

Argyll and Bute Council
Comhairle Earra Ghaidheal agus Bhoid

Customer Services
Executive Director: Douglas Hendry



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20 June 2012

NOTICE OF MEETING

A meeting of the **ARGYLL AND BUTE LOCAL REVIEW BODY** will be held in the **COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD** on **WEDNESDAY, 27 JUNE 2012** at **2:30 PM**, which you are requested to attend.

Douglas Hendry
Executive Director - Customer Services

BUSINESS

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST (IF ANY)**
3. **CONSIDER NOTICE OF REVIEW: PLOT 1, LAND SOUTH WEST OF NORTH BEACHMORE FARM, MUASDALE**
 - (a) Notice of Review and Supporting Documents (Pages 1 - 10)
 - (b) Comments from Interested Parties (Pages 11 - 26)
 - (c) Applicant's Response to Comments from Interested Parties (Pages 27 - 28)

ARGYLL AND BUTE LOCAL REVIEW BODY

Councillor Rory Colville
Councillor Sandy Taylor

Councillor Mary-Jean Devon

Contact: Fiona McCallum Tel: 01546 604392

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Ref:
AB1

ARGYLL AND BUTE COUNCIL
WWW.ARGYLL-BUTE.GOV.UK/**

OFFICIAL USE

12/0005/LRB.

18 APRIL

2012

Date Received

NOTICE OF REVIEW

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 Procedures
(Scotland) Regulations 2008

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

Name

Address

Postcode

Tel. No.

Email

(2) AGENT (if any)

Name

Address

Postcode

Tel. No.

Email

(3) Do you wish correspondence to be sent to you or your agent

(4) (a) Reference Number of Planning Application

(b) Date of Submission

(c) Date of Decision Notice (if applicable)

(5) Address of Appeal Property

PLOT 1, LAND SOUTH WEST OF
NORTH BEACHMORE FARM,
MUNSDALE.

(6) Description of Proposal

ERECTION OF AWELLINGHOUSE
AND INSTALLATION OF SEPTIC
TANK.

(7)

Please set out the detailed reasons for requesting the review:-

PER ENCLOSED SCHEDULE - PAGES 1 TO 5.
NB A WORD DOCUMENT FILE CAN BE EMAILED
IF REQUIRED.

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

PAGES 1-5

(8) 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
- (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.

(9) 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: 3 paper copies of each of the documents referred to in the schedule below must be attached):

| No. | Detail |
|-----|--|
| 1 | SCHEDULE OF DETAILED REASONS FOR REQUESTING A REVIEW. PAGES 1-5. |
| 2 | |
| 3 | |
| 4 | |
| 5 | |
| 6 | |
| 7 | |
| 8 | |
| 9 | |
| 10 | |

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

Submitted by
(Please Sign)

Catherine Pendreigh

Dated

14-04-2012

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 – www.argyll-bute.gov.uk/
4. If in doubt how to proceed please contact 01546 604406 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 Board), 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 604406 or email localreviewprocess@argyll-bute.gov.uk

For official use only

Date form issued

7 March 2012

Issued by (please sign)

Fiona McCallum

**DETAILED REASONS FOR REQUESTING A REVIEW OF REFUSAL OF PLANNING PERMISSION
IN PRINCIPLE**

**REF. NO.: 10/02058PPP ERECTION OF DWELLING HOUSE on PLOT 1, LAND SOUTH WEST
OF BEACHMORE FARM, MUASDALE, ARGYLL.**

SUMMARY

During April 2006 I purchased, for £70,000, a plot of land together with its outline planning consent [Ref. No.: 05/00857/OUT, granted on 9 June 2005]. Having worked and lived in Kintyre for over 10 years, it was my intention to build my dream cottage when I retired. As a keen amateur naturalist and honorary secretary of the Argyll Bird Club, I planned to manage the land surrounding the house in a way which would improve the habitat for birds and other wildlife.

The original planning consent expired in June 2008. Unfortunately, this was a particularly challenging time in my life and resulted in my failing to submit detailed plans within the required three year time period, which led to the lapse of my planning consent. As soon as I realised that I had missed this very important date, I spoke with the Planning Officer who informed me that I would have to make a new planning application. He also informed me that my plot of land had, in the interim, been re-designated from being within a 'Rural Opportunity Area' to being within an 'Area of Sensitive Countryside'. He further informed me that should I submit a new application at this time, it was likely to be turned down. He suggested that I should wait until the next Review of the Local Plan, which would afford me the opportunity to make representations to have my plot of land returned to its original designation of 'Rural Opportunity Area'.

