could not possibly break skyline from this vantage point -



View from outside last shop in the village at bottom of main entrance to Tighnabruaich Hotel. Front of mono-pitched roofed Old Fire Station visible just breaking skyline - proposed house is approximately 30m to the NW of that frontage. And roofline of proposed house is lower than the Tighnabruaich Hotel.



Schedule of documents submitted with Notice of Review

No. 6

22/00221/PP

Erection of dwellinghouse

AT:

Andrews Garage Tighnabruaich Argyll and Bute PA21 2DS

Garage door directly across from proposed house basement garage



Schedule of documents submitted with Notice of Review

22/00221/PP

Erection of dwellinghouse

AT:

Andrews Garage Tighnabraich Argyll and Bute PA21 2DS

19/02633/PP Demolition of existing hotel, erection of dwellinghouse and detached garage and associated works **Extract of approved plans, pages 1 - 7**

- LEGEND**
- 01. Existing stone wall and track to north edge of site
 - 02. Outline of house on ground floor
 - 03. Storage room
 - 04. Garden room
 - 05. Stair up to ground floor
 - 06. Paved terrace
 - 07. Stair up to ground floor terrace

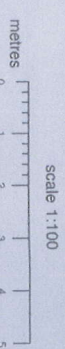
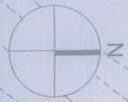
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Do not scale off drawings. Work from figured dimensions only

Notes:

Argyll and Bute Council
 This plan has been APPROVED by the PLANNING AUTHORITY and MUST be read in conjunction with the Planning Conditions of Consent No. 19/02633/PP

Fergus Murray
 Head of Development and Economic Growth
 12 June 2020



PLANNING

LOWER GROUND FLOOR

1 & 7

cameonwebsterarchitects
 The Firmworks
 1000 St. Columba, 01242AH T: 0141 350 9898 F: 0141 354 9941

Replacement House, The Chalet
Lower Ground Floor Plan
 Date: Dec 2019 Scale: 1:100 Job No: 1827

7 P32

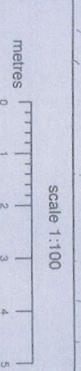
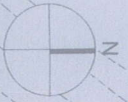
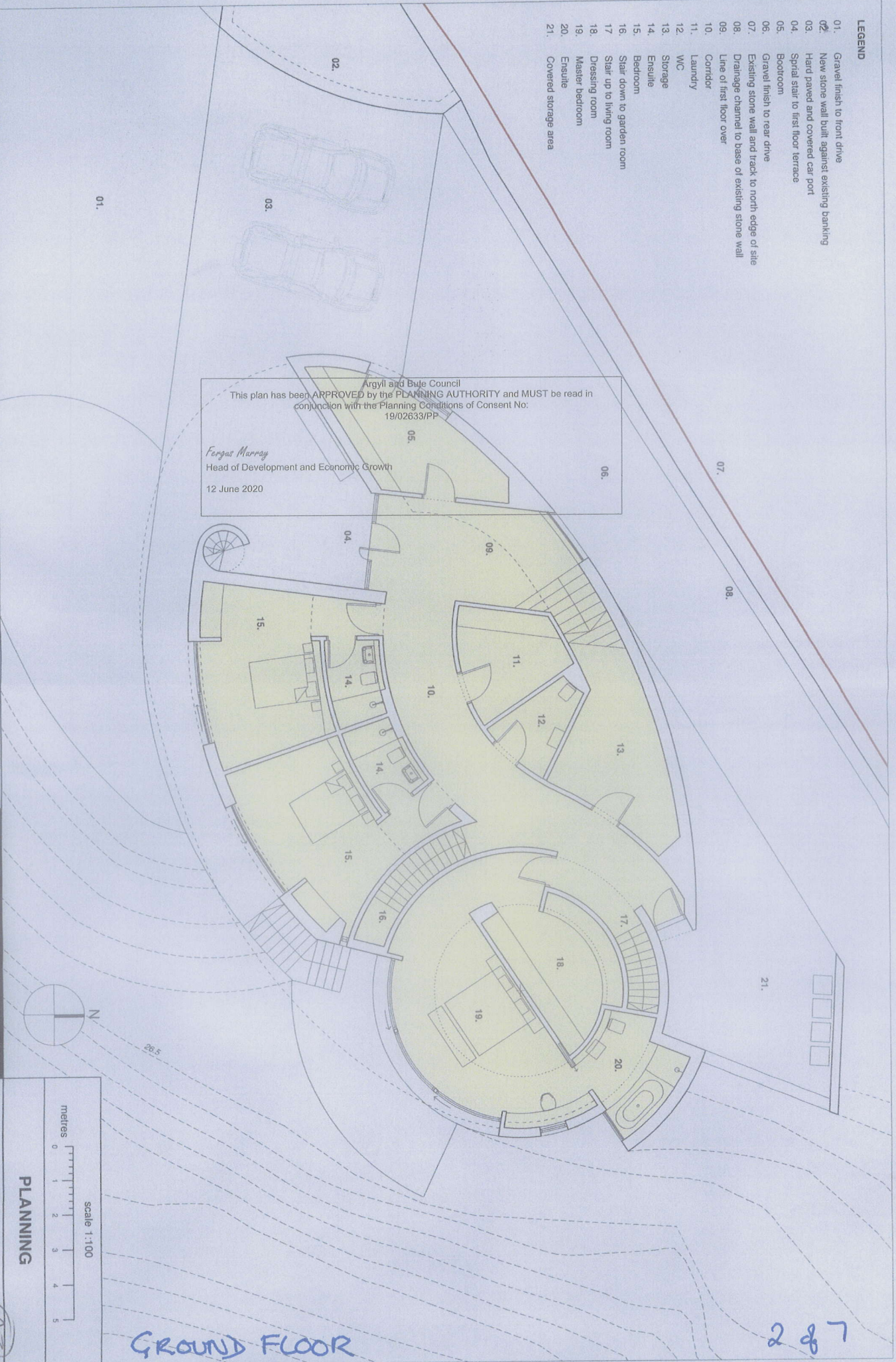
LEGEND

- 01. Gravel finish to front drive
- 02. New stone wall built against existing banking
- 03. Hard paved and covered car port
- 04. Spiral stair to first floor terrace
- 05. Bootroom
- 06. Gravel finish to rear drive
- 07. Existing stone wall and track to north edge of site
- 08. Drainage channel to base of existing stone wall
- 09. Line of first floor over
- 10. Corridor
- 11. Laundry
- 12. WC
- 13. Storage
- 14. Ensuite
- 15. Bedroom
- 16. Stair down to garden room
- 17. Stair up to living room
- 18. Dressing room
- 19. Master bedroom
- 20. Ensuite
- 21. Covered storage area

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Notes:

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Fergus Murray
Head of Development and Economic Growth
12 June 2020



PLANNING

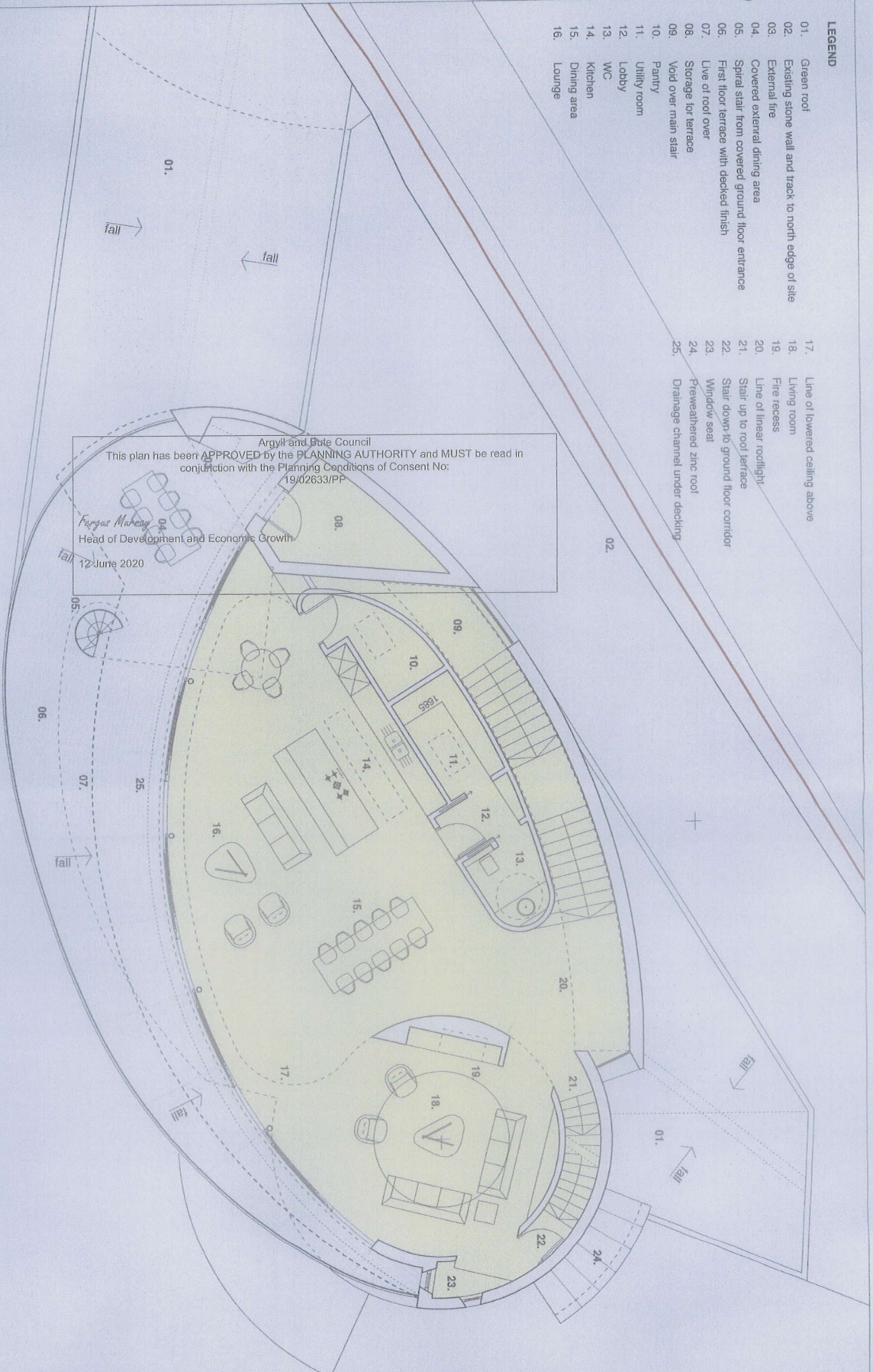
GROUND FLOOR

2 of 7

game
nwebsterarchitects
The Firmments
100 St Glasgow G12 8JH T: 0141 350 8888 F: 0141 354 9441

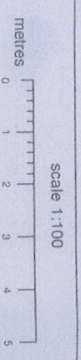
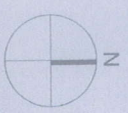
Replacement House, The Chalet
Ground Floor Plan
Date: Dec 2019 Scale: 1:100 Job No: 1827
PP-112

- LEGEND**
- 01. Green roof
 - 02. Existing stone wall and track to north edge of site
 - 03. External fire
 - 04. Covered external dining area
 - 05. Spiral stair from covered ground floor entrance
 - 06. First floor terrace with decked finish
 - 07. Live of roof over
 - 08. Storage for terrace
 - 09. Void over main stair
 - 10. Partry
 - 11. Utility room
 - 12. Lobby
 - 13. WC
 - 14. Kitchen
 - 15. Dining area
 - 16. Lounge
 - 17. Line of lowered ceiling above
 - 18. Living room
 - 19. Fire recess
 - 20. Line of linear rooflight
 - 21. Stair up to roof terrace
 - 22. Stair down to ground floor corridor
 - 23. Window seat
 - 24. Prerweathered zinc roof
 - 25. Drainage channel under decking



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Notes:



PLANNING

cameonwebsterarchitects
The Priory
100 St. Glasgow, G12 2AH T: 0141 330 9898 F: 0141 334 3641

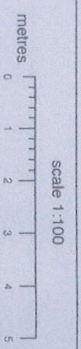
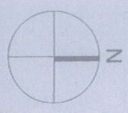
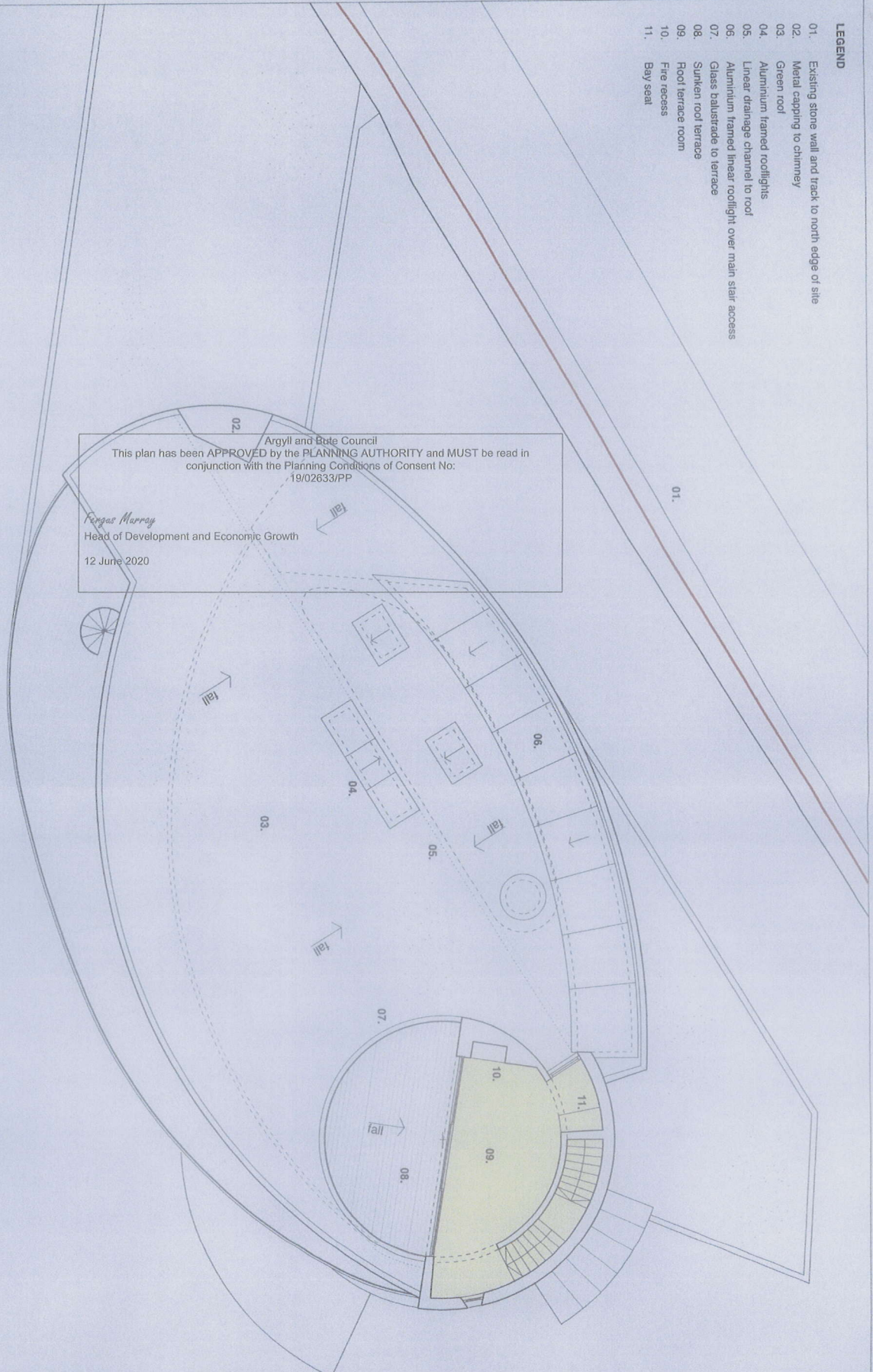
Replacement House, The Chalet
First Floor Plan
Date: Dec 2019 Scale: 1:100 Job No: 1827
PP-113

FIRST FLOOR

3 of 7

- LEGEND**
- 01. Existing stone wall and track to north edge of site
 - 02. Metal capping to chimney
 - 03. Green roof
 - 04. Aluminium framed rooflights
 - 05. Linear drainage channel to roof
 - 06. Aluminium framed linear rooflight over main stair access
 - 07. Glass balustrade to terrace
 - 08. Sunken roof terrace
 - 09. Root terrace room
 - 10. Fire recess
 - 11. Bay seat

Argyll and Bute Council
 This plan has been APPROVED by the PLANNING AUTHORITY and MUST be read in conjunction with the Planning Conditions of Consent No: 19/02633/PP
Fergus Murray
 Head of Development and Economic Growth
 12 June 2020



PLANNING

came
 nwebsterarchitects
 The Printworks, Exchange St, Glasgow G12 8JH T: 0141 320 9999 F: 0141 354 8844

Replacement House, The Chalet
Second Floor Plan
 Date: Dec 2019 Scale: 1:100 Job No: 1827
 AS
 PP-114

SECOND FLOOR - ROOF ROOM

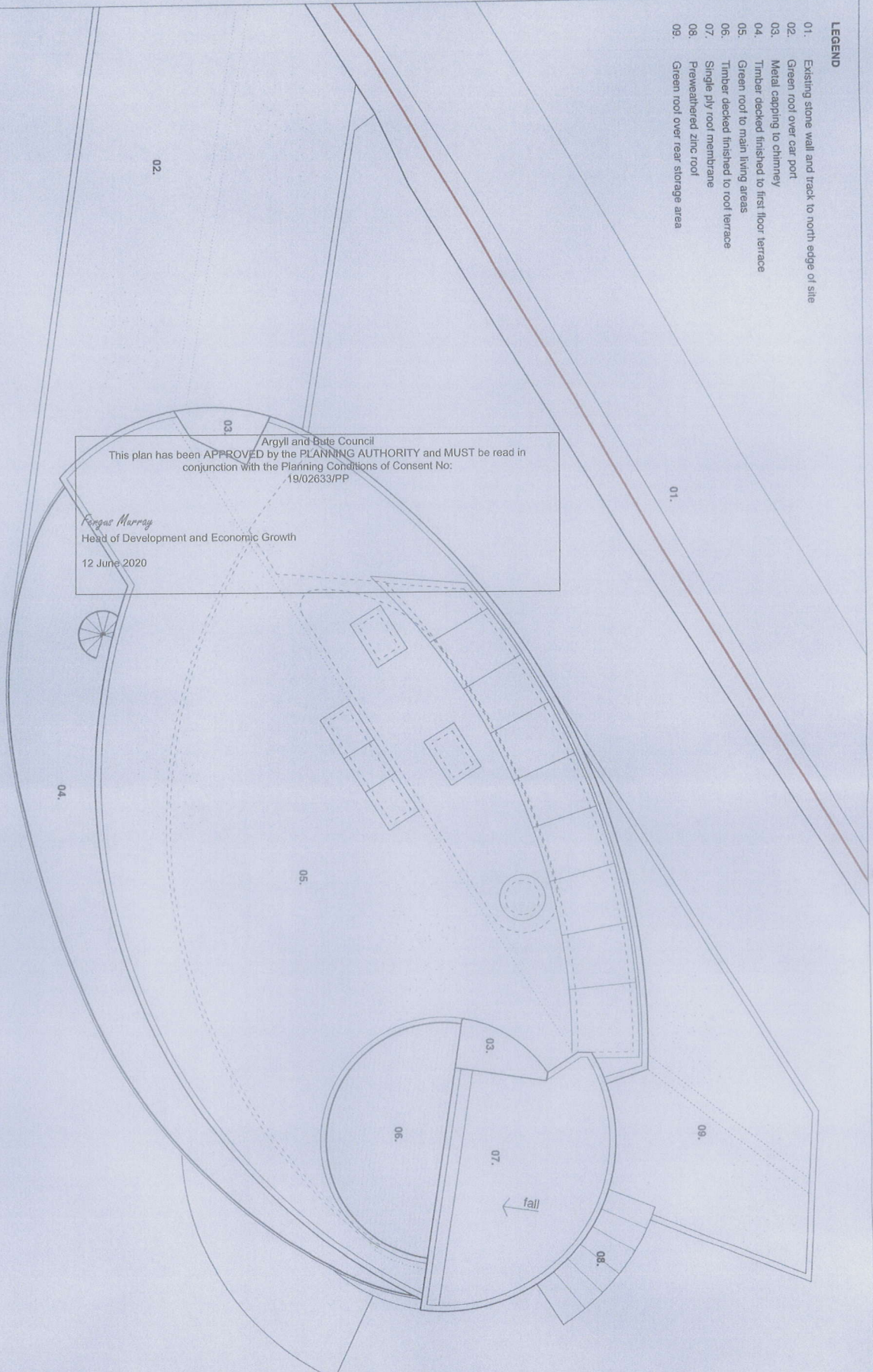
4 of 7

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Notes:

- LEGEND**
- 01. Existing stone wall and track to north edge of site
 - 02. Green roof over car port
 - 03. Metal capping to chimney
 - 04. Timber decked finished to first floor terrace
 - 05. Green roof to main living areas
 - 06. Timber decked finished to roof terrace
 - 07. Single ply roof membrane
 - 08. Prewashed zinc roof
 - 09. Green roof over rear storage area

Argyll and Bute Council
 This plan has been APPROVED by the PLANNING AUTHORITY and MUST be read in conjunction with the Planning Conditions of Consent No: 19/02633/PP
Rogae Murray
 Head of Development and Economic Growth
 12 June 2020



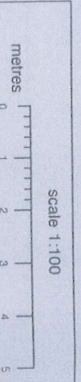
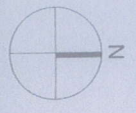
Roof Plan

5 of 7

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Notes:

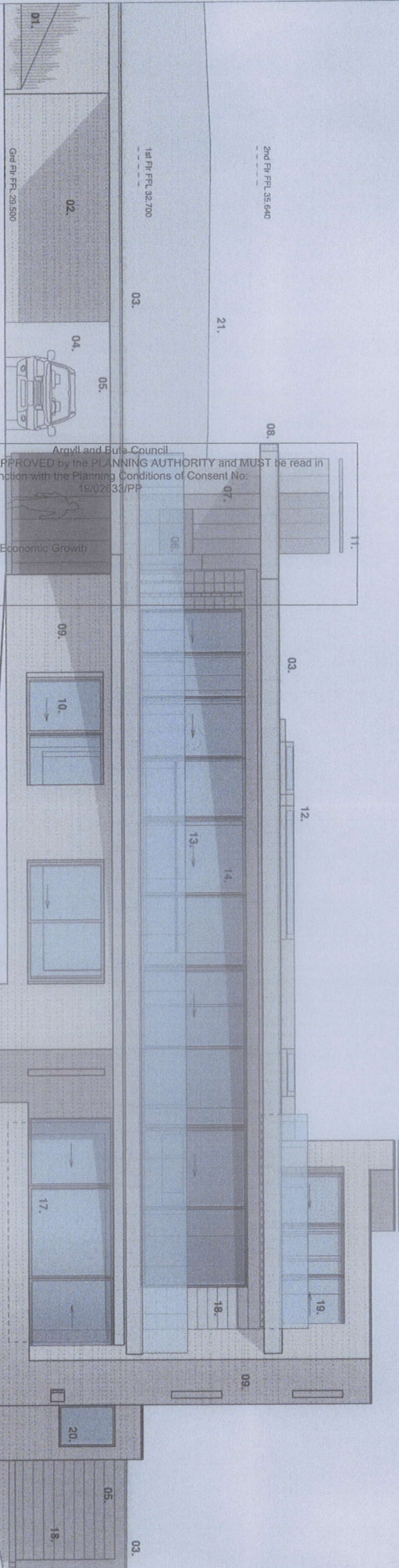
came
 websterarchitects
 The Printworks
 400 St. George's, Glasgow, G12 8JH T: 0141 320 9999 F: 0141 324 9441



PLANNING

Replacement House, The Chalet
Roof Plan
 Date - Dec 2019 Scale - 1:100 Job No - 1927
 PP-115





LEGEND

- 01. Existing bank planned
- 02. Textured stone cladding to edge of existing bank
- 03. Green roof
- 04. Car port
- 05. Pre-weathered zinc fascia
- 06. External fire recess to terrace
- 07. Pre-weathered zinc cladding
- 08. Pre-weathered zinc fascia
- 09. Textured stone cladding
- 10. Powder coated aluminium sliding doors to ground floor bedrooms
- 11. Metal capping to chimney
- 12. Aluminium framed rooflights
- 13. Clamped glass balustrade to first floor terrace
- 14. Powder coated aluminium sliding doors to living area
- 15. New steps to allow for existing ground levels
- 16. Powder coated aluminium window/sliding door to lower garden room
- 17. Powder coated sliding aluminium windows to master bedroom

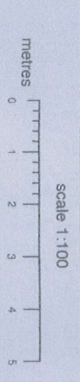
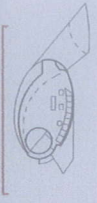
Argyll and Bute Council
 This plan has been APPROVED by the PLANNING AUTHORITY and MUST be read in conjunction with the Planning Conditions of Consent No. 16/02633/PP
 Planning Department and Economic Growth
 Head of Planning
 18. Timber cladding
 19. Powder coated aluminium sliding doors to upper terrace room
 20. Powder coated aluminium window to master ensuite
 21. Existing wall to north edge of site

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Notes:

camerwebster architects

Replacement House, The Chalet
South Elevation
 RP-118



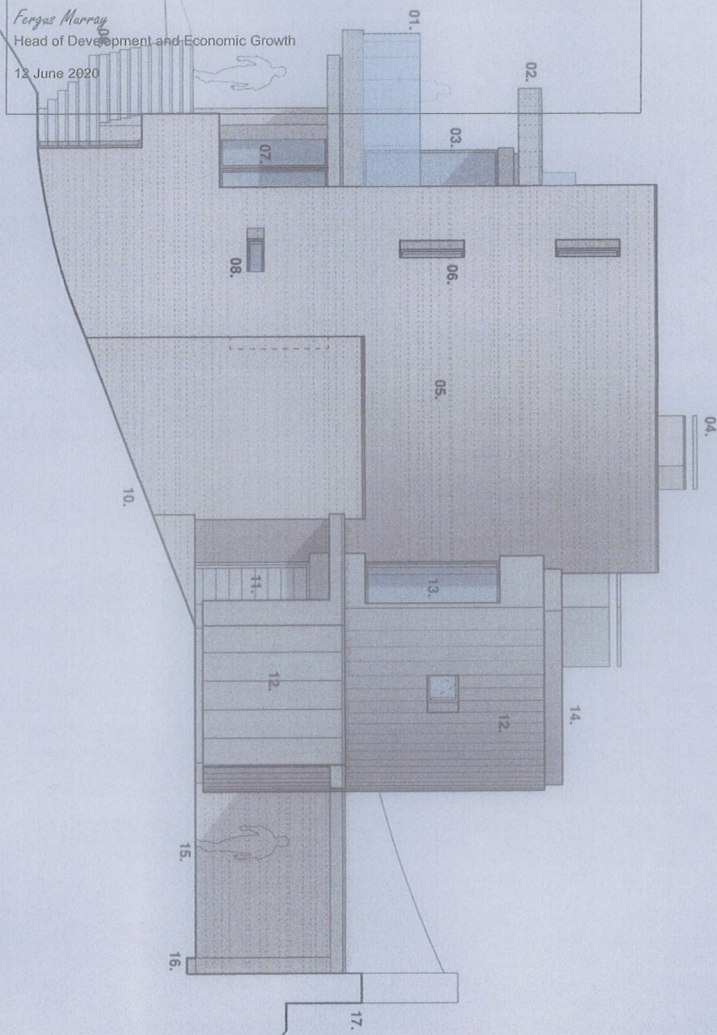
SOUTH ELEVATION

6 of 7

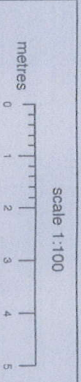
- LEGEND**
- 01. Clamped glass balustrade to first floor terrace
 - 02. Powder coated zinc fascia
 - 03. Powder coated aluminium sliding doors to living area
 - 04. Metal capping to chimney
 - 05. Textured stone cladding
 - 06. Slits windows to living room bay seat and roof terrace room
 - 07. Powder coated aluminium windows to master bedroom
 - 08. Slit window to master bedroom desk
 - 09. New steps to allow for existing site levels
 - 10. Ground profile dressed to match existing
 - 11. Entrance from covered storage area
 - 12. Pre-weathered zinc cladding
 - 13. Powder coated aluminium window to top landing
 - 14. Aluminium framed rooflights
 - 15. Gravel finish to rear drive
 - 16. Drainage channel to base of existing stone wall
 - 17. Existing track and stone wall to north edge of site

Argyll and Bute Council
 This plan has been APPROVED by the PLANNING AUTHORITY and MUST be read in conjunction with the Planning Conditions of Consent No: 19/02633/PP

Fergus Murray
 Head of Development and Economic Growth
 12 June 2020



2nd Fl FFL 38.640
 1st Fl FFL 32.700
 Gnd Fl FFL 28.500
 Lower Gnd Fl FFL 26.500



PLANNING

EAST ELEVATION

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Notes:

cameronwebsterarchitects
 The Printworks
 100 St. Chappin, G12 4JH T: 0141 350 9999 F: 0141 354 9941

Replacement House, The Chalet
East Elevation
 Date - Dec-2019 Scale - 1:100 Job No - 1827
 PP-121

Schedule of documents submitted with Notice of Review

No. 8

22/00221/PP

Erection of dwellinghouse

AT:

Andrews Garage Tighnabruaich Argyll and Bute PA21 2DS

The Tighnabruaich Hotel bar terrace



Schedule of documents submitted with Notice of Review

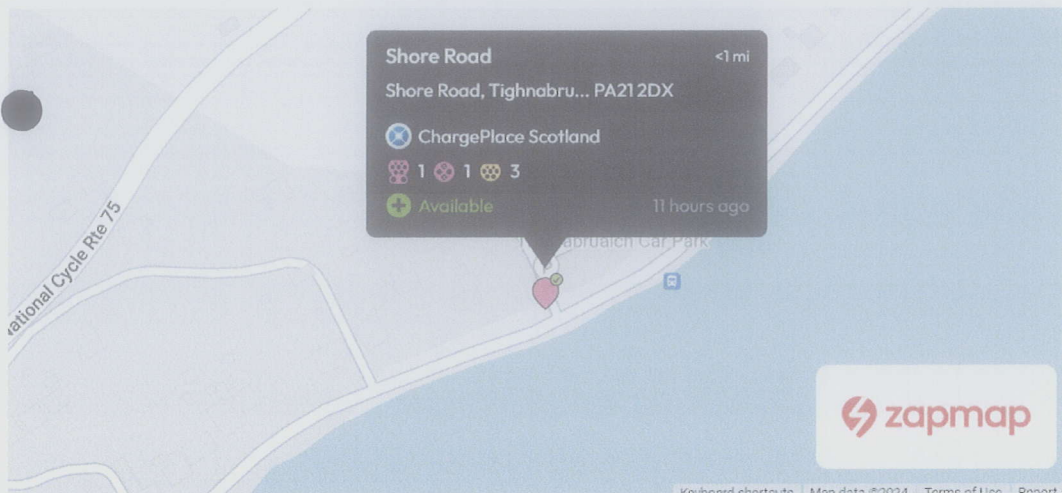
No. 9

22/00221/PP
Erection of dwellinghouse
AT:
Andrews Garage Tighnabrauaich Argyll and Bute PA21 2DS

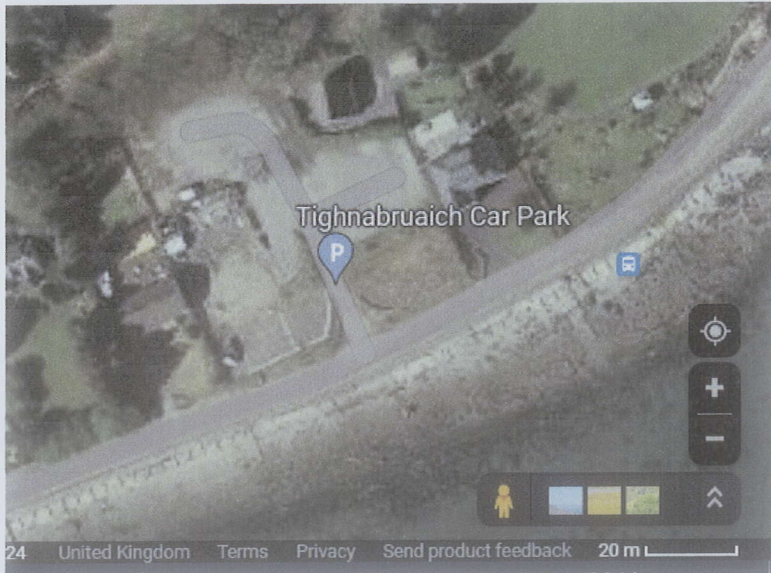
Location of Council owned Coach and Car Park “Tighnabrauaich Car Park”



New EV charging points on Tighnabrauaich Car Park on zapmap



Scale of 20m on googlemaps at Tighnabruaich Car Park



Actual visibility splays at exit from the Council owned Tighnabruaich Car Park



Schedule of documents submitted with Notice of Review

No. 10

22/00221/PP

Erection of dwellinghouse

AT:

Andrews Garage Tighnabruaich Argyll and Bute PA21 2DS

Sweeney, Kirsty Wed, 20 Dec 2023 at 12:16

From:kirsty.sweeney@argyll-bute.gov.uk

To:karen raeburn

Cc:Bain, Peter (Planning),Gove, Steven

Classification: OFFICIAL

Dear Mrs Raeburn,

22/00223/PP – Susy's Tearoom

22/00221/PP – Andrew's Garage

I have reviewed both your cases and I firstly apologise for the delay in determining these cases which was due initially from a delay that we had from Roads and that their responses raised significant concerns and recommended refusal. Both sites are brownfield in the settlement of Tighnabruaich and are both sites that we are supportive of in principle for re-development. I am keen to work with you to find a solution but at the moment the best course will be to get these two applications determined – unfortunately as refusals – with the opportunity for you to work with myself and Steven on a revised submission addressing the points. We can get these determined by end of January or sooner if possible to allow you to move forward. I have set out the key points below. **I do not expect you respond to these at present.**

I hope you understand that the changes required to these two proposals to make them compliant with policy are too significant to handle within the current applications so therefore it would be to your benefit to get a decision and allow you to move forward to re-submit with no fee charge within 12 months of the refusal date or take your case to Local review body. I would have suggested withdrawal and re-submission but unfortunately you would not be within the period to get a free re-submission with this option. A refusal gives you this free re-submission option.

Andrew's Garage

There is a fundamental issue with the design, scale and massing. The height is inappropriate and out of context with the surrounding properties and the site is considered to be overdeveloped. This could be addressed with a re-design of the property and addressing the character/style. It is unclear why an art deco style house has been selected and how this responds to the character of the village. We are not adverse to a modern approach to design but this needs take cues from the neighbouring style of properties (i.e. we are not seeking a pastiche design). This will be set out in more detail in the report of handling and we can discuss once you have received your refusal.

There are some issues with residential amenity and overlooking to neighbouring property and this has been raised by representatives and will need examined in more detail but I do have concern about how this overlooks neighbouring properties. But this may be something that can be mitigated through an amended design.

Parking and access – It is a 2 bed property and therefore there is a requirement for 2 on-site spaces. One is within the garage and the other in front of the garage. It appears that this could be achievable if the design was amended. In terms of visibility this is not achievable but we are sympathetic to the fact there has been an existing garage and historic access at this point near the bend and roads have not addressed whether this proposal is a de-intensification of use or not. This is likely to be something that can be resolved and a solution found even if not to the satisfaction of roads but as long as we are satisfied that there is no intensification of use.

Contaminated land – I do not know the detail of this but from the looks of the emails below this looks like something that is resolvable and is being resolved separately with Environmental Health. It is not a reason for refusal.

[Email continues on the subject of 22/00223/PP Susy's Tearoom]

Kind regards

Kirsty

Kirsty Sweeney BA Hons, MSc MRTPI

Area Team Leader (Bute, Cowal, Helensburgh and Lomond)

Development Management

Development and Economic Growth

Schedule of documents submitted with Notice of Review

No. 11

22/00221/PP

Erection of dwellinghouse

AT:

Andrews Garage Tighnabruaich Argyll and Bute PA21 2DS

From: **Carson, Anthony** <Anthony.Carson@argyll-bute.gov.uk>

Date: Fri, 5 Nov 2021 at 10:12

Subject: Andrews Garage Tighnabruaich [OFFICIAL]

To: >

Cc: Fraser, Pamela <Pamela.Fraser@argyll-bute.gov.uk>

Classification: OFFICIAL

Good morning Colin

We spoke in early September regarding the redevelopment of the filling station in Tighnabruaich. I am not sure if you have a continuing interest in the site as I remember you saying the client was yet to conclude the sale.

I have received reports of demolition work on site this week which involved burning, and concerns have been raised regarding potential release of further contaminants.

Are you able to advise whether this demolition activity was undertaken as part of your clients development proposal, and whether within the method statement for the works there was consideration of the potential for asbestos to be present in the structures?

If so, could you advise what provisions were made for its safe removal and disposal?

Apologies if you are no longer involved with the site.

Regards

Anthony

Anthony Carson

Environmental Health Officer – Environmental Protection

Development and Economic Growth

Schedule of documents submitted with Notice of Review

No. 12 page 1 & 2

22/00221/PP

Erection of dwellinghouse

AT:

Andrews Garage Tighnabruaich Argyll and Bute PA21 2DS

karen raeburn

From:

To: Anthony.Carson@argyll-

Cc: bute.gov.uk Pamela Fraser

Fri, 5 Nov 2021 at 14:50

Dear Mr Carson

Regarding the above site and your email below kindly forwarded to me by this afternoon following his phone call.

Firstly, we have changed architects since deciding that we will be using another construction method due to practical considerations of the site and the building itself. 's firm specialises in timber kit, excellent but not appropriate for our building all things considered.

Please note that in your email to you mistakenly state that the site is "redevelopment of the filling station in Tighnabruaich". The premises is not and has never been a "filling station".

Also regarding "potential release of further contaminants" there have been no contaminants released previously as far as we are aware.

The re-development of the smaller nissen type building involving its demolition and building of a residential unit has been subject of a pre-planning application to the Council.

That smaller nissen type building has been used since the 1970s only for storage of recovery vehicles. Any garage operations - repair and servicing activities - took place in the larger building.

We received the following advice from planning regarding demolition -

In relation to the demolition of the smaller Nissen building on the site, I would recommend checking for the presence of asbestos and, if this is present, a suitable contractor would need to be employed for its safe removal.

We carried out a walk through survey prior to purchase of both buildings with the previous owner, Andrew Sim, and noted within the building in question there was no asbestos present.

We are aware of the legal obligations regarding safe practice when dealing with asbestos. There had been roofing material at our other site in the village at Susy's Tearoom where material containing asbestos was disposed of by a licenced contractor we employed - Chris Wright & Sons Ltd in Greenock.

The smaller nissen type building construction was noted to be of corrugated iron with two brick gables supported by timber framing. There was a historical pit for vehicle inspection which was water/fluid tight which showed no sign of oil/fuel contamination with no iridescence being visible on water surface when filled with water.

The corrugated sheets have been removed from the building. The dry, mostly rotten, pine framing has been dismantled and disposed of by burning in a controlled way over 3 days after a risk assessment had been carried out and when neighbours had been consulted. The burn was contained and gave off light grey smoke with no more smell than a log fire as expected albeit there is the most appalling smell in the village on a daily basis from the burning of wet logs! The brick gables have been knocked down. The historical pit has been infilled for safety with some of the brick rubble with still no evidence of any fuel iridescence.

All material will be disposed of appropriately in due course.

Following on inspection pits will be dug as part of the structural engineering process involved in advancing our planning application.

I hope this answers your queries about on-site activity but please don't hesitate to refer to me if I can be of further assistance.

Yours sincerely

Karen Raeburn

Schedule of documents submitted with Notice of Review

No. 13

22/00221/PP
Erection of dwellinghouse
AT:
Andrews Garage Tighnabruaich Argyll and Bute PA21 2DS

John Whittle From:jhw@crossfield-consulting.co.uk
To:steven.gove@argyll-bute.gov.uk
Cc:anthony.carson@argyll-bute.gov.uk,Simon@highstreetarchitects.co.uk,karen.raeburn,Scott.Raeburn,Iain.Donnachie
Mon, 10 Jul 2023 at 17:20
FAO Steven Gove, Planning Officer

cc Anthony Carson, Environmental Health Officer, Argyll & Bute Council Iain Donnachie – The Structural Partnership
Simon Ash – High Street Architects Karen & Scott Raeburn

Our Ref. JHW/jw/CCL03617.015

Dear Steven Gove,

Proposed Single Dwelling at former Andrews Garage, Tighnabruaich PA21 2DS
Planning Ref: 22/00221/PP

We were surprised to (recently) receive such a long list of comments from Environmental Health regarding the above property and our *Phase 1 & 2 Environmental Assessment Report* (Jan 2023) Ref. CCL03617.CR18, particularly as we had thought we had addressed the main issues in our email issued on 5 April 2023 (and sent on to the Council shortly after). We have extensive experience of working throughout Scotland, including for several local authorities and public bodies, and over several decades.

It appears that most of the items raised relate to presentational issues and/or a misunderstanding of the *scale* of the proposed development/very small size of the site, which comprises the following:

- Only one small dwelling is proposed
- The proposed house is directly underlain by very low permeability intact rock strata
- A domestic garden is proposed of only 7 m x 5 m which includes the very limited volume of soil remaining on site.
- The ground investigation targeted the most sensitive element of the proposed development, namely the garden area.
- The site has not been associated with bulk petrol storage or significant use of paints etc.
- The site is not located in an environmentally sensitive location (ie. does not adjoin a watercourse and is not underlain by a significant aquifer).

Attached, is the schedule of comments, dated 25 May 2023, as provided by Environmental Health, together with our clarification of each point raised (in blue text in appended column). We trust that these (extensive) clarifications will assist and permit the development to proceed.

My contact details are provided below (unfortunately, I only have an email address for Anthony Carson). If any matters still remain outstanding, it would be preferable that your Officer contact me directly by phone/online discussion to clarify any items and avoid further potential misunderstanding or protracted email exchanges. In the meantime, your assistance is appreciated, and it is hoped that these issues are now resolved such that development may proceed.

Yours sincerely

John H Whittle BSc MSc FGS MICE CEng SiLC
Associate Director
jhw@crossfield-consulting.co.uk

Schedule of documents submitted with Notice of Review

No.14

22/00221/PP

Erection of dwellinghouse

AT:

Andrews Garage Tighnabruaich Argyll and Bute PA21 2DS

Appears on the public planning portal as -

[Contributor: Objection - Colin Slinger](#)

26 July 2022

Comments for Planning Application 221002211PP

Application Summary

Application Number: 22/00221/PP

Address: Andrews Garage Tighnabruaich Argyll And Bute PA21 2DS

Proposal: Erection of dwellinghouse Case

Officer: Steven Gove

Customer Details Name: Mr Colin Slinger Address: Hillside, Tighnabruaich, Argyll And Bute PA21 2BE

Comment Details

Commenter Type: General member of the public.

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment:It has been noted by those close to the site in question that Ross Macarthur a local contractor has been on site within the last few days with a JCB to remove a lot of the ground soil for disposal off site!

It is not clear if this conflicts with the environmental contamination checks required by the council, which appear to be still subject for proper technical council assessment. I am not suggesting the contractor has done this whilst being aware of the possible implications of their actions, just alerting you to this activity in case the void is then filled with concrete before you have had the chance to check what has been removed for ground contamination, and indeed should it be contaminated where and how it has been disposed of.

Schedule of documents submitted with Notice of Review

No. 15

22/00221/PP
Erection of dwellinghouse
AT:
Andrews Garage Tighnabruaich Argyll and Bute PA21 2DS

General Correspondence - Contributor Representation from Ross MacArthur Contractor Ltd 03.08.2022

7 October 2022 - date of publication on portal

Hi Kirsty,

We have been informed by the owners of the site at Andrews Garage that a notice has been published on the councils public planning portal re planning application 22/00221/PP.

We would like to confirm our position in relation to this.

The companies machine is currently in that area working on a job for the council and not for the owners of the Site in question-

We were not and are not working on this site, the companies machine has purely been parked up there because it is safe place to leave it,

We'd appreciate if this can be relayed accordingly.

If you would like to discuss the matter further, please call Ross MacArthur directly on

Kind regards
Jennifer

Schedule of documents submitted with Notice of Review

No. 16 pages 1 & 2

22/00221/PP

Erection of dwellinghouse

AT:

Andrews Garage Tighnabruaich Argyll and Bute PA21 2DS

Comments for Planning Application 221002211PP

Application Summary

Application Number: 22/00221/PP

Address: Andrews Garage Tighnabruaich Argyll And Bute PA21 2DS

Proposal: Erection of dwellinghouse Case

Officer: Steven Gove

Customer Details Name: Mr Paul Paterson Address: 2 Manor Way, Tighnabruaich, Argyll And Bute PA21 2BF

Comment Details

Commenter Type: General member of the public.