As the months of my retirement passed, the waiting and uncertainty about the future of the plot, in which I had invested a considerable part of my life savings, began to cause me tremendous worry and stress. A friend with experience of rural planning applications suggested that it might be less distressing for me to take action, to lodge a new application, and, if consent was not forthcoming, to argue my case with the Local Review Board. I therefore submitted a new application in November 2010 [Ref.No.: 10/02058/PPP], which was eventually turned down on 29 Feb 2012.

My relatively small, triangular-shaped piece of land is the low-lying western section of the higher, larger field which lies to the south-west of North Beachmore farmhouse. The entire field originally fell within an area designated as a Rural Opportunity Area. After the adoption of the new Local Plan, only the well-screened lower basin of the field, i.e. my small triangular piece of land, was re-designated as being within an area of Sensitive Countryside. The remainder of the field remained designated as a Rural Opportunity Area, even although any building on it would have far greater visual impact when viewed from the coast than a building on my plot. This is because my plot is at a much lower level, and so any building on

it would be screened by the surrounding hills, the willow scrub and the existing recently-built agricultural shed to the west. There is therefore no obvious rational justification for the re-designation of my section of the field. It would appear that I have been the victim of a blanket, arbitrary, desk-top decision to designate everything west of the 50 metre contour line as falling within an area of Sensitive Countryside, regardless of whether a site there is more appropriate for development than an adjoining site on the east of the 50 metre contour line.

To penalise a pensioner so severely for missing the deadline for the submission of detailed plans is punitive. It is tantamount to a £70,000 fine. A site visit by Local Review Board members would immediately clarify the absurdity of this situation.

Should the members of the Local Review Board be instructed by their legal advisor that it would not be appropriate for them to overturn the planning decision, I would hope that they would make absolutely sure that the designation of my area of land is returned to its original designation of Rural Opportunity Area in the next Local Plan. Further, when the new Local Plan is being formulated, it should be built in that in certain unique situations, where blanket methods of establishing boundaries can create absurd anomalies in terms of appropriateness for development [as in my case at North Beachmore], site visits should be made to determine these boundaries.

DETAILED REASONS FOR REQUESTING A REVIEW OF REFUSAL OF PLANNING PERMISSION IN PRINCIPLE:

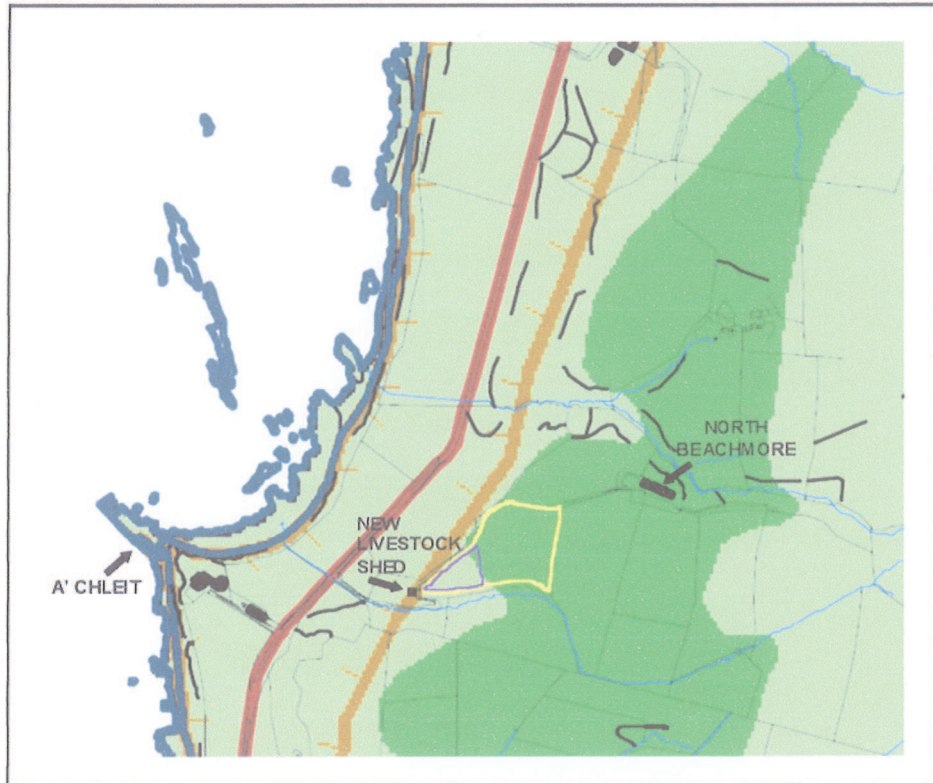
1 Part of my plot lies within the Rural Opportunity Area

After having a measurement survey carried out on my plot, in relation to the border between 'Rural Opportunity Area' and 'Sensitive Countryside', I was able to determine that a small area in the north-east corner of my plot actually lies within the 'Rural Opportunity Area'. Unfortunately, this area is not quite large enough to accommodate the footprint of a dwelling house, and even if it had been, this area is at the highest part of my plot so that any development on it would have a greater visual impact than a development at the lower level [where I propose to build].

2 My plot previously had building consent

The annotated Local Plan Map on the following page shows the original field bordered in yellow. This whole area was previously designated a 'Rural Opportunity Area', as a result of which outline planning consent was received in 2005. [Ref. No.: 05/00857/OUT]. Under the new Local Plan, my plot within this field, shown bordered in purple below, was, for no apparent justifiable reason, re-designated 'Sensitive Countryside'. It would appear that the only reason for the re-designation was the general use of the 50 metre contour line to provide a convenient boundary between the 'Rural Opportunity Area and 'Sensitive Countryside'

**SECTION OF ARGYLL AND BUTE LOCAL PLAN 2009 SOUTH KINTYRE 3
SCALE: 1:35,000 MAP NO 3
SHOWING SECTION OF FIELD OWNED BY K. PENDREIGH, SOUTH-WEST
OF NORTH BEACHMORE**



KEY



Outline of field originally designated 'Rural Opportunity Area'



Section of field now designated 'Rural Opportunity Area'



Section of field owned by K. Pendreigh now re-designated 'Area of Sensitive Countryside'

3 Planning officers have considered my plot as an appropriate place for building

As mentioned in point 2 above, my plot already had planning consent. To quote from the planning officer's Delegated Report, 8 June, 2005:

"the finalised draft area wide local plan has designated this area as a Rural Opportunity Area where single dwellings or small scale proposals are deemed acceptable."

In October 2009, planning consent was given for the construction of an agricultural shed on the seaward side of the track leading to North Beachmore, immediately opposite, and at a similar level to the area of my plot where I intend to build. The shed falls within the same area of 'Sensitive Countryside' as my plot. To quote from the Report of Handling, 2 October 2009, Ref. No.: 09/00874/DET:

"Although occupying an elevated position, the shed is well screened by existing natural vegetation such that its impact upon the wider landscape, particularly upon views from the A83 public road, is minimal".

As the area of my plot in which I intend to build is at a similar level to the shed, and would form a 'cluster' with it, the above planning officer's comment equally applies to my plot.

4 The site has a narrow window of visibility and is screened by a willow scrub

The site can only be seen from a small section of the A83 public road, A'Chleit Church Car Park and foreshore, as the top photograph on the following page shows. Beyond this narrow window, the site is totally screened to the north, south and east by the surrounding hills, and to the west by the steep coastal escarpment which runs parallel and close to the A83. The narrow window of visibility occurs due to the gorge created by the burn which breaches the escarpment at this point.

However, as the same photograph shows, the site and existing agricultural shed are well-screened by the existing willow scrub. This woodland willow scrub could be extended to provide even greater screening if required.

The top photograph demonstrates clearly the absurdity of the existing designations. My site lies low, in a well-screened basin, yet is designated as being within "Sensitive Countryside" while the area above my plot, which includes an area to the west of North Beachmore Farmhouse where recent development breaches the skyline and creates a huge visual impact, is designated as a Rural Opportunity Area. If any part of a building on my plot were to be visible [eg the roof] behind the screening of existing woodland and agricultural shed, it could be constructed of natural materials [eg slate] which would allow it to virtually disappear into the hillside behind.

The lower photograph below shows my intended building site within my plot. This site is on a similar level to the agricultural shed, also shown, and shows how well-screened the site is by the woodland and the shed from the A83 public road and the church at A'Chleit. The site cannot be seen from the front of the church.