Stance: Customer objects to the Planning Application

Comment Reasons: Comment:Paul Paterson

2 Manor Way

Tighnabruaich

Argyll PA21 2BF

Argyll & Bute Council Planning Department

22/00221/PP | Erection of dwellinghouse | Andrews Garage Tighnabruaich Argyll And Bute PA21 2DS

Attached herein are comments relating to the above noted planning application 22/00221/PP

This is marked as an objection

The applicant(s) who acquired the property called Andrews Garage, Tighnabruaich and without any permissions from the local authority decided to demolish parts of the building structures, this was done without any due diligence to health & safety, without correct and best practice of planning/demolishing/laws in place. It is noted that the applicant has previous history of doing this, see 22/00223/PP

It is noted that the applicant(s) have failed to comply with clearing the sight from any potential contamination especially as the building was used as a garage and was well used as such, there has been failures in the disposal of materials even to where it was being dumped in areas that can be construed as unlawful dumping, failures to even have the correct tickets and licensing as examples, this also sees a similar history of 22/00221/PP whereby there was unlawful removal and burning and dumping of asbestos.

The applicant(s) let the property called Andrews Garage to various groups within the village.

Fresh plans were updated and posted on the Argyll & Bute Council planning portal, dated 5th January 2024. These plans show various height issues which have ignored what the local authority mentioned within their correspondence within this planning matter. 1.8 m high fencing is noted whereby the local authority said no to such heights. The line of sight looking into other properties is a failure and lacks credibility on the plans and speaking of plans, there is a lack of full plans, structures, weights, type of materials, permitted materials, lack of drainage and even a lack of sewage disposal. The building fails to meet any disability required legislation and fails miserably to address anything associated with level access and width internally or external, it's a mess. The design does not keep in with the natural buildings within the locus, actually as a design goes and being a flat roof, it is ugly and fails to even meet the desired keeping of the surrounding buildings, this design is an abstract failure to the area and to the general keeping of such a visually stunning area as Tighnabruaich is.

Various other objections point to many failures and issues that the applicant(s) have neglected, from road and pavement, parking, drains and sewage, height of building and design, all pointing to a lack of thought, care and understanding. As it stands this planning application lacks any merit, any credence and fails to meet any of the local authority legal requirements.

Kind regards

Paul Paterson

Schedule of documents submitted with Notice of Review

No. 17

**22/00221/PP
Erection of dwellinghouse
AT:
Andrews Garage Tighnabruaich Argyll and Bute PA21 2DS**

karen raeburn

From: karen.raeburn@argyll.gov.uk
To: steven@argyll.gov.uk
Tue, 7 Jun 2022 at 14:03

Dear Steven

Mr Paul Paterson's Objection to application 22/00223/PP

We and others in the local community have long experience of how Mr Paterson operates from behind bushes with his camera when he then raises complaints with authorities, despite many persons objecting to this behaviour directly to him. All he appears to achieve is a demonstration of his own biased and ill-informed opinions.

In our case he shows that he is unable to interpret plans correctly regarding the overall height of the building. He would have us believe that we are building a skyscraper when in fact the proposal is within the parameters of the surrounding buildings, far from that "it swallows the light out"!

Much of what Mr Paterson alleges within the body of his objection to our proposal is libellous and due to the serious allegations made by Mr Paterson regarding asbestos on the site we feel it necessary to respond to that directly.

He shows total ignorance of any factual information by making the following statement -

The issue was dealt with correctly and in full consultation with the relevant departments of Argyll & Bute Council.

We are not aware of being "challenged" nor any "disrepute" nor that we gave the Council a "closed door approach". Mr Paterson is either making this up or repeating gossip which has no foundation. We did not believe that we had any obligation, legally or otherwise, to local residents.

FACTS -

1. There was full consultation with Building Control and Environmental Health at Argyll & Bute Council prior to any demolition at Susy's Tearoom being progressed.
2. Building Control granted a Warrant to Demolish and work was carried out during lockdown, fully compliant with Covid restrictions applying at the time. We understand that Mr Paterson lodged a complaint on that score at the time but the Council of course was satisfied that we were indeed acting correctly and within the law.
3. Environmental Health was fully consulted over how to deal with suspect material on site prior to demolition commencing.
4. Chris Wright and Sons Ltd of Greenock who are licensed by the Scottish Environmental Protection Agency were contracted to transfer and dispose of all suspected asbestos containing materials. They transported and disposed of all such material from the site at Susy's Tearoom.

It would serve Mr Paterson well to avoid any future embarrassment by confirming facts before he decides to broadcast views which are without foundation in truth and which only serve to demonstrate his ignorance.

Yours sincerely

Karen Raeburn

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ERRATUM

Schedule of documents submitted with Notice of Review

No. 5 page 1 & 2

View from southern extremity of Main Street shops Tighnabruaich showing top of blue end of curved roof garage to the **left** of the Tighnabruaich Hotel building. Proposed house could not possibly break skyline from this vantage point – only a high rise block of flats would.

“left” - should read “right”

View from roughly midpoint of Main Street shops Tighnabruaich showing top of blue end of curved roof garage to the **left** of the Tighnabruaich Hotel building behind a cherry tree. Proposed house could not possibly break skyline from this vantage point -

“left” - should read “right”

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John Whittle

From: jhw@crossfield-consulting.co.uk

To: karen.raeburn

Mon, 26 Feb at 15:09

Our Ref. JHW/jw/CCL03617.020

Dear Karen,

**Former Part of Andrews Garage, Tighnabruaich, Argyll And Bute PA21 2DS
Proposed Single Dwelling
Planning Ref. 22/00221/PP**

Thank you for your recent email. We note that your application for planning permission regarding the above is being refused, as per the following statement provided to by Argyll & Bute Council:

'The proposal is considered contrary to NPF4 Policy 9, part (c), SG LDP SERV 4 and Policy 82 of the proposed Local Development Plan as it has not been demonstrated, to the satisfaction of the council, that the site is and can be made safe and suitable for the proposed house. There are a list of outstanding requirements in relation to the Contaminated Land Assessment that have not been adequately responded to. These mainly relate to the survey methods, and the depth of sample surveys.'

Our report and assessment of potentially contaminated land refers to nationally adopted guidance, as referenced in the following and associated documents:

- Scottish Executive (2017) PAN 33 – *Development of Contaminated Land*
- Environment Agency (October 2020, Updated April 2021) *Land Contamination Risk Management (LCRM) EA*
- Scottish Executive (2006) *Environmental Protection Act 1990: Part IIA Contaminated Land, Statutory Guidance*

It is acknowledged that our January 2023 report does not refer to policy in NPF4 (February 2023), as pre-publication data was not available to permit this. Notwithstanding, reference to the above technical guidance does provide compliance with NPF4 policy which seeks to encourage, promote and facilitate the safe reuse of brownfield, vacant and derelict land.

Likewise, although specific reference to local authority guidance SG LDP SERV 4 (2015) is not included in our report, the assessment is considered to comply with PAN 33, as above, such that the requirements of this policy are met. Our report acknowledges an expectation of possible contamination, such that a contaminated land assessment is provided. It should be noted that the implementation of suitable remediation measures is only required where the site specific (risk) assessment identifies such measures are necessary for the specific site conditions and development (as set out in PAN33).

We are not aware that Policy 82 of the *Proposed Local Development Plan* (October 2023) has yet been adopted and implemented. We also note that the only additional requirement of Policy 82 in relation to the above, is SEPA liaison. It is noted that this development is not located in an area sensitive to water environment receptors and furthermore our report is understood to comply with current SEPA policy as set out in SEPA Guidance Note LUPS-GU3 (2015).

The *outstanding requirements* regarding sampling etc as referenced above appear to relate to presentational issues and/or a misunderstanding of the *scale* of the proposed development/very small size of the site, which comprises the following:

- Only one small dwelling is proposed
- The proposed house is directly underlain by very low permeability intact rock strata
- A domestic garden is proposed of only 7 m x 5 m which includes the very limited volume of soil remaining on site.
- The ground investigation targeted the most sensitive element of the proposed development, namely the garden area.
- The site has not been associated with bulk petrol storage or significant use of paints etc.

These matters were raised in our email issued on 7 July 2023 to Steven Gove, Planning Officer and Anthony Carson, Environmental Health officer, both of Argyll & Bute Council. Unfortunately, no response has yet been provided that acknowledges these issues. This has been further compounded by the latest comment (reproduced above) that refers to '*a list of outstanding requirements*'; unfortunately, we are not aware of such a clear list of items that remain of concern and which can then be addressed.

We look forward to any clarification you may be able to obtain from the local planning authority regarding the above.

Yours sincerely,

John H Whittle BSc MSc FGS MICE CEng SiLC

Associate Director

jhw@crossfield-consulting.co.uk

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STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

**REFUSAL OF PLANNING PERMISSION FOR
ERECTION OF DWELLINGHOUSE AT ANDREWS
GARAGE, TIGHNABRUAICH, ARGYLL, PA21
2DS**

**PLANNING APPLICATION REFERENCE
NUMBER 22/00221/PP**

**LOCAL REVIEW BOARD REFERENCE
NUMBER 24/0003/LRB**

11th March 2024

STATEMENT OF CASE

The planning authority is Argyll and Bute Council ('the Council'). The appellants are Mr and Mrs S Raeburn ('the appellants').

The planning application, reference number 22/00221/PP, for the erection of a dwellinghouse at Andrews Garage, Tighnabruaich ("the appeal site") was refused under delegated powers on the 2nd February 2024. The planning application has been appealed and is subject of referral to a Local Review Body.

DESCRIPTION OF SITE

The application site is located within the settlement of Tighnabruaich within a mixed use commercial/residential area. The site was previously used as a commercial garage operation within a curved tin roof shed that has since been demolished.

SITE HISTORY

The planning history of the site and locality is detailed in Section D of the Report of Handling.

STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED

Section 25 of the Town & Country Planning (Scotland) Act 1997 provides that where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise. This is the test for this application.

STATEMENT OF CASE

Argyll and Bute Council considers the determining issues in relation to the case are as follows:-

- **Whether the proposed location, siting, design, scale and finishes of the proposed development have sufficient regard to the context of their setting.**
- **Whether the siting and design of the proposal would provide for a sufficient standard of residential amenity to the occupants of the proposed dwellinghouse.**
- **Whether the access and parking arrangements proposed are suitable to accommodate the proposed development.**

- **Whether the applicant has satisfactorily demonstrated that any ground contamination that may have arisen from the previous use of the site can be made safe and suitable for the proposed new use.**

The Report of Handling (attached) sets out the Council's assessment of the application in terms of Development Plan policy and other material considerations.

REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING

It is considered that no new information has been raised in the appellants' submission. The issues raised were covered in the Report of Handling which is contained in Appendix 1, including a summary of the representations submitted from 10 objectors and 2 parties who made neutral comments. As such it is considered that Members have all the information they need to determine the case. Given the above and that the proposal is small-scale, has no complex or challenging issues and has not been the subject of significant body of conflicting representation, then it is considered that a Hearing is not required.

COMMENT ON APPELLANTS' SUBMISSION

Having regard to the detailed reasons for requesting the review set out in part (7) of the appellants' submission the following points are noted:

- 1. The appellant has set out an alternative case to the matters considered by officers in setting out Reason for Refusal no. 1 which considers the whether the design, scale and finishes of the proposed development suitably relate to its surrounds.***

It is noted that officer's assessment of this aspect of the proposal is set out within Section P of the main report of handling and is primarily addressed under the sub-section headed 'Design and Layout'. This sub-section highlights the relevant policy considerations and includes commentary on the relevance of other developments referenced by the appellant as these matters were also highlighted as supporting information to the planning application.

- 2. The appellant has set out their own view that the proposed dwelling would be afforded with suitable level of privacy and amenity, contrary to the matters considered by officers in setting out Reason for Refusal no. 2.***

It is noted that officer's assessment of this aspect of the proposal is set out within Section P of the main report of handling and is primarily addressed under the sub-sections headed 'Residential Amenity of the Proposal' and 'Residential Amenity of Neighbours'.

- 3. The appellant has set out their view that the existing access arrangements associated with the site are capable of accommodating a more intensive traffic generating activity than the proposal.***

It is noted that officer's assessment of this aspect of the proposal is set out within Section P of the main report of handling and is primarily addressed under the sub-section headed 'Access and Parking'. Within this sub-section it is noted that the position expressed by the Council's Roads officers would merit further consideration although it was noted that the proposed parking layout was established to be substandard. Further pursuance of further information to resolve these outstanding matters, including confirmation of the achievability of proposed sightlines and average traffic speeds at this location was not undertaken in light of other fundamental issues with the proposal.

- 4. The appellant has set out the view that any concerns in relation to previous land contamination have been resolved through the submission of a report by their consultant, John Whittle, in January 2023. Concern is raised that the Council's Contaminated Land Officer, Anthony Carson, has failed to engage with their consultant to resolve outstanding issues of disagreement/clarification on this matter.***

It is noted that officer's assessment of this aspect of the proposal is set out within Section P of the main report of handling and is primarily addressed under the sub-section headed 'Contaminated Land'. It is confirmed that the previous use of the land has been taken to be a commercial garage which is consistent with the use identified in the appellants contaminated land report contrary to the assertion in the LRB submission that the building was used as a store. The identified deficiencies in the appellant's submission of supporting information is further detailed within Section C of the main report of handling as this matter was addressed in detail by the Council's contaminated Land Officer. Further pursuance of information to confirm the suitability of the site for residential development and/or the requirement for mitigation in relation to any historic land contamination was not undertaken in light of other fundamental issues with the proposal.

- 5. The appellant has sought to suggest that there are 'malign forces at work' intimating that third parties have influenced the outcome of the planning decision. The appellant also seeks to question the character and motivation of a number of third parties who have participated in the planning process through the submission of representations commenting on the planning application.***

The parties submitting representations, a summary of the issues raised and officer commentary identifying their relevance to the application under consideration are set out within Section F of the report of handling. Any suggestion that officers have been unduly influenced by

parties making third party submissions, or have otherwise failed to conduct themselves in an appropriately professional manner in their handling and assessment of the application are strongly refuted.

CONCLUSION

Section 25 of the Town and Country Planning Act 1997 requires that all decisions be made in accordance with the development plan unless material considerations indicate otherwise.

Adoption of the Argyll and Bute Local Development Plan 2 (28.02.2024)

It is highlighted that subsequent to planning permission being refused (on 02.02.24) that the Argyll and Bute Local Development 2 has been adopted on 28th February 2024. As of that date, the 'Development Plan' for Argyll and Bute (excluding the area covered by the Loch Lomond and the Trossachs National Park Authority) is National Planning Framework 4 and LDP2 which require to be applied holistically with preference afforded to LDP2, as the most recent expression of policy, in the event of any conflict between the two policy documents. For the avoidance of doubt, it is also confirmed that the Argyll and Bute Local Development Plan 2015 and its associated Supplementary Guidance are now superseded and accordingly should not be afforded significant material weight in planning determinations.

It is understood that the determination of these LRB proceedings will accordingly require to be made with regard to the updated 'Development Plan' position. The report of handling includes commentary that identifies the provisions of LDP2 which were relevant to the determination of this application and offer a view on how each of these policy matters relate to the proposal. It is confirmed that the adoption of LDP2 does not give rise to any substantive change to the matters considered within the assessment previously undertaken by officers in respect of this particular application.

Summary Commentary on Key Material Considerations:

The site is located within the village of Tighnabruaich identified as Settlement Area in the Argyll and Bute Local Development Plan 2 2024 (LDP2) wherein the provisions of Policy 01 serve to give encouragement in principle for development. Within the settlement zone, LDP2 Policy 01 sets out a general presumption in support of development provided that such development is appropriately sited, is of a scale and design which fits within the context of the locale, is compatible with the character and amenity of its surrounds and, does not give rise to adverse access or servicing implications. NPF4 Policy 9 sets out support in principle for the sustainable reuse of brownfield land, including vacant and derelict land and buildings subject to consideration of impact upon biodiversity and potential contaminants from previous uses.

- **Whether the proposed location, siting, design, scale and finishes of the proposed development have sufficient regard to the context of their setting.**

Whilst this location within the settlement area for Tighnabruaich has some potential to accommodate a residential development, officers have reached a view that the scale, massing, design, and finishes of the dwellinghouse proposed do not satisfactorily respect the character and appearance of the surrounding area. In particular it is considered that the colour, height, scale and massing of the proposal would give rise to a development that would have a significant material adverse impact given its height and prominence within the core of the village and its wider landscape setting, and that the development would appear as an overbearing and dominant form of development in its more immediate context.

The proposal is accordingly considered to be contrary to NPF4 Policy 14, and LDP2 Policies 05, 08, 09, 10 and 71.

- **Whether the siting and design of the proposal would provide for a sufficient standard of residential amenity to the occupants of the proposed dwellinghouse.**

Notwithstanding the provision of a roof terrace, it is considered that siting and design of the proposed dwellinghouse and the limited provision of external amenity space will give rise to a poor quality of amenity having regard to the lack of daylight afforded to this area and its proximity to the adjacent public road. In the context of NPF4 and LDP2 the respective provisions of NPF 4 Policy 14 and LDP2 Policy 10 seek to ensure that new development is afforded with an appropriate level of amenity, and respects the amenity of neighbouring land uses.

- **Whether the access and parking arrangements proposed are suitable to accommodate the proposed development.**

NPF4 Policy 13 supports development that provide easy access by sustainable transport modes and also provide charging points for vehicles and cycles and safe, secure cycle parking. The relevant LDP2 Policies are Policy 35 Design of New and Existing, Public Roads and Private Access Regimes and Policy 40 Vehicle Parking Provision.

In this instance the proposed access to the site is located near to a bend. The details submitted in support of the application are insufficient to demonstrate whether or not the required visibility splays of 20m x 2m in both directions can be achieved, particularly given the topography of the site and alignment of the public road. The proposed parking arrangements have been identified to be unsafe on the basis that the parking area is too close to the adjoining public road carriageway.

Whilst there may be some scope to consider the suitability of access arrangements further in light of confirmation of achievable visibility splays, average vehicle speeds, and traffic generation relating to the previous use of the site whilst such matters remain unresolved the proposal must be

considered to be contrary to the relevant provisions of LDP2 Policies 35, 36 and 40.

- **Whether the applicant has satisfactorily demonstrated that any ground contamination that may have arisen from the previous use of the site can be made safe and suitable for the proposed new use.**

NPF4 Policy 9 c) states that where land is known or suspected to be unstable or contaminated, development proposals will demonstrate that the land is, or can be made safe and suitable for the proposed new use. Policy 82 of LDP2 also states the requirement for the applicant to undertake a contaminated land assessment and implement suitable remediation measures before the commencement of any new use.

Whilst the applicant has provided supporting information that is intended to satisfy the above requirements the Council's Contaminated Land Officer has advised that the submitted report is insufficient to address the potential land contamination issues. Whilst there may be reasonable prospect that such outstanding matters could be satisfactorily concluded whilst such matters remain unresolved the proposal must be considered to be contrary to the relevant provisions of NPF 4 Policy 9(c) and LDP 2 Policy 82.

Taking account of the above, it is respectfully requested that the request for a review be dismissed.

Appended documents:
Report of Handling

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Argyll and Bute Council
Development & Economic Growth

Planning Application Report and Report of Handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 22/00221/PP
Planning Hierarchy: Local
Applicant: Mr And Mrs S Raeburn
Proposal: Erection of dwellinghouse
Site Address: Andrews Garage, Tighnabruaich, Argyll And Bute PA21 2DS

DECISION ROUTE

- Delegated - Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997
- Committee - Local Government Scotland Act 1973
-

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of a dwelling house
- Erection of new fencing
- Formation of pedestrian access

(ii) Other specified operations

- Removal of building
 - Connection to public water supply and public foul drainage system
-

(B) RECOMMENDATION:

Refuse

(C) CONSULTATIONS:

Roads Bute and Cowal - 26.02.2023 –

In the interest of road safety the recommendation is for refusal.

The minimum acceptable visibility splay of 20 x 2 metres. All walls, hedges and fences with the visibility must be maintained a height not greater than 1m above the road cannot be achieved. The minimum acceptable dimensions in front of garage shall be the parking bay of a length of 6 metres up to garage and a 2 metre strip across the access. Total of 8 metres from edge of road to front of garage cannot be achieved. Based on conditions sent on 8th July 2022 not being achievable:

- The access must be a sealed bituminous surface for the first 5 metres.
- The required sightlines are 20 x 2m. All walls, hedges and fences with the visibility must be maintained a height not greater than 1m above the road.

- The forward visibility should not be lower than previously in place, the design figure for forward visibility is 35 metres.
- If vehicles are to be parked in front of garage the parking bay should have a length of 6 metres up to garage and should also allow a 2 metre strip across the access. Total of 8 metres from edge of road to front of garage.
- If a new pedestrian access is proposed further uphill a 2 metre verge should be provided at the edge of the carriageway.
- Surface water must be prevented from running off the site onto the road.

Scottish Water - 05.04.2022

There is currently sufficient capacity in the Tighnabruaich Water Treatment Works to service your development. This proposed development will be serviced by Tighnabruaich Waste Water Treatment Works. For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will not accept any surface water connections into our combined sewer system.

Contaminated Land - initial memo 26.05.2022

The application involves the redevelopment of land where there is an indication of previous use which may be contaminative. It is noted that preparatory works have been undertaken which may impact on the understanding of land contamination issues at the site, including removal of structures, excavation and disposal of soils. It is recommended that planning permission should not be granted pending the submission of a scheme which identifies and assesses potential contamination on site.

A report from Crossfield Consulting Ltd was submitted in January 2023, which received initial feedback from the Contaminated Land Officer (CLO) in March 2023.

Further comments by the consultant in April 2023 were considered by the CLO in May 2023, at which time he stated that the desk study:

- has not utilised available information which would assist in describing potential pollutant linkages
- has relied on 3rd party reconnaissance without demonstrating appropriateness or competency in its provision
- has not developed a conceptual site model which considers relevant pollutant linkages
- has not provided transparency in the preliminary risk assessment, in line with cited guidance
- has not developed an investigation strategy consistent with the code of practice/ relevant pollutant linkages
- has progressed a site investigation on the basis of inaccurate information
- reports on an investigation without necessary factual information (including sample chain of custody) being provided

Further comments and information were then provided by the applicant and Crossfield Consulting, to which the CLO responded in his e-mail of 11th September 2023. This contained comment on four specific aspects of the report (authoritative guidance; preliminary risk assessment; site investigation; and water environment), which gave further context to the original review comments from May 2023.

One of the main points in the CLO's September 2023 e-mail that is particularly important to note is the description of sampling depth as '*surface*' within the report;

it is unclear whether this was a literal description or a generalisation of sampling within the surface layer.

There are also questions over the whether the correct area was sampled in relation to the former above ground oil tank. The CLO states that there is ample historic and recent photographic evidence available to show it was located in the south west corner of the site and location S1 that was sampled to the north west is inconsistent with this.

This final response from the Contaminated Land Officer required a relatively large number of matters to be satisfactorily resolved before it could be confirmed that there was no risk of contaminants and, therefore, the conclusion is that the January 2023 report from Crossfield Consulting Ltd is insufficient to address the potential land contamination issues.

The full reviews referred to above are available on the file.

Environmental Health - Bute And Cowal - 06.04.2022 - No objections to the granting of planning subject to the following conditions and notes to applicant being attached to any consent in relation to Construction Methods, Operating Hours during construction.

(D) HISTORY:

21/02096/PNDEM Prior Notification for Demolition of buildings. – *This application was returned and refund provided. Notification of demolition is not required for buildings that are not residential.*

(E) PUBLICITY:

Neighbour notification in accordance with the requirements of the Development Management Procedure (Scotland) Regulations 2013 (expiry date: 20th April 2022) and advertised under Regulation 20 (expiry date. 6th May 2022).

(F) REPRESENTATIONS:

(i) Representations received from:

Objections

Stephen Williamson The Manse Tighnabruaich Argyll And Bute PA21 2DX
03.09.2022

Robin Brown Appin Middle Cottage Tighnabruaich 14.04.2022

Janie Boyd No Address Provided 20.04.2022

Mark Brunjes The Old Fire Station Tighnabruaich Argyll And Bute PA21
2DS 23.04.2022

Robert Blair Ground Floor 1 Appin Cottage Tighnabruaich Argyll And Bute

Mary N Taylor Seaview Tighnabruaich Argyll And Bute PA21 2DS

21.04.2022

Keith Turner Tigh An Allt Tighnabruaich Argyll And Bute PA21 2BA

19.04.2022

Helen Brown Appin Cottage Middle Tighnabruaich Argyll And Bute PA21
2DS 14.04.2022

John Taylor Seaview Tighnabruaich Argyll And Bute PA21 2DS 11.04.2022
Paul Paterson, 2 Manor Way, Tighnabruaich, Argyll And Bute, PA21 2BF

Representatives - neutral

Mr Colin Slinger Hillside Tighnabruaich Argyll And Bute PA21 2BE
26.07.2022 – *Alerting authority of local contractor being on site.*

Jennifer Irwin, Ross MacArthur Ltd – *clarifying matter raised by Mr Slinger that the company machine was working on a job in the area and are not the owners of the site. The machine had been parked on site as a safe overnight parking place.*

(ii) Summary of issues raised:

Design/Impact on Built Environment – There are a number of objectors that are concerned about the design and impact on the built environment. A summary of key points:

- It is described as basement plus two storeys, but the actual height is close to three storeys at road entrance. The height of the 3-storey building is too high and disproportionate to any surrounding buildings and will stand out and dominate skyline. A two-storey building would be more appropriate.
- The design response is not appropriate reference to the immediate context and architectural language as stated in the applicant's statement. The existing "architectural language" is mid-19th century, predominantly natural stone and slate. Beyond the concerns of immediate neighbours, this has created 'a pretty little village' centre (as described by Visit Scotland), which depends to some extent on this appearance to encourage tourism. The proposed development would be visually erroneous in the existing context. The art deco style of the building is not suitable for this area, and either a traditional style building or a contemporary style building would be more appropriate. The only building it will remotely be sympathetic to architecturally, is the old fire station, but it is close to bottom of hill, uses natural materials externally and is only 2 storeys high.
- As a proportion to the size of the building, the space at ground level is very small. The plot is narrow and it is squeezed between a remaining Nissan hut and the access road and this leaves no significant space for any planting which could soften the visual impact.
- The proposal is likely to have an adverse impact on the public view for pedestrians from the single track road above the proposed building. Many people comment on the wonderful, elevated sea views of the Kyles and the Isle of Bute while walking down the Village Brae. This aspect would be obscured by the proposed dwelling.

Officer response: *This issue is covered in the assessment in section P below.*

Parking - There is no suitable parking designated on a narrow road which is already heavily populated by vehicles. The applicant's supporting statement makes the point that the parking situation will improve on Village Brae because the road recovery vehicles, previously parked there by Andrew's

Garage, will no longer be a problem. The site is being used at present to park the recovery vehicles so they will be displaced and park on the hill exacerbating the problems of visibility on the corner.

Officer response: *This issue is covered in the assessment in section P below.*

Access - The site location is on a tight bend. This road is steep and narrow and above the corner is single track, only 2.74 metres wide and is without a pavement. Concern raised about visibility around the corner on the Village Brae and how when the hut existed, visibility was reasonable. The building will be closer to the edge of the top side of the plot with a proposed 1.8m fence and it will have a straight vertical edge on the corner of the hill, which means that the eye level visibility around the corner, either going up or down the hill, both for vehicles and pedestrians, will be reduced causing a road safety issue. Another two representatives makes similar comments and states the house would create a visual block where the road narrows significantly and climbs, and sightlines for any vehicle using this access will be obscured bringing an increased risk for pedestrians and road users. In addition a representative raised the issue of emptying waste bins and how a lorry would need to stop in a location just after the corner.

Officer response: *This issue is covered in the assessment in section P below.*

Residential Amenity/Overlooking - A development of this nature is not appropriate for such a restricted site and will have a major impact on the properties overlooking the site. A condition on height or screening should be included in the planning conditions in the event the remaining neighbouring industrial unit should be reconfigured or developed in the future.

Officer response: *This issue is covered in the assessment in section P below.*

Contaminated land – One of the representatives said “The proposed house build is on land used as industrial site for over 40 years, the workshop on the site included a large vehicle inspection pit.” It then says, “There is no mention of any contamination assessment. Any contamination assessment should include assessing presence of petrol, diesel, chemicals and asbestos and should specify any remedial works, such as the removal of ground to a suitable depth, perhaps up to three metres.” And “There should also be a condition on any planning approval that onsite inspection at the appropriate point is completed to ensure that this remedial work has taken place.”

Officer response: *This issue is covered in the assessment in section P below. A ‘Site Investigation and Environmental Report’ was submitted on behalf of the applicant in June 2022 whilst a Phase 1 & 2 Environmental Assessment Report was received in January 2023.*

Sewage - The proposed plans show sewage outlet is untreated onto beach, the objector understands that new developments have to treat sewage with septic tank or other treatment plant. The Scottish Water plans for the village drainage show that the sewage pipe under the road discharges into the sea close to the RNLI station. As a new development the continuation of this practice would not be acceptable and a septic tank would be required.

Officer response: *Scottish Water has no objections to the proposals and has confirmed there is likely to be suitable capacity within the public sewer network and there is therefore no requirement for a septic tank.*

Impact on ground drainage - Reference is made to removing ground to lower the building level - how much is to be removed as it is not actually specified. A current ground survey drawing should be made available along with proposed new ground levels.

Officer response: *A topographical survey was submitted together with elevation drawings containing annotation on the ground, floor and roof levels of the proposed dwellinghouse. Based on this information, the ground level at the south-eastern corner of the former building on the site was 10.58mAOD and the south-eastern corner of the proposed building would be approximately 8.7mAOD, which indicates a lowering in the level of the site by 1.88 metres.*

Accessibility - This has been highlighted as a priority but the garage is not wide enough to meet accessibility requirements in its current layout. The drive is also not wide enough. Standard space for accessible parking is 4.8 by 2.4 m, providing 1.2m access space on both sides plus 1.2m at rear of vehicle. The proposed lift size would not meet standards for accessibility. The pedestrian access to the road from front door would also have to be assessed with regard to accessibility given change in gradients.

Officer response: *This is an issue that would be dealt with through Building Warrant.*

Environmental health – noise - The proposed new residential unit it, including the large balcony, will overlook the industrial unit and be very exposed to any noise from the unit during its operating hours. Given that the industrial unit and residential site have the same ownership at present then measures to limit the operating hours that the industrial unit is used and the type of activity undertaken in the unit would help deal with the noise issue. For example including a condition limiting the use to specific activities and to 8am to 6pm on weekdays.

Officer response: *This is an issue that can be readily dealt with by condition.*

Construction Impacts - Consideration should be given to including specific planning conditions relating to site management during construction. Given the location of the site a suitable site management plan should be provided and subsequently implemented, addressing such factors as safety, access and the removal of waste.

Officer response: *This is an issue that can be readily dealt with by condition.*

Demolition of previous building– The building on site was demolished without any due diligence to health and safety, without correct and best practice of planning/demolishing/laws in place.

Officer response: *It is permitted development to demolish a structure that is not within a conservation area, not listed and not a dwelling. Therefore*

there was no planning procedure to follow. Comment cannot be made with respect to any other demolition requirements via different bodies.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

(i) **Environmental Impact Assessment Report:** Yes No

(ii) **An Appropriate Assessment under the Conservation (Natural Habitats) Regulations 1994:** Yes No

(iii) **A Design or Design/Access statement:** Prepared by High Street Architects (Dec 2023) summarised below: Yes No

- Amongst considerations for any potential negative impacts of the proposal, care and attention has been paid to maintaining the sea views enjoyed by the houses behind the proposed house even though this is not required by planning.
- A full topographic survey has been carried out to establish levels of ground floor windows in the housing behind and line of sight to any relevant neighbouring windows.
- The proposed house will be accessible with an internal lift, and unobstructed entrance.
- The amenity for the house consists of a garden around the proposed house and the external wrap round balcony on the first floor level.
- Vehicular and pedestrian safety on Village Brae will be improved as the former commercial building on the site had been used for parking and storage of vehicles. The house will not have these commercial vehicle movements.
- The Statement then describes the site, site massing, building design and character and material, architectural character and building materials. The key points are that an Art Deco principles using modern materials is being used to prevent the decay traditionally associated with this design style. The first floor exploits the views of the loch. The immediate area contains various existing housing typologies, with a mixture of sandstone and render. This has been incorporated into the design.
- The overall approach is to create strong, clear and simple interpretation of a typical modern house in a stylistic manner. An ordered and rhythmic system of combining vertical and horizontal opening proportions with a single brick deep reveal to all windows and doors. This set up is an appropriate reference to the immediate context and architectural language. The overall aim is to create an elegant and well-proportioned modern building that will stand the test of time.

- (iv) **A report on the impact of the proposed development e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** Yes No

Environmental Assessment Report – Crossfield Consulting (Jan 2023) summarised below and also covered in the assessment section of the report in relation to contaminated land:

The report is an investigation of the site to identify potential constraints to redevelopment relating to the ground conditions and including a risk-based environmental assessment and recommendations for remediation works.

Key points include:

- Based on available historical information, the site was formerly occupied with a former vehicle maintenance garage which was present during the 1970s and possibly earlier. Given the historical nature of the garage, the standard of infrastructure maintenance is not known (such that cracked or broken surfacing/floor slabs could permit contaminant release to the ground) and poor working practices, such as disposing waste liquids to drains or solids to the ground, could have caused contaminant releases to shallow soils.
- Based on the likely age of the former garage located on site, asbestos fibres/ACM could have been present within the building materials.
- It is noted that a small plastic double-skinned above-ground oil tank existed on site, since decommissioned and removed. Although unlikely, leaking and therefore release of contaminants into the topsoil may have been possible.
- Based on the available information, representative soil samples were recovered from the materials found at the site and tested for the potential contaminants. All of the potential contaminant concentrations are recorded below the GAC (negligible risk to human health) and therefore, do not represent an unacceptable risk to end users.

(H) PLANNING OBLIGATIONS

Is a Section 75 obligation required: Yes No

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

-
- (J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application**

- (i) List of all Development Plan Policy considerations taken into account in assessment of the application.**

National Planning Framework 4 (Adopted 13th February 2023)

Part 2 – National Planning Policy

Sustainable Places

- NPF4 Policy 1 – Tackling the Climate and Nature Crises
- NPF4 Policy 2 – Climate Mitigation and Adaption
- NPF4 Policy 3 – Biodiversity
- NPF4 Policy 5 – Soils
- NPF4 Policy 9 – Brownfield, Vacant and Derelict Land and Empty Buildings
- NPF4 Policy 12 – Zero Waste
- NPF4 Policy 13 – Sustainable Transport

Liveable Places

- NPF4 Policy 14 – Design, Quality and Place
- NPF4 Policy 15 – Local Living and 20 Minute Neighbourhoods
- NPF4 Policy 16 – Quality Homes
- NPF4 Policy 18 – Infrastructure First
- NPF4 Policy 22 – Flood Risk and Water Management

‘Argyll and Bute Local Development Plan’ Adopted March 2015

- LDP STRAT 1 – Sustainable Development
- LDP DM 1 – Development within the Development Management Zones
- LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment
- LDP 8 – Supporting the Strength of our Communities
- LDP 9 – Development Setting, Layout and Design
- LDP 10 – Maximising our Resources and Reducing our Consumption
- LDP 11 – Improving our Connectivity and Infrastructure

‘Supplementary Guidance to the Argyll and Bute Local Plan 2015’ (Adopted March 2016 & December 2016)

Natural Environment

- SG LDP ENV 11 – Protection of Soil and Peat Resources

Landscape and Design

- SG LDP ENV 13 – Development Impact on Areas of Panoramic Quality (APQs)

General Housing Development

- SG LDP HOU 1 – General Housing Development Including Affordable Housing Provision

Sustainable Siting and Design

- SG LDP Sustainable – Sustainable Siting and Design Principles

Resources and Consumption

- SG LDP SERV 1 – Private Sewage Treatment Plants & Wastewater Systems
- SG LDP SERV 2 – Incorporation of Natural Features / SuDS
- SG LDP SERV 4 – Contaminated Land
- SG LDP SERV 5(b) – Provision of Waste Storage & Collection Facilities within New Development

Transport (Including Core Paths)

SG LDP TRAN 4 – New & Existing, Public Roads & Private Access Regimes

SG LDP TRAN 6 – Vehicle Parking Provision

(ii) List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 3/2013.

- Third Party Representations
- Consultation Responses
- Planning History
- ABC Design Guides
- [Argyll and Bute proposed Local Development Plan 2 \(November 2019\)](#) – The Examination by Scottish Government Reporters to the Argyll and Bute Local Development Plan 2 has now concluded and the [Examination Report](#) has been published (13th June 2023). The Examination Report is a material consideration of significant weight and may be used as such until the conclusion of the LDP2 Adoption Process. Consequently, the Proposed Local Development Plan 2 as recommended to be modified by the Examination Report and the published Non Notifiable Modifications is a material consideration in the determination of all planning and related applications.

Spatial and Settlement Strategy

Policy 01 – Settlement Areas

Policy 04 – Sustainable Development

High Quality Places

Policy 05 – Design and Placemaking

Policy 08 – Sustainable Siting

Policy 09 – Sustainable Design

Policy 10 – Design – All Development

Connected Places

Policy 32 – Active Travel

Policy 33 – Public Transport

Policy 34 – Electric Vehicle Charging Points

Policy 35 – Design of New and Existing, Public Roads and Private Access Regimes

Policy 36 – New Private Accesses

Policy 38 – Construction Standards for Public Roads

Policy 39 – Construction Standards for Private Accesses

Policy 40 – Vehicle Parking Provision

Sustainable Communities

Policy 58 – Private Water Supplies and Water Conservation

Policy 59 – Water Quality and the Environment

Policy 60 – Private Sewage Treatment Plants and Wastewater Drainage Systems

Policy 61 – Sustainable Urban Drainage Systems (SUDS)

Policy 62 – Drainage Impact Assessments

Policy 63 – Waste Related Development and Waste Management

Policy 66 – New residential development on non-allocated housing sites within Settlement Areas

High Quality Environment

Policy 71 – Development Impact on Local Landscape Area (LLA)

Policy 73 – Development Impact on Habitats, Species and Biodiversity
Policy 79 – Protection of Soil and Peat Resources
Policy 82 – Contaminated Land

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

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

(M) Has a Sustainability Checklist been submitted: Yes No

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

(O) Requirement for a pre-determination hearing: Yes No

(P)(i) Key Constraints/Designations Affected by the Development:

Area of Panoramic Quality (LDP 2015)
Local Landscape Area (PLDP2)
Potential Contaminated Land

(P)(ii) Soils

[Agricultural Land Classification:](#)

Built Up Area

[Peatland/Carbon Rich Soils Classification:](#)

Class 1
Class 2
Class 3
N/A

[Peat Depth Classification:](#)

N/A

Does the development relate to croft land?

Yes No

Would the development restrict access to croft or better quality agricultural land?

Yes No N/A

Would the development result in fragmentation of croft / better quality agricultural land?

Yes No N/A

(P)(iii) Woodland

Will the proposal result in loss of trees/woodland?

Yes
No

Does the proposal include any replacement or compensatory planting?

Yes
No details to be secured by condition
N/A

(P)(iv) Land Status / LDP Settlement Strategy

Status of Land within the Application

- Brownfield
 Brownfield Reclaimed by Nature
 Greenfield

ABC LDP 2015 Settlement Strategy

LDP DM 1

- Main Town Settlement Area
 Key Rural Settlement Area
 Village/Minor Settlement Area
 Rural Opportunity Area
 Countryside Zone
 Very Sensitive Countryside Zone
 Greenbelt

ABC LDP 2015 Allocations/PDAs/AFAs etc:

N/A

ABC pLDP2 Settlement Strategy

- Settlement Area
 Countryside Area
 Remote Countryside Area
 Helensburgh & Lomond Greenbelt

ABC pLDP2 Allocations/PDAs/AFAs etc:

N/A

(P)(v) Summary assessment and summary of determining issues and material considerationsSite and surroundings

The application site has an area of approximately 199m² and the house plot historically was a garage with a curved tinned roof shed on the site and historic mapping shows a building as far back as the 1880 and the applicant informs us that the site was originally Tighnabraich Village Hall before it became a garage. The land is now currently vacant and considered brownfield. It sits on the Village Brae just before there is a bend in the road as it leads up to houses at the rear of the village. The site is within what would be considered the village centre with the remaining garage on the site below, then the converted old fire station below this. Across the street are a number of historic buildings but none are listed and it is not a Conservation Area. The site has been vacant for some time, when the building was removed and has intermittently been used for parking. The garage below the site is within the same ownership.

The immediate surrounding area is a mixture of commercial and residential as explained above. To the north of the plot are 3 nearly identical traditional houses with slate roof and render finish. The building across the road, is historic and built into the slope with a mixture of one and two storey and is constructed of stone and slate roof. The one storey is to the upper part of the slope and as you go down the hill, then it increases to two storey. At the bottom of the village brae is what would be classified as the village centre with the RNLI building then a number of shops and cafes with residential flats above in a row of traditional stone buildings. The centre of the village is dominated by the Tighnabraich Hotel and its grounds which this site is at the upper most corner of. The hotel has extensive grassed area to the front and there are views across to the application site from the village centre.

Proposed Development

The application is for the erection of a 3-storey dwellinghouse on this rectangular plot on Village Brae. The footprint of the house is to be approx. 74m² but the basement plans have a parking pend, so this takes the basement floorspace to approx. 66m². The parking area is within the basement level of the house with one car to be

accommodated within the garage and the other half under the house and half on a driveway to be built. The driveway area is approx. 23m² and a distance of 3.7m.

The drawing states the garden area is 100m² to the rear surrounded with a 1.8m high fence, pedestrian entrance and bin store. However, when measured it only amount to around 56m² when the parking area and porch are excluded and if parking area is included it amounts to 84m² so the figures on the drawings may not be accurate.

The proposed house is 3 storeys with a flat roof and is a height of 19.4mAOD and the height of the garage remaining on the site below is 14.3mAOD. The house is compact in scale and has an Art Deco (1930s) architectural style. It has a flat roof with a terrace along the upper floor. It is to be white render walls, glass handrail, powder coated windows and DRPM roof covering. The windows on the upper floor are horizontal emphasis with glazing bars that have an Art Dec style. There is a larger vertical slim window going between the basement and ground floor.

Accommodation comprises, garage, utility, wc and lift on the basement, then a master bedroom, ensuite shower room, bathroom, study (that could be used as a third bedroom) and 2nd bedroom on the ground floor and then the upper floor has the main living/kitchen/diner area and toilet.

Settlement and Spatial Strategy

The site is located within the village of Tighnabruaich identified as a Key Rural Settlement Area in the Argyll and Bute Local Development Plan 2015 (LDP) wherein the provisions of policies LDP DM 1 serve to give encouragement in principle for up to and including small scale housing development on appropriate sites.

It is considered that the application site, principally by reason of size constraints, does not have capacity to accommodate a dwellinghouse with regard to all material planning considerations, and as such that this is **not** an appropriate development site for a dwellinghouse (refer to the detailed assessment below). The proposal is therefore considered to be inconsistent with the Settlement Strategy contrary to policies LDP DM1.

Within the Proposed Local Development Plan the site is located within the Settlement Area and Policy 01 applies which is now a material consideration. It states that within settlements proposals will be acceptable if they are compatible with the surrounding uses including but not exclusively, providing access, service areas, infrastructure for existing, proposed or potential future development and is of an appropriate scale and fit for the size of settlement in which it is proposed.

NPF4 Policy 9 part (a) supports development on brownfield sites and in this case the site is brownfield and redevelopment in principle is supported by part a of this policy. But Part c relating to contaminated land is examined below and there it does not meet this part of the policy.

In principle it is supported because it is a small-scale residential infill development within a settlement but there are a number of issues in relation with the compatibility with the surrounding area which means it is contrary to the Settlement Strategy as indicated above – both LDP DM1 and also the proposed Policy 01.

Housing Policy

NPF4 Policy 16 and LDP Policy LDP 8 and SG LDP HOU 1 of the LDP and also Policy 66 within the proposed LDP operate a general presumption in favour of housing development provided that the location and scale accords with the

provisions of policy LDP DM1 unless there is an unacceptable environmental, servicing or access impact. NPF4 Policy 16 supports development for new homes on land not allocated for housing the LDP where the proposal is consistent with the plan spatial strategy and other relevant policies including local living and 20 minute neighbourhoods (Policy 15) and must meet one of the criteria under iii. It is considered the proposal meets the third point which gives support for smaller scale opportunities within an existing settlement boundary. It is also close to facilities and amenities of the village so meets Policy 15.

However, the policies all states that the proposal must accord with all other relevant policies. In this case, the development potential for this site is severely limited by size constraints and it is not considered that the site has capacity to accommodate a dwellinghouse of this scale without resulting in a materially detrimental impact upon the character and visual amenities of the area and upon road safety. In addition, it has not been demonstrated that the site can accommodate the necessary infrastructure, specifically in relation to surface water drainage, within the site boundary.

On this basis, it is considered that the proposal is not consistent with housing policies NPF4 Policy 16, LDP 8 and SG LDP HOU 1. See further details below on why the site and proposal is not appropriate.

Design and layout

NPF4 Policy 14, LDP 9 and SG LDP Sustainable Siting and Design Principles and Proposed Plan Policies 05, 08, 09 and 10 serve to ensure that new development, by reason of density and layout, effectively integrate with the urban setting and resists developments with poor quality or inappropriate layouts or densities including over-development.

NPF4 Policy 14 requires proposals to be underpinned by the six qualities of successful places – healthy, pleasant, connected, distinctive, sustainable, adaptable. It also state that proposals that are detrimental to the amenity of the surrounding areas will not be supported.

SG LDP ENV 13 policy and the proposed plan policy 71 concerns Areas of Panoramic Quality and to be renamed as Local Landscape Areas. Tighnabruaich sites within these local designations and the policies seek to resist development in or affecting these areas where its scale, location or design will have a significant adverse impact on the character of the landscape. In all cases, the highest standards of location, siting, design, landscaping, boundary treatment and materials and detailing will be required.

SG establishes general principles for new development including that:-

- New development must reflect or recreate the traditional building pattern or built form.
- Ideally the house should have a southerly aspect to maximise energy efficiency.
- Access should maximise vehicular and pedestrian safety.
- Scale, shape and proportion of development should respect or complement existing buildings and the plot density and size. Colour, materials and detailing are crucial to integrate the development within its context.

The surrounding area is characterised by mix of modest proportions, scale and massing, a simple materials palette and limited architectural detailing. The original Garage (now demolished) was of a simple style with modest proportions, scale and massing with a curved roof and constructed of metal sheeting. The scale, form and

massing and design of the proposed house when combined with the introduction of a modern materials finishing palette to the extension would visually jar with and have a detrimental impact not only on the character of the surrounding area but in particular on the character and appearance of the village centre which would remain and be read in the context of the new house.

Moreover, because of the colour, height, scale and massing of the proposal which would protrude considerably above the height of the neighbouring garage and also be higher than the original building on site, making it visually prominent. It is considered that this would create a development which overall would have a significant material adverse visual impact given its height within the core of the village. It would appear as an overbearing and dominant form of development in its immediate context.

The art deco style is also particularly unusual and even though introducing this style is not necessarily against policy, it would be more suitable on a public building trying to make a statement, where it fits within its context. Art deco style has been used on the Pavilion in Rothesay and also the Picture House at Campbeltown but these are buildings in a completely different context that are to be distinctive. This house needs to make more of an attempt to assimilate with the neighbouring buildings as it is not the aim for it to be a prominent building in this instance.

The applicant has quoted other similar modern properties in the locale including the nearby renovated fire station and also a new house at The Chalet. It should be noted these designs are contemporary and modern and not Art Deco. In addition their context is completely different. The fire station was the re-use of an existing building and is further down Village Brae and is only 2 storey so not as prominent and using timber and mono-pitch roof to respond to the context. The other house, has significant garden grounds and has the space to be landscaped and integrate with its surroundings.

The applicant argues that the proposed house (height 19.4mAOD) is no higher than the hotel roof of 20mAOD and the site appears to be on the same OS contour as the hotel.

Every planning application needs to be considered on its own merits, and consider the physical site constraints and adapt to them. This proposal has not done this and it is overdeveloped and the top floor in particular is overly prominent and out of keeping with the surroundings. Because it is flat roof then the white render goes up to the top of the building, and no attempt has been made in making this top floor/roof area recessive in the townscape using darker materials or using a pitched roof with dormers. Buildings tend to assimilate with the context better if they get smaller as they go up the hill, rather than larger as can be seen with the buildings on the opposite side of the street which goes from 2 storey to 1 storey. The street height at the application site will give the impression that this house is bigger than it is. From the village centre this house will also stick out and look out of place given its height, further up the brae and it will block the views of the attractive 3 traditional dwellings to the rear that are adding to the character of the area, rather than detracting from it. The representations have raised the issue of design and make the argument that the art deco style is not suitable for the site. It is agreed that it would dominate the skyline.

As explained above the house is located within the local landscape designation and it requires highest standards of design. It is not considered this house is of the highest standard particularly in relation to detailing, landscaping, boundary treatment and materials which are incongruous with the surrounding housing. Given its height it is likely to be viewed from the sea (recreational boat users) and will seem out of place

in the townscape which is considered to then in turn affect the overall landscape quality of this area.

For all these reasons, it is considered that the proposal is contrary to Policies 14 and Policy LDP 9 of the Argyll and Bute Local Development Plan and also to the LDP SPG Sustainable Siting and Design Principles and SG ENV 13 which are relevant to this proposal. It would also therefore be contrary to Policies 05, 08, 09, 10 and 71 of the proposed LDP which is a material consideration.

Residential Amenity of Proposal

Policy LDP 9 and SG on Sustainable siting and Design Principles serve to establish general principles, including that development should take into account issues of open space/density.

The SG (para 4.2) states that “all development should have private open space (ideally a minimum of 100m²)” and that detached/semi-detached houses should occupy a maximum of 33% of their site. Whilst it is acknowledged that these standards have ‘guideline’ status, and that each application has to be considered on its own merits, it is a material consideration that proposed housing development can provide an adequate level of amenity with regard to adequate private open amenity space, outlook and sunlight/daylight.

As described above, it is unclear whether the measurements are correct and even though the applicant states that the house would have 100m² private open space, it doesn't appear to have this and the area to the rear of the house will be a fairly unattractive area with very little natural daylight and a high fence proposed. It wouldn't be very useable for drying clothes, growing vegetables or sitting out given it will be shadowed by the house. The site is extremely tight and the amenity space would be better on the lower part of the site where it would gain suitable daylight.

Residential Amenity of Neighbours

There is concern from some of the contributors with regard to overlooking but this has been considered and there are no issues in this regard. The proposal does have a top level terrace but there is no private garden area within the fire station house that would be visible from this given the garage building between the two plots. The private views from the houses above the application site is not a material consideration but the applicant has shown it would not be obstructing their views.

Access and Parking

NPF4 Policy 13 supports development that provide easy access by sustainable transport modes and also provide charging points for vehicles and cycles and safe, secure cycle parking. Argyll and Bute Local Development Plan 2015 by Policy LDP 11 Improving Our Connectivity and Infrastructure and Supplementary Guidance policies SG LDP TRAN 4 New and Existing, Public Roads and Private Access Regimes and SG LDP TRAN 6 Vehicle Parking Provision. The relevant PLDP2 (as modified) Policies are Policy 35 Design of New and Existing, Public Roads and Private Access Regimes and Policy 40 Vehicle Parking Provision.

As explained above, in the description of the site, it is near to a bend on Village Brae. The recommendation from Roads is a refusal.

It has not been demonstrated that there is adequate visibility for entering and leaving the driveway so close to the bend. The visibility needs to be 20m x 2m in both directions. This visibility can be achieved looking down Village Brae but due to the bend it does not appear to be achievable looking up the brae.

The applicant has not provided clear drawings to show the sightlines that can be achieved from the access. It looks from the drawings that the 1.8m fence may obscure the visibility but the location of the fence in relation to the sightlines is not clear. This information was requested and an email was received from the applicant on 17th August with the following response to the request:

- *“The 5m strip will not be an issue.*
- *The sightlines are not achievable. The new building will improve the existing situation in two ways. The building sits further back on the site allowing much better visibility at the corner and the new use will be domestic so fewer car than the current use.*
- *Due to the road construction and geometry achieving any speed close to 30mph will be virtually impossible and that the new building because of this will have no impact on existing road safety.*
- *Forward visibility will be the same or better.*
- *There is 6460mm from the garage to the kerb which is an improvement on the former garage.*
- *No new road opening is being create, it is retaining an existing one.*
- *The surface water can be prevented from entering the public road, however the ground levels are such that the public road drains on to the site.”*

In later correspondence the applicant's state *“It has been shown that there was a blind spot on village brae. Also as acknowledged by one of the objectors, bin and fuel lorries have to reserve up the length of Village Brae as there is no turning space available.”*

The above does not address the issues.

Roads do not regard the previous use (a garage with similar or possibly more vehicle movements), to be a significantly material factor and this would have been considered further if there were no other issues with the proposal but there is the added issue of the parking area being too close to the footway because it is such a small site and the development is so close to the road. The roads officer has made it clear that 8m is needed between the footway and the garage door and this is not achievable. No drawings have been submitted to show the sightlines that can be achieved for consideration, nor explain if the fence would obscure the sightlines and no traffic speed survey data has been submitted.

Even if we consider the previous use as a significant material consideration and make an exception to policy, there is lack of clarity over this matter and there are other concerns regarding overdevelopment, so the proposal is considered contrary to Policy LDP 11 and Supplementary Guidance policies SG LDP TRAN 4 and SG LDP TRAN 6 as it does not provide adequate and safe access and the parking area is too close to the edge of the carriageway.

Services Infrastructure

NPF4 Policy 18 seeks to encourage, promote and facilitate an infrastructure first approach to land use planning, which puts infrastructure considerations at the heart of placemaking. NPF4 Policy 22(c) supports proposed developments if they can be connected to the public water mains. The above NPF4 Policies are underpinned in the Argyll and Bute Local Development Plan 2015 by Policy LDP 11 Improving Our Connectivity and Infrastructure and Supplementary Guidance policy SG LDP SERV 1 Private Sewage Treatment Plants and Wastewater Systems. The relevant PLDP2

(as modified) is Policy 60 Private Sewage Treatment Plants and Wastewater Drainage Systems.

In addition, NPF4 Policy 12(c) expects that those developments Inc. residential proposals to incorporate measures that allow the appropriate segregation and storage of waste together with convenient access for the collection of waste. The NPF4 Policy is underpinned in the Argyll and Bute Local Development Plan 2015 by Supplementary Guidance policy SG LDP SERV 5(b) Provision of Waste Storage and Collection Facilities within New Development. The relevant PLDP2 (as modified) Policy is Policy 63 Waste Related Development and Waste Management.

It is proposed to connect the accommodation into the public water main and public sewerage system. Scottish Water has confirmed that there is currently sufficient capacity in the public water supply and public sewerage system to accommodate proposal.

The application does identify the provision of storage for what looks like 2 bins and this is something that could be conditioned.

On the basis of the foregoing, the proposed development is considered to accord with the relevant Policies and Supplementary Guidance.

Flood and Water Management

NPF4 Policy 22(c) supports proposed developments that would not increase the risk of surface water flooding to others, or itself be at risk; that would manage all rain and surface water through sustainable urban drainage systems: and that seek to minimise the area of impermeable surface. The above NPF4 Policy is underpinned in the Argyll and Bute Local Development Plan 2015 by Supplementary Guidance policies SG LDP SERV 2 Incorporation of Natural Features / Sustainable Drainage Systems and SG LDP SERV 7 Flooding and Land Erosion – The Risk Framework for Development. The relevant PLDP2 (as modified) Policies are Policy 55 Flooding and Policy 61 Sustainable Drainage Systems.

The site is not within a flood risk zone. The applicant does not include any details of the surface water drainage and there is concern that given the size of the site it may be difficult to secure a sustainable urban drainage system in accordance with the policy within the bounds of the site.

This is however not considered alone a reason for refusal and is something that could be conditioned. On the basis of the foregoing, the proposed development is considered to accord with the relevant Policies and Supplementary Guidance.

Contaminated Land

NPF4 Policy 9 c) states that where land is known or suspected to be unstable or contaminated, development proposals will demonstrate that the land is, or can be made safe and suitable for the proposed new use. SG LDP SERV 4 of LDP 2015 and Policy 82 of PLDP2 (as modified) also states the requirement for the applicant to undertake a contaminated land assessment and implement suitable remediation measures before the commencement of any new use.

The site has been excavated to form the required development levels, exposing weathered rock strata across most of the site. Within the northern and western margin there is an area of topsoil, grass and bushes remaining. A low retaining wall is present on the southern boundary of the site, beyond which the remaining section

of Andrews Garage is approximately 1m below the site level. An above-ground oil tank was present on the western part of the site.

As explained in Section G “Supporting Information” of this report, the applicant submitted a contaminated land assessment after a request was made by the Contaminated Land Officer in the Council. Section C ‘*Consultation*’ above explains the inadequacies of this report and the outstanding information still required to ensure the land can be made safe for its proposed use as a house.

The applicant does not agree with this response and states the following:

“The report (submitted) addresses all issues raised by Environmental Health and highlights that in any case the site is underlain by impermeable rock strata. This should address the objection that we would have to remove material from the site to perhaps a depth of 3m. Also photos were sent just after the corrugated steel building was taken down when it had rained heavily as contamination on site was a consideration for us. The photos show no iridescence from hydrocarbon contamination on the surface of any puddles on site, or on the surface of the apparently watertight inspection pit which was nowhere near 5m long and 2m deep as alleged in the objection, it is barely 2m.”

Whilst acknowledging the applicant’s contention, it is therefore contrary to Policy 9 part (c) and also SG LDP SERV 4 as further information is outstanding. It also does not meet Policy 82 of PLDP2 which is a material consideration.

Conclusion

The fundamental issue in relation to this case is the scale and design of the house which is inappropriate in this context within the village setting. There are a number of other matters that also have not been addressed by the applicant, including demonstrating safe access/egress from the parking area and that the contaminants have been fully investigated and can be appropriately dealt with. Despite this being a brownfield, infill housing site within a settlement where there is a lot of support within the policies of the NPF4 and LDP, it is not appropriate response and does not add to the sense of place. There are no other material considerations that give support for this application and therefore the recommendation is a refusal.

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

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

N/A

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

N/A

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

Author of Report: Kirsty Sweeney **Date:**

Reviewing Officer: **Date:**

Fergus Murray
Head of Development & Economic Growth

REASONS FOR REFUSAL RELATIVE TO APPLICATION REF. NO. 22/00221/PP

1. The proposal, by reason of its size, scale, massing, height and design detailing, boundary treatment, would have an adverse visual impact on the immediate and wider surroundings and would be detrimental to the character and appearance of the village centre of Tighnabruaich and the wider Area of Panoramic Quality. The art deco style is an inappropriate design response for this site giving prominence to the site being in an elevated position on Village Brae. It will be highly visible and intrusive in the skyline when viewed from the village shops and in the context of the Tighnabruaich Hotel and even from wider views. The design is inappropriate because of the white render up to the eaves, to the height of 3 storey, and the mass of the building which is not broken up which is sited on an already elevated site. It does not integrate with the surrounding townscape and adversely affects the sense of place and character of this attractive village centre. There are no other Art Deco style in the village and there is no design cues taken from the buildings around it including the neighbouring garage, fire station and the stone/slate traditional buildings. Consequently the proposal would be contrary to Policies 14 and 16 of NPF4, Policy LDP 9 of the Argyll and Bute Local Development Plan and also to the LDP SG Sustainable Siting and Design Principles and LDP SG ENV 13 Areas of Panoramic Quality. It is also contrary to Policies 01, 05, 08, 09 and 10 of the proposed Local Development Plan.
2. The development would not provide an adequate standard of residential amenity for the occupiers. In this instance a terrace is provided which is welcomed and will improve the residential amenity for occupiers but it is limited. More importantly the rear space proposed will provide poor quality amenity by reason of lack of daylight and proximity to traffic using the adjacent road. The proposal is therefore over-intensive development of a very constrained plot and as such would not accord with SG Siting and Design of the Argyll and Bute Local Development Plan.
3. The proposal is considered contrary to Policy LDP 11 and Supplementary Guidance policies SG LDP TRAN 4 and SG LDP TRAN 6 of the Argyll and Bute Local Development Plan 2015 and Policies 35, 36 and 40 of the proposed Local Development Plan given it has unsuitable visibility onto Village Brae. The parking area is also too close to the edge of the carriageway and a total of 8 metres cannot be achieved to accommodate a 6m parking area and 2m strip across the access. It is recognised that this is an existing access that has been historically been used by the garage, that was previously on site, and was likely to have similar or more vehicle movements, but no evidence has been submitted nor amendments made to try to find the best solution in terms of achieving the visibility from the driveway onto Village Brae and give the required distance for the parking area to the footway. And indeed the erection of a 1.8m fence is likely to further obscure the views when entering and leaving the proposed driveway. There is no clear drawings or evidence to demonstrate if the visibility of 20m, set back 2m in either direction can be achieved or as near to this as possible.

4. The proposal is considered contrary to NPF4 Policy 9, part (c), SG LDP SERV 4 and Policy 82 of the proposed Local Development Plan as it has not been demonstrated, to the satisfaction of the council, that the site is and can be made safe and suitable for the proposed house. There are a list of outstanding requirements in relation to the Contaminated Land Assessment that have not been adequately responded to. These mainly relate to the survey methods, and the depth of sample surveys.

List of Plans and Documents relevant to the refusal

Title	Drawing No.	Version/Issue	Date Filed
Location Plan and Proposed Site Plan	A1-00		25/03/2022
Proposed Floorplans	A1-01		02/03/2022
Proposed Elevations	A1-02		02/03/2022
3D View and Site Section	A1-03		02/03/2022
Supporting Statement/Design Statement			02/03/2022
Site Investigation and Environmental Report 24.06.2022			15/07/2022
Topographical Survey Sent by K Raeburn 08.06.2022			10/06/2022

APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **22/00221/PP**

(A) Has the application been the subject of any “non-material” amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing. Yes No

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

N/A – see reasons above

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LOCAL REVIEW BODY REFERENCE: 24/0003/LRB	PLANNING APPLICATION REFERENCE: 22/00221/PP ANDREWS GARAGE, TIGHNABRUAICH, PA21 2DS
Consultee statement	Anthony Carson Environmental Health Officer Regulatory Services Argyll and Bute Council
Date	13 March 2023

Introduction

I am the lead officer for Environmental Protection within Regulatory Services. This role includes the delivery of the Service's Land Contamination responsibilities, and providing recommendations on potential land contamination issues within Development Control. In this regard I advise on the sufficiency of reports submitted to support individual planning applications where potential land contamination constraints have been identified.

In my statement I have provided some background to contamination from garages and outlined the consultation and review process undertaken over the last year.

The applicants' statement details a number of opinions in relation to potential land contamination on site, its investigation and assessment. I have made some notes at the end of my statement on some of these.

I have also provided a comment on the supplementary information to Supporting Documentation, provided by Crossfield Consulting.

Background

It is important to note that both the garage building and land, which constitute the site, have been part of a vehicle repair business for decades. The sales particulars (Appendix 1.) indicate that Andrews Garage had been operated by the previous owner alone for nearly 50 years.

In this regard concerns that activities associated with the vehicle repair business could have contaminated soils within the site are entirely reasonable.

The Department of the Environment published a series of Industry Profiles to provide authoritative and researched information on processes, materials and wastes associated with individual industries. This series considered the most contaminative of industries and included vehicle repair in its "Road vehicle fuelling, service and repair *garages and filling stations*" publication.

Helpfully as well as detailing potential contaminants and contaminative activities within garages, this publication also describes activities which lead to contamination of soils on land associated with and adjacent to garages.

In regard to factors affecting contamination from repair garages it details; "... waste oils and other fluids are likely to have been disposed of down nearby drains or thrown onto open ground. Combustible materials may have been burned on-site along with some of the waste oils. Used tyres and parts often presented a disposal problem and may have been left lying on site"

It is of note that the Crossfield Consulting Phase 1 & 2 Environmental Assessment Report (2023) references this Industry Profile and use its guidance to identify some of the contaminants it considers relevant to its investigation.

Street view screenshots of the site prior to demolition are provided in Appendix 9. These show areas of trafficking, storage of vehicles, storage of garage wastes/ parts, and, oil tank location.

Outline of Consultation and Review process

The Crossfield Consulting Phase 1 & 2 Environmental Assessment Report (2023) was received in support of planning application 22/00221/PP on 23 January 2023. On first reading of the report, prior to detailed review, it was clear that a number of aspects of the report were absent or insufficient. I advised Planning case Officer of this (10 March 2023 Appendix 2.) detailing these matters, requesting that they be amended or provided within the report.

On 5 April 2023 (Appendix 3.) I received a note of the Crossfield Consulting responses to my request. The responses essentially refuted these matters and disregarded my request. An amended or revised report was not submitted.

A detailed review of the original report (absent amendment or revision), was then undertaken. The review found the Crossfield Consulting Phase 1 & 2 Environmental Assessment Report (2023) insufficient to address potential land contamination issues. A summary of the review findings and the review notes were provided to Planning case officer on the 29 May 2023 (Appendix 4.).

On the 10 July 2023 a response to my review of the Crossfield Consulting Phase 1 & 2 Environmental Assessment Report (2023) was received (Appendix 5.). These comments were reviewed and whilst some were helpful, the substantive issues with the Report remained outstanding.

I provided a response to these comments in a reply to Planning case officer on the 11 September 2023 (Appendix 6.). In it I confirmed that matters highlighted in the initial review (25 May 2023) remained outstanding, I provided a summary of the relevant review conclusions and a more detailed explanation of four specific aspects of the report which did not appear to have been fully appreciated by the authors.

In addition, given comments made by Crossfield Consulting (10 July 2023), it was felt necessary to provide further notes on the requirements of authoritative guidance and practice.

The detailed explanations and additional comments gave further context to my original review comments (25 May 2023).

This additional clarification was provided (to be read in the context of my initial review comments) to assist the applicants and their consultants in the review and revision of the January 2023 Report, and a recommendation was given that this should be done initially through their reconsideration of the conceptual site model and development of a preliminary risk assessment.

I added that I would be happy to provide comment at this stage of review/ revision.

To date a revised Report has not been submitted.

Notes on specific comments in the Raeburn Supporting Document

1. Redevelopment of filling station comment

As noted in the correspondence provided by Mr and Mrs Raeburn, this email exchange arose from the investigation of complaints of burning on the site of the garage before the planning application was made. Clarification provided by Mrs Raeburn was noted and all further correspondence regarding the planning application has considered the site's association with the vehicle repair business and associated garage activities.

It is worth noting that in correspondence associated with the burning complaints Mr Raeburn advised (8 November 2021 Appendix 8.): "...had commented that the previous proprietor, Andrew Sim, had blighted the environment for years by regularly burning oily waste and tyres..."

2. Opinion that the site had been a vehicle repair workshop for only 4 years between 1979 and 1983.

This appears to arise from a misconception that vehicle repair activities commenced when the garage was detailed on the 1979 map, and an assumption that such activities ceased when a proposal was made to expand the business premises in 1983.

Simply because the use of a building is marked on a map does not preclude its use for that purpose prior to the map edition. There has been a building in this location since at least 1895. The Structural Partnership Report (June 2022) notes the building on site was thought to become a garage in the 1950's. Crossfield Consulting Report (2023) states that the site was occupied with a former vehicle maintenance garage which was present during the 1970s and possibly earlier. Both of these statements are provided in documents submitted by the applicant.

3. Document 18 – supplementary information to Supporting Documentation (Crossfield Consulting)

This document provides comment on two issues of note in regard to land contamination investigation and assessment, within the consultation and review process detailed above: **sensitive water environment receptors**, and **outstanding matters** with the reporting.

- i) **Sensitive water environment receptors.** Crossfield Consulting indicate that the water environment within the area of the redevelopment is not considered sensitive. This is not the case. For groundwater the relevant policy is detailed in SEPA position statement WAT-PS-10-01 Assigning Groundwater Assessment Criteria for Pollutant Inputs. The consideration and assessment of groundwater requires to align with WAT-PS-10-01. This was detailed in my correspondence with the Planning case officer on 11 September 2023 (Appendix 6.).
- ii) **Outstanding matters.** Crossfield Consulting state they are not aware of outstanding matters subsequent to their correspondence of 7 July 2023. Outstanding matters were reiterated and further detailed in correspondence of 11 September 2023 with the

Planning case officer. Confirmation that this correspondence was passed to the applicant was acknowledged on 31 October 2023 (Appendix 7.).

Appendices

1. Sales Particulars





Village Brae

Argyll and Bute, Tighnabruaich, PA21 2DS

The sale of Andrew's garage provides an excellent lifestyle business opportunity for a truly stunning area of Argyll and Bute. Similarly existing garages looking to expand their recovery services to incorporate a greater geographical area may also be interested.

Andrews Garage occupies an elevated position within the picturesque village of Tighnabruaich. The two commercial units are situated on the corner of a residential street which climbs away from the shoreline and circles back round to the main coastal road. The stunning village is located on the south west coast of Loch Riddon as it stretches into the Nylas of Bute and as such provides panoramic views. The village features a post office, bank, grocery store in addition to a number of independent shops, cafes and restaurants. The village is a popular place to visit and boasts a golf course and tennis court. There is also a children's play area and a popular sailing club, the popular Portavadie marina is also nearby.



The Business

Andrew's Garage has been operated by the current owner for almost 50 years and the garage predominately operates as a break down and recovery business. The coverage of the business includes Bute, Islay and Jura, Lochgilphead to Campbeltown, Dunoon and Inverary and often up to Oban. Contracts are in place with almost every leading UK recovery and breakdown insurance companies including The AA, RAC, LV Britannia rescue and Call Assist to name a few. Trade and contracts would be transferred to new owners. Pricing structures exist within the contracts which are reviewed on a long term basis. General garage work, repairs and MOT preparation are also undertaken. There is also Pass 43 certification in place which is the industry standard in recovery and breakdown services. The sale of the business also includes the recovery fleet which consists of a Land Rover discovery used for road side assistance, a Mitsubishi 7.5 ton crewcab slideback and a DAF 7.5 ton transporter. All vehicles are in good order and fitted with the appropriate fittings to allow ferry travel. Andrew's garage has the ability to deal with motorbikes up to campervans which is ideal given the high number of visitors and tourists to the area. Areas for development do exist including establishing new commercial contracts including the police as well as sourcing work further afield, the opportunity also exists to introduce MOT

testing.

The full trading information will be provided after a formal viewing has taken place.

An inventory will be compiled to detail all items of a personal nature excluded from the sale.

The Property

The business currently occupies two Nissan huts. The durable structures cover the concrete floors which combined provide 2070 sq. ft. of space. The main workshop situated nearer to the shoreline houses the majority of the garage tools and equipment including the 3 ton lift and office whilst the second building at a slightly higher elevation is currently used as a storage space. The property has strip lighting as well as a number of clear panels to provide natural light. Both buildings benefit from three phase electricity.

External

Small external area to allow vehicle manoeuvring and a parking area for the recovery vehicles. Small area to the rear creating a decent sized plot.





INDUSTRY GARAGE, SLIDE DOOR, TO-HANGBACK, RIVETS AND BOLT, PLOT 208
TOTAL OFFICE FLOOR AREA 288.92 FT² (26.7 SQ.M.)
Whenever alterations are made to increase the accuracy of the floor area measurements
of walls, columns, doors and any other built-up structures and to automatically refer to any other
measure, or measurement. This plan is for illustrative purposes only and should not be used as a basis for
any other purpose. The services, equipment and fixtures shown here are not intended to guarantee
work that is available in reference to this plan.
Made with AutoCAD 2014

ccl
PROPERTY



62 High Street, Elgin
Moray
IV30 1BU
01343 610520
info@cclproperty.com

2. Email 10 March 2023

RE: Contaminated Land Issue - Erection of Dwellinghouse, Andrew's Garage Site, Tighnabruaich (ref: 22/00221/PP) [OFFICIAL] - Message (HTML)

Carson, Anthony | Gove, Steven 10/03/2023

RE: Contaminated Land Issue - Erection of Dwellinghouse, Andrew's Garage Site, Tighnabruaich (ref: 22/00221/PP) [OFFICIAL]

Thank you for forwarding the consultant's report for the above planning application. I have read through the report and found a number of aspects of the report absent or insufficient. Before I can carry out the relevant review these would need to be amended and/ or provided within the report.

There is no indication of who wrote the report, checked it and authorised it.

There is no factual information on the locations where sampling was undertaken; logs, soil descriptions, photos etc

There is no record of who took the samples or details of chain of custody information which would explain the discrepancy in text at Appendix III and time taken for samples to get to the laboratory.

There is no detailed scale plan showing the sampling locations – this would be expected to be at a definition of at least 1 to 500

Regards

Anthony

Anthony Carson
Environmental Health Officer – Environmental Protection
Development and Economic Growth
Argyll & Bute Council
Helensburgh & Lomond Civic Centre
Helensburgh
G84 7PG
Telephone: 01436 658995

3. Email 5 April 2023

Fw: Andrews Garage, Tighnabruaich - Message (HTML)

karen raeburn | Gove, Steven; Carson, Anthony 05/04/2023

Fw: Andrews Garage, Tighnabruaich

Follow up. Start by 11 April 2023. Due by 11 April 2023.
You replied to this message on 29/05/2023 17:02.

Good morning Steven

As discussed last week I have just received an emailed response below from Crossfield Consulting, as forwarded below, providing answers to the 4 queries you received from Environmental Health on their 81 page ENVIRONMENTAL ASSESSMENT REPORT of January 2023.

To save you the trouble of forwarding I have included Anthony Carson in this email.

I hope this assists.

Kind regards

Karen

----- Forwarded message -----
From: John Whittle <jhw@crossfield-consulting.co.uk>
To: <>>; Scott Raeburn <>>
Sent: Wednesday, 5 April 2023 at 13:08:27 BST
Subject: Andrews Garage, Tighnabruaich

Our Ref. JHW/jw/CCL03617.012

File Message Tell me what you want to do... Fw: Andrews Garage, Tighnabruaich - Message (HTML) 05/04/2023

karen raeburn [redacted] Gove, Steven; Carson, Anthony -

Fw: Andrews Garage, Tighnabruaich

Follow up. Start by 11 April 2023. Due by 11 April 2023.
You replied to this message on 29/05/2023 17:02.

Dear Scott/Karen,

Andrews Garage, Tighnabruaich

We understand that the following numbered comments have been provided by the local authority Environmental Health Officer (EHO) and we clarify the matters raised as follows:

- 1. There is no indication of who wrote the report, checked it and authorised it*

As stated in Section 1 of the report, the report was prepared under the direction and supervision of a Civil Engineer and Registered SiLC, which complies with published guidance regarding the competence of the report authors. It is our company policy that individuals are not named on Reports. However, I can confirm that this report was written by Max Bowden, BSc FGS, a graduate geoenvironmental engineer under the direction and checking of myself, John Whittle, a Chartered Civil Engineer and Registered Specialist in Land Condition (SiLC) with over 35 years contaminated land experience.

- 2. There is no factual information on the locations where sampling was undertaken; logs; soil descriptions; photos; etc.*

As outlined in Section 5 of the report, soil samples were recovered from the area of the proposed small private garden. All soil samples comprised: dark brown organic sandy clay with occasional fine roots (ie. natural soils as had been disturbed by some earth-moving on site). With reference to the inspections undertaken and photographs provided, this material is considered to be representative of the soil remaining in the area of the proposed garden. No evidence of stained materials, demolition rubble or other potential sources of contamination is indicated in the soils.

12:46 13/03/2024 25

File Message Tell me what you want to do... Fw: Andrews Garage, Tighnabruaich - Message (HTML) 05/04/2023

karen raeburn [redacted] Gove, Steven; Carson, Anthony -

Fw: Andrews Garage, Tighnabruaich

Follow up. Start by 11 April 2023. Due by 11 April 2023.
You replied to this message on 29/05/2023 17:02.

It is noted that the proposed private garden area comprises an area of only 7 m x 5 m (35 m² approximately). At the time of the soil sampling, over 75% of this area had been excavated well into the underlying rock strata; the soil samples were recovered from the remaining margins of the site where soil materials were still present.

- 3. There is no record of who took the samples or details of chain of custody information which would explain the discrepancy in text at Appendix III and time taken for samples to get to the laboratory*

The laboratory report included in Appendix III provides confirmation (on page 6) that the sample containers used were appropriate and that sample holding times (from sample recovery on site to testing) were not exceeded and complied with laboratory testing procedures. We trust this clarifies. The reference to *discrepancy* in our report is not understood. It is not our usual policy to issue Chain of Custody sheets, as these do not provide any additional information relevant to the data or assessment.

- 4. There is no detailed scale plan showing the sampling locations – this would be expected to be at a definition of at least 1 to 500"*

There is a detailed 1 to 200 scale plan (Figure III-1) showing the sampling locations, as presented within Appendix III of the report.

If you wish to discuss any matters further, please do not hesitate to contact me. In the meantime, please forward this email to the local authority, as appropriate.

Yours sincerely,

John H Whittle BSc MSc FGS MICE CEng SiLC

12:46 13/03/2024 25

4. Email 29 May 2023

Attachment Tools 22/00221/PP Andrews Garage, Tighnabruaich [OFFICIAL] - Message (HTML)

File Message Attachments Tell me what you want to do...

Carson, Anthony Gove, Steven 1 29/05/2023

22/00221/PP Andrews Garage, Tighnabruaich [OFFICIAL]

Consultants report review.docx .docx File

Classification: OFFICIAL

Good afternoon Steven

Apologies for the delay in getting back to you on this.

I have reviewed the report submitted by the applicant and can confirm it is insufficient to address potential land contamination issues.

In summary the desk study

- has not utilised available information which would assist in describing potential pollutant linkages
- has relied on 3rd party reconnaissance without demonstrating appropriateness or competency in its provision
- has not developed a conceptual site model which considers relevant pollutant linkages
- has not provided transparency in the preliminary risk assessment, in line with cited guidance
- has not developed an investigation strategy consistent with the code of practice/ relevant pollutant linkages
- has progressed a site investigation on the basis of inaccurate information
- reports on an investigation without necessary factual information (including sample chain of custody) being provided

I have attached my review notes for information.

Please let me know if you want to discuss.

Regards

Anthony

Windows taskbar: 12:53 13/03/2024

5. Email 10 July 2023

Planning Ref: 22/00221/PP - former Andrews Garage, Tighnabruaich PA21 2DS - Message (HTML)

File Message Tell me what you want to do...

John Whittle <jhw@crossfield-consulting.co.uk> Gove, Steven; Carson, Anthony; Simon@highstreetarchitects.co.uk; karen raeburn; Scott Raeburn; Iain Donnachie 1 10/07/2023

Planning Ref: 22/00221/PP - former Andrews Garage, Tighnabruaich PA21 2DS

Follow up. Start by 17 July 2023. Due by 17 July 2023.
If there are problems with how this message is displayed, click here to view it in a web browser.

L03617 EHO Issues - 1-00221 Tighnabruaich.pdf .pdf File

FAO Steven Gove, Planning Officer – Argyl & Bute Council/Comhairle Earra Ghàidheal agus Bhòid

cc Anthony Carson, Environmental Health Officer, Argyl & Bute Council
Iain Donnachie – The Structural Partnership
Simon Ash – High Street Architects
Karen & Scott Raeburn

Our Ref. JHW/jw/CCL03617.015

Dear Steven Gove,

Windows taskbar: 12:56 13/03/2024

Planning Ref: 22/00221/PP - former Andrews Garage, Tighnabruaich PA21 2DS - Message (HTML)

John Whittle <jhw@crossfield-consulting.co.uk> | Gove, Steven; Carson, Anthony; Simon@highstreetarchitects.co.uk; karen raeburn; Scott Raeburn; Iain Donnachie - 10/07/2023

Planning Ref: 22/00221/PP - former Andrews Garage, Tighnabruaich PA21 2DS

Follow up. Start by 17 July 2023. Due by 17 July 2023.
If there are problems with how this message is displayed, click here to view it in a web browser.

L03617 EHO Issues - 1-00221 Tighnabruaich.pdf
.pdf File

We were surprised to (recently) receive such a long list of comments from Environmental Health regarding the above property and our *Phase 1 & 2 Environmental Assessment Report* (Jan 2023) Ref. CCL03617.CR18, particularly as we had thought we had addressed the main issues in our email issued on 5 April 2023 (and sent on to the Council shortly after). We have extensive experience of working throughout Scotland, including for several local authorities and public bodies, and over several decades.

It appears that most of the items raised relate to presentational issues and/or a misunderstanding of the *scale* of the proposed development/very small size of the site, which comprises the following:

- Only one small dwelling is proposed
- The proposed house is directly underlain by very low permeability intact rock strata
- A domestic garden is proposed of only 7 m x 5 m which includes the very limited volume of soil remaining on site.
- The ground investigation targeted the most sensitive element of the proposed development, namely the garden area.
- The site has not been associated with bulk petrol storage or significant use of paints etc.
- The site is not located in an environmentally sensitive location (ie. does not adjoin a watercourse and is not underlain by a significant aquifer).

Attached, is the schedule of comments, dated 25 May 2023, as provided by Environmental Health, together with our clarification of each point raised (in blue text in appended column). We trust that these (extensive) clarifications will assist and permit the development to proceed.

My contact details are provided below (unfortunately, I only have an email address for Anthony Carson). If any matters still remain outstanding, it would be preferable that your Officer contact me directly by phone/online discussion to clarify any items and avoid further potential misunderstanding or protracted email exchanges. In the meantime, your assistance is appreciated, and it is hoped that these issues are now resolved such that development may proceed.

Yours sincerely

6. Email 11 September 2023

22/00221/PP Andrews Garage [OFFICIAL] - Message (HTML)

Carson, Anthony | Gove, Steven; Watt, Mary - 11/09/2023

22/00221/PP Andrews Garage [OFFICIAL]

Classification: OFFICIAL

Report Review	Phase 1 & 2 Environmental Assessment Report January 2023	
Author	Crossfield Consulting	
Context	Support approval of planning application (predetermination)	Planning reference 22/00221/PP
	Additional comment	11/09/2023

Good morning Steven

Thank you for forwarding the comments from Crossfield Consulting (email of 10/07/2023), regarding review of their January 23 Report in correspondence of 29/05/2023.

The comments provided by Crossfield Consulting (10/07/2023) to matters highlighted in review of their Phase 1 & 2 Environmental Assessment Report January 2023 (25/05/2023) are helpful and informative. However they confirm that matters highlighted within the 25/05/2023 review are outstanding, and that the January 2023 report is insufficient to address potential land contamination issues.

In summary the initial review conclusions remain relevant in that the Report

- has not utilised available information which would assist in describing potential pollutant linkages
- has relied on 3rd party reconnaissance without demonstrating appropriateness or competency in its provision
- has not developed a conceptual site model which considers relevant pollutant linkages
- has not provided transparency in the preliminary risk assessment, in line with cited guidance
- has not developed an investigation strategy consistent with the code of practice/ relevant pollutant linkages
- has progressed a site investigation on the basis of inaccurate information
- reports on an investigation without necessary factual information (including sample chain of custody) being provided

Carson, Anthony | Gove, Steven; Watt, Mary -
22/00221/PP Andrews Garage [OFFICIAL]

11/09/2023

I have provided further comment on four specific aspects of the report (authoritative guidance, preliminary risk assessment, site investigation and water environment), which should give further context to my original review comments (25/05/2023).

In addition, in regard to a number of matters apparent in Crossfield Consulting comments of (10/07/2023) I have provided a series of additional notes.

This additional clarification has been provided (with my initial review comments) to assist the applicants and their consultants in the review and revision of the January 2023 Report. I would recommend that this is done initially through their reconsideration of the conceptual site model and development of a preliminary risk assessment. I would be happy to provide comment at this stage of the review/ revision (in line with LCRM).

The following text and notes should be read in the context of my 25/05/23 review of the January 2023 Report.

I Authoritative guidance

Although clarity on the specific guidance used in completing the report was raised, the Crossfield Consulting response gave reference to a broad selection of documents in what appears to be a generic statement in section 7.1 of the January 2023 report, and an additional range of documents in its bibliography (References list). In terms of the methodology used in approaching the site investigation and completing the report, the key (and most recent) documents referenced would appear to be PAN 33 (2017), BS 10175:2011+A2:2017 and LCRM 2020.

It should be noted that the LCRM publication "Land Contamination Risk Management" published by the Environment Agency has not been produced for use in Scotland ("Applies to England, Northern Ireland and Wales"). However the document is often referenced as authoritative guidance by consultancies based outwith Scotland. In this regard it has been considered relevant to use as a reference methodology for the approach assumed (given reference to section 7.1) to have been utilised by Crossfield Consulting, in addition to BS10175, in completing the January 2023 report.

II Preliminary risk assessment

LCRM details a technical approach to risk assessment through a tiered process. This tiered process starts with a Tier 1: Preliminary Risk Assessment.

Carson, Anthony | Gove, Steven; Watt, Mary -
22/00221/PP Andrews Garage [OFFICIAL]

11/09/2023

II Preliminary risk assessment

LCRM details a technical approach to risk assessment through a tiered process. This tiered process starts with a Tier 1: Preliminary Risk Assessment.

LCRM confirms that this "must" be undertaken, it identifies the use of qualitative risk assessment (providing an example of a risk classification matrix), and importantly details decisions that must be taken in concluding the preliminary risk assessment. It requires the production of a preliminary risk assessment report which sets out the findings of this Tier 1 process.

Whilst Crossfield Consulting have provided some aspects of the Tier 1 process in the report it is incomplete, there is no qualitative risk assessment of potential pollutant linkages and no aspect of the report which could reasonably be considered a conclusion and/ or preliminary risk assessment report.

Section 7.3 references a risk assessment document (C552) which provides a relevant methodology, which had it been applied would have assisted in demonstrating preliminary risk assessment. However section 7.3 fails to provide the relevant information describing the use of C552 methodology or detail the application of the C552 matrix.

When the apparent lack of preliminary risk assessment was raised in the 25/05/2023 review

- in the description of assessment in the 4th column of Table 1 (Receptors and Assessed Contaminant Linkage), and
- in concerns raised regarding insufficient site investigation arising from lack of preliminary risk assessment,

Crossfield Consulting advised that C552 descriptions of probability and consequence were addressed in Table 3.

However Table 3 details probability, consequence and risk rating as "n/a" for each contaminant linkage. It is of note that the assessment in Table 3 is predicated on the outcome of ground investigation. As such this Table is not part of the Preliminary Risk Assessment and its content is not relevant to the Tier 1 process.

In effect there is no provision within the report for the qualitative assessment of potential pollutant linkages on the basis of an authoritative methodology or matrix (preliminary risk assessment), and no representation of such a process which would give confidence in its outcome or conclusion.

III Detailed or main site investigation

The lack of a preliminary risk assessment (aligned with LCRM requirements) has consequences as it reduces confidence in the understanding of pollutant linkages requiring further risk management action,

22/00221/PP Andrews Garage [OFFICIAL] - Message (HTML)

File Message Tell me what you want to do...

Carson, Anthony Gove, Steven; Watt, Mary - 11/09/2023

22/00221/PP Andrews Garage [OFFICIAL]

III Detailed or main site investigation

The lack of a preliminary risk assessment (aligned with LCRM requirements) has consequences as it reduces confidence in the understanding of pollutant linkages requiring further risk management action, such as detailed/ main site investigation. These consequences extend to the development of an investigation strategy (BS10175) where pollutant linkages are excluded without appropriate preliminary risk assessment.

In regard to intrusive site investigation LCRM defers to a range of guidance on designing and undertaking investigations, including BS10175 (as referenced in the January 2023 Report).

BS10175 details that sampling strategies should take account of a number of factors, including findings of the risk assessment to date (preliminary risk assessment), and that locations for soil sampling should be based on targeted (judgemental) sampling of known or suspected point source areas of contamination, or non-targeted sampling within a defined area or volume of a site, or both.

In the January 2023 report there isn't a discussion on the development or presentation of an investigation strategy.

There is however a Rationale for the design of the ground investigation in Appendix III which although mentioning the use of ground conditions, CSM and potential contaminant linkages, doesn't reference or discuss any of this site specific information. This means the approach detailed is unsupported. Importantly the Rationale doesn't take account of the "findings of the risk assessment to date" as, detailed above, there is no preliminary risk assessment aligned with LCRM within the January 2023 Report.

The Rationale indicates all samples were targeted at the garden area (this does not meet the BS10175 definition of targeted (or judgemental) sampling), and samples would be recovered from near surface soils, although sampling depth was described as "Surface" (Table III-1).

Description of sampling depth as "Surface" is unhelpful, it is unclear whether this is a literal description of sampling at surface, or whether this is a generalisation of sampling within the surface layer (BS10175).

BS10175 requires that a description of field work is reported, and details the information required in the sampling report including description of ground strata and sampling depth. This information is absent from the report, however it is noted that Crossfield Consulting indicate additional sampling information can be provided. Sufficient sampling information (as a minimum to the requirements of BS10175) should have been included in the report.

13:14 13/03/2024 26

22/00221/PP Andrews Garage [OFFICIAL] - Message (HTML)

File Message Tell me what you want to do...

Carson, Anthony Gove, Steven; Watt, Mary - 11/09/2023

22/00221/PP Andrews Garage [OFFICIAL]

Ground conditions are described in the The Structural Partnership Report June 2022 (the report utilised in the desk study (January 2023 Report) in lieu of a reconnaissance visit or walkover). Descriptions of ground conditions differed in the report;

- section 3.4 described "reworked CLAY soil which varied in thickness from 0.4m" (*Note - text in report appears incomplete*) and,
- section 6.1 concluded "The site is a Brownfield site with thin superficial deposits consisting of a reworked boulder CLAY to a depth of 0.2m to 1.5m".

Given their limitations, these descriptions of anthropogenic soils on site (which with potentially contaminating activities associated with the garage operation and proposed change of land use to residential), provide sufficient information to cast doubt that a single sample at each location would be sufficient for an investigation strategy to align with BS10175.

For reference BS 10175 details in regard to sampling depths, the sampling strategy should include

- samples from the surface layer (this may vary between surface and a depth of 0.5m and could require sampling at more than one depth)
- samples within anthropogenic ground at fixed depth intervals (0.5m) and at identifiable changes in appearance, and
- samples of natural ground beneath anthropogenic ground (close to boundary; 0.25-0.5m into natural ground).

The Rationale within Appendix III does not describe an approach consistent with this Standard.

Within Table III-1 the reason for selecting the location of soil sample S1 is described as "near to the indicated location of a former above ground tank." The former oil tank location is clearly in the south west corner of the site. There is ample historic and recent photographic evidence available which shows this. The location of S1 to the north west of the site is inconsistent with being near to "the location of a former above ground tank".

IV Water Environment

Consideration of water environment receptors does not take into account SEPA guidance. Crossfield Consulting do not appear to be aware of authoritative guidance provided by SEPA, particularly in regard to resource protection for groundwater. Although reference in the report is made to SEPA (2018) no SEPA documents are listed in the bibliography. In considering the SEPA position on ground water, the position statement WAT-PS-10-01 should be utilised and risk assessment aligned with its methodology.

Notes

13:15 13/03/2024 26



Carson, Anthony | Gove, Steven; Watt, Mary -
22/00221/PP Andrews Garage [OFFICIAL]

11/09/2023

Notes

- A number of statements are made on site use, site history, predevelopment activities and condition of structures. Should such statements be considered anything other than notionally anecdotal they require be supported with clearly referenced evidence. This would allow a level of confidence in such statements to be determined. BS ISO 18400-202:2018 details how to record such information within the report of the preliminary investigation.
- In a preliminary risk assessment the data and basis for classification of probability, consequence and risk should be clearly presented (C552 6.3.3).
- BS10175 details QA/QC procedures should be applied at all stages of investigation and should take into account "chain of custody procedures and sample handling, transport and storage". Such procedures should be capable of confirming the reliability and robustness of the investigation and it is expected that they be provided in the report.
- BS5930 is a normative reference document for BS10175. It provides definitions of soil descriptions used in BS10175 and its update in accordance with BS EN ISO14688, referenced by BS10175 for recording strata during the formation of trial pits etc., provides additional endorsement of its relevance. In addition LCRM details BS5930 as a relevant general investigation standard and specifies that field reporting includes "descriptions of soils and rocks to BS5930". The January 2023 Report references BS5930 in its bibliography.
- DoE Industry Profile (referenced in the January 2023 Report) details in regard to repair garages that, ".....waste oils and other fluids are likely to have been disposed of down nearby drains or thrown onto open ground. Combustible materials may have been burned on-site along with some of the waste oils....."
- DoE Industry Profile (referenced in the January 2023 Report) details 5 specific heavy metals considered as contaminants in vehicle repair. Only 4 of these are included in Appendix III and the laboratory analysis.
- Point 20. within the Crossfield Consulting Clarification document 10/07/2023 appears to have combined and confused two points from the 25/05/2023 review, and then not understood the "comment". The text in the original review should be viewed to provide any clarity needed.
- Regulatory consultation



Carson, Anthony | Gove, Steven; Watt, Mary -
22/00221/PP Andrews Garage [OFFICIAL]

11/09/2023

- Regulatory consultation
 - BS10175 details the relevance of regulatory consultation;
 - normally undertaken in parallel with documentary research
 - provision of information for CSM
 - early consultation to ensure investigation meets regulatory needs
 - benefit in the early part of an investigation cannot be overstated
 - to include regulators in development of the investigation strategy (noted as extremely helpful especially in context of the planning process)
 - BS ISO 18400-202:2018 details that relevant parties should be consulted in the preliminary investigation and provides a list of relevant regulatory functions which could be considered appropriate
 - In addition LCRM details the relevance of regulatory consultation in
 - the approach to risk classification in preliminary risk assessment
 - conclusion of preliminary risk assessment
 - checking the use of generic assessment criteria
- PAN 33 details that the desk study should be followed by a walkover. LCRM details that the walkover should confirm details of the desk study. Utilising other sources of reconnaissance information (geoenvironmental inspection and assessment carried out to "determine existing ground conditions relative to foundation design" carried out in January 2022 prior to the desk study) has limitations which should be recognised and understood.
- 3rd party information utilised in the report (such as historic maps) should be provided in full

I trust this information is helpful

Regards



7. Email 31 October 2023

RE: 22/00221/PP Andrews Garage [OFFICIAL] - Message (HTML)

File Message Tell me what you want to do...

Gove, Steven Carson, Anthony; Watt, Mary - 31/10/2023

RE: 22/00221/PP Andrews Garage [OFFICIAL]

Follow up. Start by 01 November 2023. Due by 01 November 2023.
You replied to this message on 01/11/2023 10:15.

Classification: OFFICIAL

Hi Anthony,

Many thanks for your e-mail in respect of the above.

I forwarded your comments on to Mrs Raeburn and her response is as follows:

It was only the part of the site proposed for the house which was investigated by Crossfield Consulting.

However, I have just realised that the site on Crossfield Consulting's Report has been identified by a red line around the entire site not just that of the actual house site identified on our planning application and this I assume may be causing Mr Carson's confusion.

For clarity, I will request that Crossfield Consulting alter the identification of the site to coincide with the actual site proposed as one residential house identified on our planning application.

It has already been commented by Crossfield Consulting that the strata immediately below the house is non-permeable rock so would not hold any contaminants. The house would be built directly onto that impermeable strata following roughly the footprint of the garage that was removed.

You do have photographs supplied by us of the puddling by rainfall on the site and in the historical vehicle inspection pit after the superstructure of that upper garage had been removed which all showed there was no iridescence on the surface of any standing water which would have indicated the presence of hydrocarbons.

Further, from Crossfield Consulting's Report the following has been noted:

Page 5

7.3.1 Human Health

Windows taskbar: 13:25 13/03/2024

RE: 22/00221/PP Andrews Garage [OFFICIAL] - Message (HTML)

File Message Tell me what you want to do...

Gove, Steven Carson, Anthony; Watt, Mary - 31/10/2023

RE: 22/00221/PP Andrews Garage [OFFICIAL]

Follow up. Start by 01 November 2023. Due by 01 November 2023.
You replied to this message on 01/11/2023 10:15.

7.3.2 Garden Areas

No valid contaminant linkage associated with PAHs, or significant phytotoxic metals was identified with respect to the garden areas at the proposed development.

7.4 Recommended Remedial Works

On the basis of the foregoing information and risk assessment, it is evident that there are no valid contaminant linkages such that remediation works should not be necessary for the proposed development.

I would be grateful if you could pass this information to Mr Carson as perhaps it may help him when the house site is actually correctly identified on Crossfield Consulting's Report.

Mrs Raeburn mentions that she will request that Crossfield Consulting alter the identification of the site in their report but I haven't had anything further from her in this regard. I'm not sure how significant this might be (there are a number of plans and aerial images in the report, some of which identify the larger site and others which have the application site outlined) but, if a revised plan would be beneficial, please let me know and I'll contact Mrs Raeburn for this.

Your thoughts in general regarding the above response would be welcome.

Kind regards,

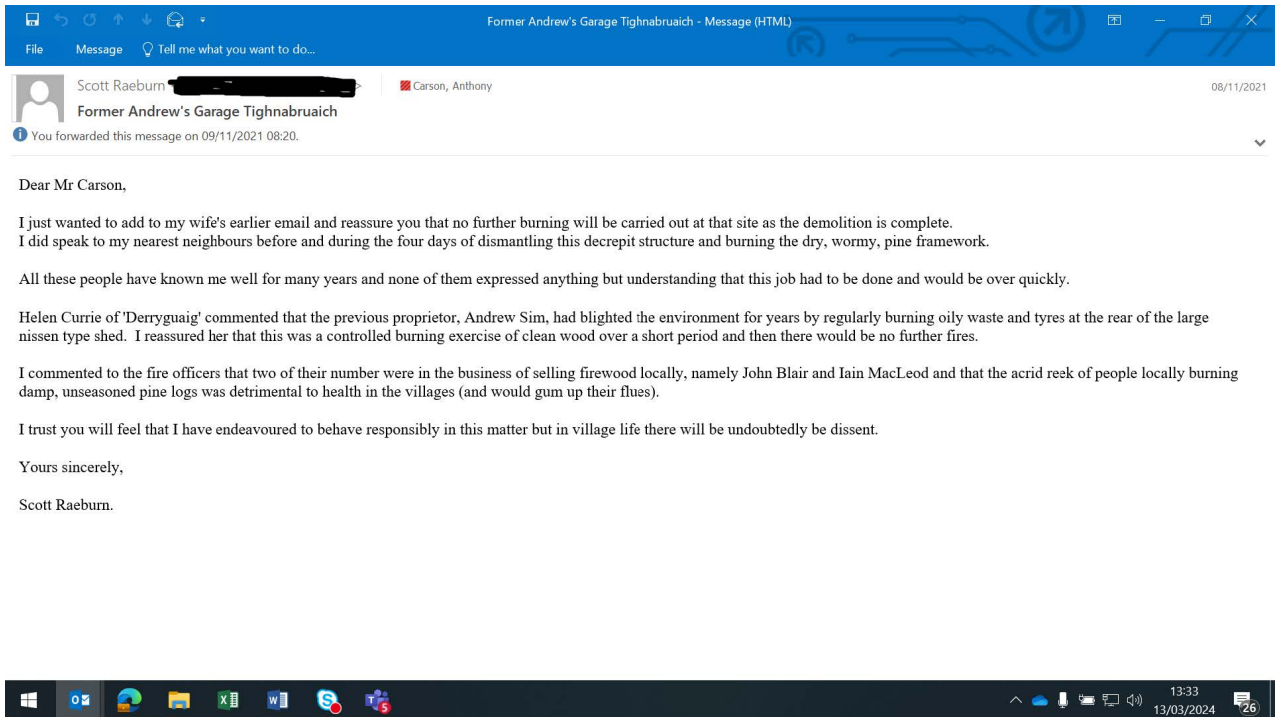
Steven

Planning Officer (Bute, Cowal, Helensburgh & Lomond)
Development Management
Development and Economic Growth
Argyll and Bute Council

t: 01369 708603

Windows taskbar: 13:26 13/03/2024

8. Email 8 November 2021



9. Street view screenshots





10.

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Mr Paul Paterson
2 Manor Way
Tighnabruaich
Argyll
PA21 2BF

Lynsey Innis
David Logan
Head of Legal and Regulatory Support
Legal and Regulatory Support
Kilmory,
Lochgilphead,
Argyll,
PA31 8RT

Local Review Body,
Committee Services,
Argyll and Bute Council,
Kilmory,
Lochgilphead, PA31 8RT

Friday, 23rd February 2024.

Dear Lynsey Innis & David Logan,

LOCAL REVIEW BODY REFERENCE: 24/0003/LRB
PLANNING APPLICATION REFERENCE: 22/00221/PP
ANDREWS GARAGE, TIGHNABRUAICH, PA21 2DS

Find herewith the following representation as requested and before no later than 8th March 2024.

The following representation from me, Paul Paterson of 2 Manor Way, Tighnabruaich, PA21 2BF is as follows:

LOCAL REVIEW BODY REFERENCE: 24/0003/LRB

PLANNING APPLICATION REFERENCE: 22/00221/PP

ANDREWS GARAGE, TIGHNABRUAICH, PA21 2DS

Having taken note of the email sent to me on Friday, 23rd February 2024 whereby this email with attachments and in reference to the above Local Review Body regarding a planning application within the locus of Tighnabruaich, Argyll & Bute. I hereby submit to you the following observations in relation to certain areas of those attachments.

Within the main body of the attachments are pages that have no bearing on me and mainly sits between that of the applicant and the local authority. However, the main thrust within that large body of material sits both rhetoric, hyperbole and vexatious wording. The applicant is giving a very inarticulateness declamatory which lacks any merit, it is she, said, he said speech with vitriolic undertones, lacking any merits within law, there is no case law within that body of material from the applicant and as such is seen as frivolous in nature.

There are several areas within the body of the 43 pages of material that do however mention me, and I shall now address those parts in turn.

Page 13:

“The local review body should be aware that there are some malign forces at work although how far their influence extends (sic) we do don't know” (sic)

The applicants then go on a diatribe of rhetorical distaste about two objectors, one of whom is me. There were a large number of objectors some of whom have had personal threats made against them by the applicants, some of which resulted with the applicant sending in de-facto misinformation about those objectors' residence and place of work.

The sentence from the applicant is fantasy, it is without substance and fact and is more conspiracy theory laden grandiloquence hyperbole. When someone goes off at a tangent and tries to use a fantasy based ideal then it speaks volumes as to the nature and intent to the body of that material that has been supplied by that person/applicant.

Page 13:

Where the applicant has made a number of paragraphs in relation to me it is seen that such material is extremely vexatious in nature, highly false and is in breach of the Defamation and Malicious Publication (Scotland) Act 2021. The applicant has made defamatory comments which lack merit, substance and truth, it is both fantasy and conspiracy-based nonsense.

My employment status has no bearing on this planning application review nor is it of anyone's business. The applicant has made extremely false allegations which merit further legal comment, which shall be addressed personally in due form and time. I am a bona fida and legitimate member of the press; see images attached herein. You will also take note of the images of press tear sheets spanning from now and since 2008. I have a vast number of journalistic friends, newspapers, agencies and national media bodies and my union who can vouch for my experience, work and ethics. The applicants' comments about "journalist friends have never heard of him" is fictitious and erroneous rhetoric.











The applicant brings up another planning application which was also made by the same applicant, which was also refused, within the comments on page 13, the applicant has erred by including another planning application within this review of which the application was also refused.

My comments and objections relating to that other planning application was made in truth faith, without bias and had attributed from both personally seeing something that was not correct and was photographed and included within my objections at the time as well as obtaining various narratives from factual sources.

The usual process for making comments regarding planning reads something like this:

“Making a comment on a planning application.

Members of the public may submit a representation of support or objection to a proposed development right up until a decision is made on the application.

If you comment on a planning application, your comment, name and postal address will be published online for people to read. Your email address will not be published.

Any remarks or information that can be considered as falling within the description detailed below will be removed:

Defamatory, malicious, or libellous remarks about Planning staff, individuals or companies.

Swear words, incorrect information about others, innuendos about others, lies or unsustained truths about the application, defamation of character statements and offensive material of a religious, sexual or political nature.”

In such cases the local authorities who administrate such planning portals would take the appropriate action to weed out any such erroneous comments or remarks, as such Argyll & Bute Council should have removed any and all defamatory, malicious, or libellous remarks about planning staff, individuals or companies including that regarding about objectors. Personal comments about anyone are not acceptable especially those without foundation and are just mere hearsay.

The planning application process relies on people acting in good faith. There is an expectation that applicants and those representing them provide decision makers with true and accurate information upon which to base their decisions. However, under Town and Country Planning (Scotland) Act 1997, it is an offence to issue false representations knowingly or recklessly.

Page 43; No. 17:

The letter sent to Mr Gove from the applicant in relation to me is extremely vexatious and legally holds no water, it is highly defamatory as well as being full of hearsay and conspiracy theories.

There is a notion within the narrative from the applicant the there are misgivings about me, I have never hidden behind bushes, nor have I ever been aquatinted with anyone personally telling me off or otherwise, the applicant is behaving in a rhetoric manner, along with hyperbole and vexatious wording. The applicant is giving a very inarticulateness declamatory narrative which lacks any merit and lacks foundation. There is also a tone of threatening behaviour from the applicant, this in turn is legally fraught and leaves the applicant wide open. It should also be noted that there is an email chain of events from myself to the various heads of Argyll & Bute Council

regarding the applicant and threats made against me during my said objection to their planning application 22/00223/PP. See Complaint - 200611-000237. This was when the applicant and members of their family made frivolous and vexatious unfounded claims that I was interfering with planning application 22/00223/PP and using my position at the time as vice-chair of Kilfinan Community Council (I no longer act as a member of the KCC due to having to the threats made by two persons one of which was the applicant and due to personal safety and for the decorum of everyone within the KCC and as such the KCC disbanded due to insufficient members) which was rebuffed and warranted actions from myself to make a harassment claim against them to Police Scotland via the 101 service and that Police Scotland said it was dealt with.

Ergo:

The review and its contents from the applicant are highly inflammatory vexatious rhetoric that lacks any viable truth and merit. Furthermore, when an applicant makes serious remarks about objectors and how the applicant has wasted monies on the planning application and then goes onto blame the local authority for failures, there can only be one method in dealing with this and that is to strike out the applicants review and either ask for resubmission without the defamatory vexatious remarks and blame game, or to strike out in full. This review is all about sour grapes from the applicant and having to spend monies on applications and has attached an extreme amount of vitriol with it.

Paul Paterson

Freelance Press Photojournalist and Photographer

End...

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Mr Paul Paterson
2 Manor Way
Tighnabruaich
Argyll
PA21 2BF

Lynsey Innis
David Logan
Head of Legal and Regulatory Support
Legal and Regulatory Support
Kilmory,
Lochgilphead,
Argyll,
PA31 8RT

Local Review Body,
Committee Services,
Argyll and Bute Council,
Kilmory,
Lochgilphead, PA31 8RT

Friday, 29th February 2024.

Dear Lynsey Innis & David Logan,

LOCAL REVIEW BODY REFERENCE: 24/0003/LRB
PLANNING APPLICATION REFERENCE: 22/00221/PP
ANDREWS GARAGE, TIGHNABRUAICH, PA21 2DS

Find herewith the following added representation as requested and before no later than 13th March 2024. As per email sent to me from Lynsey Innis on 28th February

2024. This added representation is with regards to the added material from the applicants engineers report – Mr Whittle on the 26th February 2024.

The following representation from me, Paul Paterson of 2 Manor Way, Tighnabruaich, PA21 2BF is as follows:

LOCAL REVIEW BODY REFERENCE: 24/0003/LRB

PLANNING APPLICATION REFERENCE: 22/00221/PP

ANDREWS GARAGE, TIGHNABRUAICH, PA21 2DS

The only areas I wish to bring attention to with relation to Mr Whittle's added memorandum is:

“It is acknowledged that our January 2023 report does not refer to policy in NPF4 (February 2023), as pre-publication data was not available to permit this.”

“that Policy 82 of the Proposed Local Development Plan (October 2023)”

Publication for NPF4 for adoption came into force on 13th February 2023 and prior to that all local authorities and its NGO's / subsidiaries and all stakeholders were made aware of NPF4 on 16th January 2023, prior to this it was well acknowledged and advertised that NPF4 was going ahead and all stakeholders were given ample time to adjust their own polices and working practices.

[Chief Planner Letter: NPF4 stakeholder update - January 2023]

Policy 82 also came into force, with the Planning (Scotland) Act 2019 the National Planning Framework (NPF4) now contains the detailed policy framework that was previously set out in old style local development plans. Most recently the Court of Session has set out its legal opinions on NPF4 through various cases, judicial reviews on NPF4 Policy 3(b)(iii). Furthermore, there was no Environmental Impact Assessment ("EIA") from the applicant that could be relied upon within the correct legal framework of that policy.

It is seen that Argyll and Bute Council Planning Department have made correct decisions with this planning application and may I point out the following which ends my representation within this matter.

If this was to go further the following should be noted:

The legal principles to be applied when determining an appeal against a decision of a reporter or the Scottish Ministers might be summarised as follows (per Lindblom LJ in *St Modwen Developments v Secretary of State for Communities and Local Government* [2017])

EWCA Civ 1643, [2018] PTSR 746 at [6]:

"(1) Decisions of the Secretary of State and his inspectors in appeals against the refusal of planning permission are to be construed in a reasonably flexible way. Decision letters are written principally for parties who know what the issues between them are and what evidence and argument has been deployed on those issues. An inspector does not need to "rehearse every argument relating to each matter in every paragraph" (see the judgment of Forbes J. in *Seddon Properties v Secretary of State for the Environment* (1981) 42 P & CR 26, at p.28).

(2) The reasons for an appeal decision must be intelligible and adequate, enabling one to understand why the appeal was decided as it was and what conclusions were reached on the "principal important controversial issues". An inspector's reasoning must not give rise to a substantial doubt as to whether he went wrong in law, for

example by misunderstanding a relevant Policy or by failing to reach a rational decision on relevant grounds. But the reasons need refer only to the main issues in the dispute, not to every material consideration (see the speech of Lord Brown of Eaton-under-Heywood in *South Bucks District Council and another v Porter (No. 2)* [2004] 1 WLR 1953, at p.1964B-G).

(3) The weight to be attached to any material consideration and all matters of planning judgment are within the exclusive jurisdiction of the decision-maker. They are not for the court. A local planning authority determining an application for planning permission is free, 'provided that it does not lapse into Wednesbury irrationality' to give material considerations 'whatever weight [it] thinks fit or no weight at all' (see the speech of Lord Hoffmann in *Tesco Stores Limited v Secretary of State for the Environment* [1995] 1 WLR 759, at p.780F-H). And, essentially for that reason, an application under section 288 of the 1990 Act does not afford an opportunity for a review of the planning merits of an inspector's decision (see the judgment of Sullivan J, as he then was, in *Newsmith v Secretary of State for Environment, Transport and the Regions* [2001] EWHC Admin 74, at Paragraph 6).

(4) Planning policies are not statutory or contractual provisions and should not be construed as if they were. The proper interpretation of planning Policy is ultimately a matter of law for the court. The application of relevant Policy is for the decisionmaker. But statements of policy are to be interpreted objectively by the court in accordance with the language used and in its proper context. A failure properly to understand and apply relevant policy will constitute a failure to have regard to a material consideration, or will amount to having regard to an immaterial consideration (see the judgment of Lord Reed in *Tesco Stores v Dundee City Council* [2012] PTSR 983, at paragraphs 17 to 22).

(5) When it is suggested that an inspector has failed to grasp a relevant policy one must look at what he thought the important planning issues were and decide whether it appears from the way he dealt with them that he must have misunderstood the Policy in question (see the judgment of Hoffmann LJ, as he then

was, *South Somerset District Council v The Secretary of State for the Environment* (1993) 66 P & CR 80, at p.83EH).

(6) Because it is reasonable to assume that national planning policy is familiar to the Secretary of State and his inspectors, the fact that a particular policy is not mentioned in the decision letter does not necessarily mean that it has been ignored (see, for example, the judgment of Lang J. in *Sea Land Power & Energy Limited v Secretary of State for Communities and Local Government* [2012] EWHC 1419 (QB), at Paragraph 58)

The amount of information that a planning decision-maker required in order to assess and decide upon the relevant planning application was a question of planning judgment: *Simson v Aberdeenshire Council* 2007 SC 366 at 379.

Kind regards

Paul Paterson

Freelance Press Photojournalist & Photographer

End....

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From: [S Williamson](#)
To: [Innis, Lynsey](#)
Subject: Re: Notice for Review Request - Andrews Garage, Tighnabruaich, PA21 2DS (Ref: 24/0003/LRB) [OFFICIAL]
Date: 23 February 2024 15:26:41

As an original objector to the initial planning application, I wish to re-state my original objections to the proposed design.

The applicants have made no attempt to modify the design to take account of the planners valid objections therefore all my original objections still stand. The style of the building is inappropriate to the location, three storeys is too tall and the design is too large for the relatively restricted site. The nature of the appeal is irrelevant and insulting to both Council officials and particularly obnoxious with references to other members of the community who also raised valid objections.

Regards
Stephen Williamson
Sent from my iPad

On 23 Feb 2024, at 12:08, Innis, Lynsey <Lynsey.Innis@argyll-bute.gov.uk> wrote:

Classification: OFFICIAL

Good morning,

Please find attached the Notice of Request for Review (AB3 – 240003LRB), together with a copy of the request for review and supporting documentation in respect of the above case.

Please note that any representations must be received by **Friday, 8 March 2024**, being 14 days after then date of this notice.

Kind Regards

Lynsey

Lynsey Innis
Senior Committee Assistant
Legal and Regulatory Support
Argyll and Bute Council
Kilmory
Lochgilphead
PA31 8RT
Tel: 01546 604338
Email: lynsey.innis@argyll-bute.gov.uk

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Appin Cottage Middle

Tighnabruaich

PA21 2DS

7th March 2024

Dear Sir,

We would like to make several points to the Review Body about the proposed building on the former site of Andrews Garage.

We agree strongly with the view of the Planning Department that the fundamental issue with the proposal is “the scale design and massing of the building”, including an “inappropriate and overdeveloped” approach.

The scale of the building would mean that it would dominate the upward half of Village Brae, as well as the lower half of the Brae, either side of the bend. The now demolished, relatively low Nissan hut was, by definition, a curved shape and was set well back from the downward slope, with a substantial space in front of the main access door, as well as a long and wide parking channel parallel to the upward part of the Brae. By contrast, the proposed new development with its vertical sides and corners, combined with close proximity to the Brae on both sides of the bend, will make the road appear even narrower, while visibility around the bend will be much worse than at present.

We note that the Planning Department “are sympathetic to the point that there has been an existing garage and historic access point near to the bend” however because the proposed property will be so much closer to both sides of the bend that ‘historic access’ will be much tighter to negotiate.

Large service vehicles do reverse up the Brae and already frequently damage the grass verge on our property with deep rutted tracks, which constantly need to be repaired. This is only likely to get worse as they negotiate a tighter corner, from a visibility perspective, whilst reversing combined with an imposing nearness and shadow from the new property, close to the downside verge. We are concerned that we might have to accept a higher likelihood of damage to our property, including the risk of damage to drains beneath the grass.

On the issue raised by the applicants that there are already several points in the village, such as the bottom of Village Brae and the entrance to the Council Car Park, where there is awkward visibility, the applicants would seem to suggest that another, even tighter corner or bend might be acceptable on that basis. The situation however in this case is different

because the Village Brae is on a hill rather than on the level and in addition, the road is already significantly narrower than in the other examples highlighted.

On design, we are concerned that the rear of the proposed new building will face directly on to the front of our cottage, without relief, and the generally distinctive design would appear too obtrusive and would not blend well with the rest of the surroundings which are mainly traditional two storey Victorian buildings of fairly modest dimensions, right in the heart of the village. It is our understanding that there are no other three storey buildings in this part of the village and that the example quoted by the applicant of the Chalet Hotel is not comparable, because of its more elevated and unobtrusive position, combined with the fact that it is not in the heart of the village.

We are also concerned about the suggested height of the building. It is being argued that “the proposed roofline height is below the ground floor window sills of the three cottages” above the proposed property, and “that this was a deliberate decision to preserve their ground floor views out to sea.” However no top floor or overall height measurements are stated on the plan, and in addition there is a substantial layer of impermeable bedrock on the site which together are likely to make it difficult to create a three storey building of such mass, that is not too high.

The height of the proposed new building would obscure elevated views down the Kyles of Bute, presently enjoyed by pedestrians walking down into the Village Brae from further up the hill. It would also increase the need for greater vigilance regarding traffic ascending the Brae and there would be even less space to move out of harm’s way. In addition, the height of the building would impair the attractive view of the three historic cottages when looking up the hill from the lifeboat station in the centre of the village. The applicants’ photographs do not adequately reflect this impact, because they have been taken at an acute angle from the seafront.

The applicants have suggested that, in the event of the proposal being refused by the Review Body, an alternative design around the “Existing Use Class” might be put forward, that would lead to ‘intensification’ of use on the site and would in effect be more challenging to the neighbourhood. We conclude however that, taking into account the awkward position and size of the site, it is only suitable for a building with the approximate dimensions and shape of the Nissan hut, which was recently demolished.

Finally, we hope it would be possible for the Review Body to visit the site in order to fully appreciate how unsuitable it is for any development of significant scale.

Robin and Helen Brown

Hi Lynsey,

Do you think you could possibly add the email below, with the photos, as a supplement to the letter I sent on the 7th March.

Thanks,

Robin

Sent from my iPhone

On 13 Mar 2024, at 12:05, Robin Brown wrote:

Dear Sir,

Enclosed are three supplementary photos for our letter of the 7th March.

The first photo demonstrates the extent to which the view directly up the Brae will be blocked by the proposed building, inside the line of the telegraph pole, which has significantly harsher edges than the previous curved Nissan Hut.

The second photo demonstrates the existing damage to our verge which will only get worse should any building of the proposed scale be approved.

The third photo demonstrates the corner including the extent to which the plot has been excavated in advance of planning being approved.

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OLD FIRE STATION

THE PUBLIC SHALL NOT BE HELD RESPONSIBLE FOR ANY DAMAGE TO PROPERTY

W3

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Thank you for sharing the appeal documentation submitted by the applicant. While the applicant mentions that sight lines to the sea from properties above the site will not be blocked, I can see no suggested amendments to the proposed building scale or design. It remains a visually erroneous proposition and the impact on safety for users of the brae on foot or driving would still be negatively impacted.

Referring to the proposed design for a plot half a mile away and out with the centre of the village seems irrelevant.

Therefore, the original objections lodged in April 2022 stand.

Regards,

Janie Boyd

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Responses to representations from interested parties. 5 pages**1. Planning Authority****“STATEMENT OF CASE”**

Our Pre Application Advice Report was dated 17 August 2021.

Our Application for Planning Consent was dated 3 February 2022.

Our Decision of Refusal was dated 2 February 2024.

In the two years between application and refusal we were never afforded the opportunity to revise plans or work with the Council to address issues now being held up as reasons for refusal. We were told in December 2023 that our application had “timed out”, admittedly the fault of the Council due to delays in responses from statutory consultees. Roads hardly responded at all during those two years to our requests and submission of information via Steven Gove, our Planning Officer.

We believed that issues were not insurmountable and could be addressed by conditions but we were told that this was not now open to us.

For example, regarding parking we own the entire site so it is not inconceivable that parking could be provided downhill on the main garage forecourt which would have improved access sightlines, for example.

Kirsty Sweeney, Area Team Leader has been helpful giving us guidance on what options were open to us, one of which was the request for a Review.

“DESCRIPTION OF SITE”

The site currently has an established use as vehicle parking and storage.

There has been intensive use of the site access as used for “parking and storage” for all of Andrew Sim’s recovery vehicles, as evidenced in the Sales Particulars – see Consultee statement Anthony Carson’s Appendix 1. which shows relevant right hand smaller shed on site empty and 5 interior shots – 4 of the larger garage downhill and one of the relevant smaller garage (top right of sales particulars) with a recovered motorbike sitting on one of the recovery trailers.

“STATEMENT OF CASE”

We took cues from surrounding buildings as detailed in our submission and associated documents.

Issues over siting, design, etc should have been dealt with by revision/negotiation or consent conditions, but through no fault of ours we were denied this.

There are several 3 – storey buildings on Main Street in the village centre. Namely, Albert Building, Bute View and Royal Buildings each of which contain two storeys of individual residences above commercial ground floor units.

With a S and W facing garden area and a large E, S and W facing balcony there is ample outdoor and amenity space. Indoors the proposed house has a high standard of residential amenity and space for modern living.

We should have been afforded the opportunity to address and revise the question of access and parking between submission of our application 3 Feb 2022 and subsequent refusal 2 Feb 2024 but were not. The site we own is much larger than the proposed house site in question so it was not outwith the realms of possibility for us to alter the site boundary to include a more acceptable area for access and parking.

In our “reasons for requesting the review” page 10 - 12 we believe that two consultants have produced comprehensive reports which adequately addressed the question of whether or not the site could be deemed to be “contaminated land” -

- i) Site Investigation and Environmental Report 24.06.2022 (Council portal 15.07.22) see Table 1 Conceptual Site Model and
- ii) Environmental Assessment Report Crossfield Consulting Ltd (Council portal 10.07.23)

Fundamentally for land to be identified as contaminated there **must** be all three elements of a pollutant linkage present – a contaminant (e.g. hydrocarbon), a pathway (e.g. an aquifer) and a receptor (e.g. fish or humans)

Sampling of the site showed no presence of contaminants.

The site geology shows it to be underlain by non-permeable rock with no underlying aquifer.

There is wildlife present and humans on a temporary basis currently.

So in simple terms the land cannot be identified as “contaminated” and the Council does have a Strategy on contaminated land which supports this view.

The proposed garden area has much established vegetation growing as can be seen in images in our submitted documents.

“REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING”

We have raised much new information, supported by evidence, in our submission challenging the Council’s assessment of our site, surroundings, daylight in the proposed garden/amenity space, massing of the building, etc where we have demonstrated that it will be mainly hidden by the larger shed remaining on the overall site and that it will not “break the skyline when viewed from the village shops”.

We contend that the proposal, albeit small scale, has had complex and challenging issues and our submission highlights conflicting, evidence-based disagreement with the Council’s assessment. Also, we have been denied the opportunity to revise/amend the proposal through no fault of our own which, admittedly, is wholly due to the Council representing a loss of 2 years of our time.

“COMMENT ON APPELLANTS’ SUBMISSION”

It should be noted that the Report of Handling was published with Refusal on 2 Feb 22 and that all issues referred to in the Council’s Statement of Case were only seen by us then. At no point during the preceding 2 years were we afforded the opportunity to discuss these issues in detail with any Council official. So the RoH is lengthy as it refers to our “first shot” at applying for planning consent, not any subsequent revisions which are absent for the reasons above. And we were open to revision!

In response we would comment that, of course, we have set out our own case with regard to the Council's Reasons for Refusal since many of them are misleading, incorrect and not evidence based. Particularly, where the Council's Roads department has overseen development at a Council owned facility in the village which does not comply with the standards of access and sightlines being imposed on us – reference our Schedule of documents No. 9 the sightlines of the Council owned village coach and car park which has recently been subject of development encouraging intensification of use. It cannot be one rule for the Council and one for the public and where this has impacted on our application.

We understand that where contaminated land is alleged, as in this case, a pollutant linkage must be established between three components, i.e. a contaminant, a pathway and a receptor. Our consultants did not identify, through surveying, testing and sampling, that all three of those prerequisites were present on our site and, therefore, the site could not be identified as contaminated land. One of our consultants is regularly called as an expert witness in court proceedings and has almost 4 decades of experience in his field, reference pages 10 – 12 of our submission for review.

It has been proven that there were indeed malign forces at work whereby false allegations have been made in response to our planning application. In one case even an objection to our planning subsequently proven to be a completely falsified set of circumstances alleging our removal of contaminated soil by an excavator parked there overnight, unbeknown to us, which was actually working on a Council contract on Village Brae.

“CONCLUSION”

We recognise that the Council makes decisions based on the LDP, now LDP2. However, it also makes decisions taking into account all the terms of Council Policy for different areas within the local authority area. Tighnabruaich has never managed to shake the yoke of being identified as an economically fragile area.

Given that the proposed house is intended as a permanent dwelling for us directly associated with our proposed reinstatement of Susy's Tearoom with STL properties above, overall what we are proposing is investment in this "fragile" economy and, we would say, currently a failing one – Tam's Tool Store closed and empty, Raj considering closing the Premier Store and the Tighnabruaich Gallery also rumoured to be closing unless a new tenant can be found. The only retail shops left on the village Main Street will be a charity shop, a second hand shop and the seasonal RNLI shop.

Both applications, submitted together, cost us almost £ 5K in Jan/Feb 2022.

We believe that all the issues we discussed with Kirsty Sweeney and Steven Gove during our meeting on 30 January in Dunoon, following being told that both our applications were going to be refused, are not insurmountable and could be made subject of conditions. We have no objection to revising the design of the building away from Art Deco by tweaking external appearance and changing the flat roof to mono-pitch as discussed similar to the Old Fire Station, our nearest neighbour.

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Responses to representations from interested parties. 5 pages

2. Statutory Consultees – Environmental Health Consultee Statement from Anthony Carson

“Background”

Paragraph 1 – “both the garage building and land, which constitute the site, have been part of a vehicle repair business for decades”

Refer to Mr Carson’s Appendix 1 Sales Particulars for Andrews Garage states the “two commercial units” have been operated by the current owner “predominantly as a break down and recovery business” and 5 photos showing only one photo of the smaller of the two units (now demolished) on our site at top right of page with a motorbike on one of his recovery trailers. Photos of the larger, curved roof unit shows a vehicle being repaired up on a hoist and another beside it with the bonnet open.

Para 2 – is conditional upon para 1 being true.

Para 3 – we do recognise what is said here of course. However, for land to be classed as “contaminated land” there must be three elements of a pollutant linkage present – a contaminant, a pathway and a receptor. Our two consultants’ reports do not support that all of those three elements are present on our site. Mr Carson still has questions, with lengthy delays between raising his queries, but fundamentally the test for “contaminated land” fails.

Para 4 - as Steven Gove knows we sent in photos of the site with puddling all over it just after the smaller unit had been demolished which showed no evidence of hydrocarbon pollutants on the water surface. One of our consultants commented on this too. There was no paint spraying on the premises recognised in the publication quoted as a major contaminant and the majority of the remaining potential contaminants mentioned are hydrocarbon based.

Para 5 – we are unable to comment on anything put down drains – there are no drains from our proposed house site only one from the larger garage downhill in toilet and sink. There was no evidence of “waste oils” or other hydrocarbon based “fluids” on surface puddling on our site as mentioned above. There were no tyres or any parts for disposal on the site when we purchased the property nor did we see any untidiness around the site having been acquaint with it for years.

Para 6 – that goes without saying for a professional consultant

Para 7 – that would be correct as the site had consent for vehicle storage and parking of Mr Sim’s recovery vehicles. Photos are not of sufficient resolution to establish materials. It has been agreed that was the location for the bunded kerosene tank for the heating of the larger garage – the small garage was not heated.

Outline of Consultation and Review process

We cannot really comment on this section but it seems to us we have two professionals here who have horns locked. One an eminent and much experienced expert in his field who advises on very large contaminated sites nationwide and is regularly called on in legal cases as an expert witness who is failing to understand Mr Carson as his queries have constantly changed focus. We are stuck in the middle without resolution but what we have seen is Mr Carson altering the parameters of questions for Mr Whittle to answer.

We have referenced the three prerequisites for a pollutant linkage to exist above. Mr Whittle has stated his position on this and has referenced all the regulatory instruments that Mr Carson had suggested he had not paid credence to in his correspondence.

We repeatedly asked Mr Carson to substantiate his claim that he had “clear evidence” that the garage on our proposed site had “been used as a vehicle repair workshop”.

When we submitted our Request for Review he told us it was not appropriate for him to correspond with us in that regard.

He asked us to provide the email where he said that.

We did, on 21 Feb 24, giving him the following from an email sent to us by Steven Gove in which Steven had copied Mr Carson’s direct quote to us “*internal details (supported by photographic evidence), show conditions consistent with commercial vehicle repair activities. ... There is clear evidence that the building has been used as a vehicle repair workshop.*” was sent by you to Steven Gove on 15 September 2022.”

However, we still see no such “clear evidence” and the sales particulars state that the “two commercial units” have been operated by the current owner “predominantly as a break down and recovery business” and goes on to list contracts with the AA, RAC, LV, Britannia Rescue and Call Assist “to name a few”. The only vehicles we have seen in photographs, sales particulars or via streetview in the smaller garage is a motorbike on a recovery trailer and one of the recovery business Land Rovers with Mr Sims Scottish Vehicle Recovery Association, SVRA, sticker on it.

The pictures in the sales particulars show on the front page the relevant right hand smaller shed on our site empty and 5 interior shots – 4 of the larger garage downhill and only one of the relevant smaller garage in the page’s top right corner with a recovered motorbike sitting on one of the garage’s recovery trailers.

Mr Carson still has not produced the irrefutable evidence he told us he had that the garage on our site had been used as a vehicle repair garage and we wonder why he would have made such a claim.

Also included in Mr Carson's Appendix is our consultant, Mr Whittle's email response on 17 July 2023 where he states "we were surprised to (recently) receive such a long list of comments [there were over 40] from Environmental Health regarding the above property and our Phase 1 & 2 Environmental Assessment Report (Jan 2023) particularly as we thought we had addressed the main issues in our email issued on 5 April 2023 (and sent on to the Council shortly after)." - there had been only 5 issues requiring answers from Mr Carson then.

Mr Whittle goes on to say in this email –

It appears that most of the items raised relate to presentational issues and/or a misunderstanding of the scale of the proposed development/very small size of site which comprises the following:

- Only one small dwelling is proposed
- The proposed house is directly underlain by very low permeability intact rock strata
- ...
- The site has not been associated with bulk petrol storage or significant use of paints etc
- The site is not located in an environmentally sensitive location (ie does not adjoin a watercourse and is not underlain by a significant aquifer)

He then goes on to state he has answered each point in Mr Carson's table "(in blue text in appended column)" and "we trust that these (extensive) clarifications will assist and permit the development to proceed"

That was not to be the case and Mr Carson responded in September 2023 to Steven Gove's email of July 2023 passing on Mr Whittle's response detailed above. Mr Carson then appears to take another tack raising procedural issues in respect of legislation that he was alleging Mr Whittle had not followed. Mr Whittle answered that too.

Mr Whittle produced his Phase 1 & 2 Environmental Assessment Report in January 2023 for us and has commented that he has never experienced issues such as this with any of the other Scottish local authorities he deals with regularly.

It would help if Mr Carson would explain fully what he wants if not the 81 page report from an industry professional consultant and 26 page report from a structural engineer.

“Notes on specific comments in the Raeburn Supporting Document”

1. Paragraph 2 – the quote has the end missing it should be added as it ends “at the rear of the large nissen type shed” i.e. not on our proposed house site.
2. As can be seen in our document No 3 the business did expand in 1983. The larger shed became the heated vehicle workshop and the expansion of the business into vehicle recovery necessitated the smaller shed becoming as detailed on the stamped plans “vehicle parking and storage”.
3. i) From WAT-PS-10-01 diagrams which show a contaminant pathway to a receptor it appears clear that there is no pathway to groundwater when both consultants’ reports analyse the geology underlying our site as impermeable and without the presence of a significant underlying aquifer.

4. ii) Contrary to this we are actually waiting on Mr Carson’s response -

From: karen raeburn <ksraeburn@yahoo.co.uk>

Sent: 09 November 2023 14:37

To: Gove, Steven <steven.gove@argyll-bute.gov.uk>

Subject: Erection of Dwellinghouse, Andrews Garage Site, Tighnabruaich (ref: 22/00221/PP)

Afternoon Steven

I hope you are well.

Is there any feedback yet from Anthony Carson?

Nor have we received his “clear evidence” that the small garage on our site had been a vehicle repair workshop. We made the point that this was not how the premises were sold to us.

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Responses to representations from interested parties

6. Paul Paterson

One issue of response only –

Yet another libellous, untrue comment from Mr Paterson “there were a large number of objectors some of whom have had personal threats made against them by the applicants,…” !

To be clear we have never made any personal threats against anyone with regard to objections to our planning application and we respect their right to do so.

We are firm believers in freedom of speech, however, with that privilege comes responsibility and we have only taken to task, openly and in writing, those objectors who have been dishonest or who are fantasists.

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Responses to representations from interested parties.

Interested Parties X 4

3. Stephen Williamson

With respect we were not afforded the opportunity by the Council to modify the design of our building.

We do not consider three storeys too tall in the context where most of the building's lower two storeys are concealed from view by the garage building in front, the basement is totally hidden by the topography of Village Brae directly behind, the west elevation is concealed by vegetation/small trees and it is only the northeast elevation of the building that will be seen to be three storeys at a point where Village Brae drops around 2.7m round the corner of the Brae thus having the effect of nestling the building into that topography.

Our topographic survey took levels of the ground floor windowsills of Appin Cottages behind our proposed house so that we could ensure that we stayed below that level. It is recognised as a planning concept that no-one is entitled to a view but we have tried to be empathic to neighbours in that regard.

Most of the buildings along the front of Tighnabruaich are of three storey height to the apex of their roof and on the village Main Street, Albert Buildings, Bute View and Royal Buildings are three storey – two residential storeys over commercial units.

We have commented, we believe rightly so, where unfounded allegations or untruths have been submitted in objections.

We fully accept that anyone has the right, as they should do, to object to a planning application and state their views. But, like yours, submissions should be truthful and any opinion on our building, be it good or bad, should be aired in context, appropriately and honestly.

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Responses to representations from interested parties.

5 Robin & Helen Brown

We have not been afforded the opportunity to modify or revise our plans by the Council due to various and lengthy delays that we were subjected to through no fault of our own over the past two years.

We have already had discussions with planners regarding modifications and have always been willing to work with them but there were staffing issues which prevented this happening unfortunately.

The proposed house would appear as a two-storey building onto the upper part of Village Brae.

The shed that was demolished had its corner almost right on the corner which can be seen on google streetview if you “stand” in front of the garage beside Helen’s car. It is deceptive to judge as the access to the parking behind the shed was almost round the corner.

As a comparison the visibility round the bend will be little altered, the overall height of the building irrelevant when driving.

We have to keep our proposed building within the confines of our site so we disagree that our proposal will make the corner “tighter”.

Our issue with the Council Car Park is that it has been developed by the Council and its use intensified by the installation of EV charging points without taking consideration of the visibility splays and pedestrian safety which are being imposed on us.

We do not agree that the Council can impose rules on members of the public which it then ignores and is non-compliant with at its own developments.

With respect, our proposed house will not face directly onto the front of your house. We have taken all the necessary topographic levels to ensure that our roofline will be below Appin Cottages ground floor windowsill, and we did do this with full consideration that your views out to sea would remain unaffected.

We know how we would feel!

There are three storey buildings on Main Street in the village – Albert Buildings, Bute View and Royal Buildings which are each two residential storeys over the commercial ground floor units.

The example of the Chalet Hotel, one of the most prominent sites in the village, was used as this is a modernist three storey over basement approach being permitted in a location totally surrounded by pitched slate roofs.

We, in contrast, have been able to take cues from our surrounding buildings, for example, our closest neighbour the Old Fire Station, and the three round windows on the RNLI building.

Regarding pedestrian safety on the Brae, as we say, we have to stay within the confines of our site boundaries so space on the Brae is unaltered.

The proposed house is in fact not that much larger than the footprint of the building demolished, it is not a development of significant scale regarding footprint, just a bit taller. If we are unsuccessful in being able to build our new home we will have to consider what to do with the site and replace the building which existed – it was higher than the larger shed which again can be seen on google streetview – and put it to a use as permitted within the existing classification for the site as a whole.

Responses to representations from interested parties.

Interested Parties X 4

4. Janie Boyd

We have not been afforded the opportunity to modify or revise our plans by the Council due to various and lengthy delays that we were subjected to through no fault of our own.

That is not to say that we are unwilling to modify/revise plans and we have to an extent already discussed issues with planners and which could be made conditional if our review were to have a positive outcome for us.

We commented on the planners' desire for a more vernacular design when we actually had taken cues from surrounding buildings – the RNLI building, the Old Fire Station and the three storey Albert Buildings, Bute View and Royal Buildings on the village Main Street; all two residential storeys above shops.

Our building is below the apex height of the Tighnabruaich Hotel and below the windowsill height of Appin Cottages.

The garage which existed for years on site could be said to have had an impact on pedestrian and driver safety, yet we are unaware of any accidents. The height of our building in that regard is irrelevant.

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