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STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

**REFUSAL OF PLANNING PERMISSION IN
PRINCIPLE FOR A SITE FOR THE ERECTION OF
A DWELLINGHOUSE AT LAND SW OF NORTH
BEACHMORE FARM, MUASDALE**

LOCAL REVIEW BODY REF. 12/0005/LRB

**PLANNING PERMISSION APPLICATION
REFERENCE NUMBER 10/02058/PPP**

27TH APRIL 2012

STATEMENT OF CASE

The planning authority is Argyll and Bute Council ('the Council'). The appellant is Ms Catherine Pendreigh. ('the appellant').

The planning application, reference number 10/02058/PPP, for a site for the erection of a dwellinghouse ("the appeal site") was refused under delegated powers on the 29th February 2012. The planning application has been appealed and is subject of referral to a Local Review Body.

DESCRIPTION OF SITE LOCATION

The application site relates to approximately 1.09 acres. The application site occupies an elevated location on a raised beach approximately 140m east of the A83 public highway and located approximately 350m to the south west of a grouping of four dwellings at the former North Beachmore Farm/Restaurant. The site is generally triangular in shape and located at the western end of a large pasture field. The land to the north/west falls away sharply; to the east the land rises gently up to and beyond the former Beachmore Farm/Restaurant.

SITE HISTORY

Outline planning permission (ref. 05/00887/OUT) was previously granted on 9th June 2005 for a site for a single dwellinghouse at this location. This permission was granted under the provisions of the Argyll and Bute Structure Plan 2002 and the Kintyre Local Plan (1st Review and Alteration) 1988 with the proposal being considered consistent with the provisions of STRAT 4 of the Kintyre Local Plan which established a general presumption in favour of single residential developments on appropriate sites within the Kintyre countryside outwith identified constraints. This permission expired unimplemented in June 2008.

Having regard to the wider locality it is noted that detailed planning permission (09/00874/PP) was been granted retrospectively on 13th October 2009 for the erection of a small agricultural building on land opposite the appeal site, this development relates to designated croft land which lies to the west and is in different ownership to the appeal site.

It is also noted that in 2005 outline planning permission was granted at the same time for sites for the erection of three additional dwellings at North Beachmore Farm/Restaurant which were all in the same ownership as the appeal site at the time of application. Subsequently, it is understood, that ownership of North Beachmore has become fragmented and further detailed permissions have been granted and implemented in relation to the development of two of these house sites and the change of use of the former restaurant to create one additional dwelling unit.

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 or not the proposal is consistent with the Council's 'Settlement Strategy' as set out in the Development Plan, in this instance policies STRAT DC 5, and LP HOU 1.

The Report of Handling (Appendix 1) sets out the Council's assessment of the application in terms of Development Plan policy and other material considerations. The consultation comments submitted by statutory and other consultees (Appendix 2) are attached for the purpose of clarity.

POLICY BACKGROUND

The appeal relates to a 'small scale' residential development on an 'open countryside' site within the 'Sensitive Countryside' – the following policy considerations are relevant to the determination of this matter:

Structure Plan Policy DC 5 – Development in Sensitive Countryside

- A) *Within Sensitive Countryside encouragement shall only be given to small scale infill, rounding-off, re-development and change of use building development or to single dwellinghouses on bareland crofts or single additional dwellinghouses on individual crofts subject to consistency with STRAT DC 1 C).*
- B) *In special cases, development in the open countryside and medium and large scale development may be supported if this accords with an area capacity evaluation which demonstrates that the specific development proposed will integrate sympathetically with the landscape and settlement pattern and that the development will entail or result in at least one of the following outcomes:*
 - 1. *a small scale housing development which accords with the area capacity evaluation, OR*

2. *a positive development opportunity yielding significant countryside management or environmental enhancement benefit, or building retention benefit or local community benefit or economic benefit;*

OR

3. *a development with a locational need to be on or in the near vicinity of the proposed site.*
- C) *Developments which do not accord with this policy are those outwith categories A) and B) above and those with incongruous siting, scale and design characteristics or resulting in unacceptable forms of ribbon development or settlement coalescence.*
- D) *Developments are also subject to consistency with other policies of the Structure Plan and in the Local Plan.*

Local Plan Policy LP HOU 1 – General Housing Development

- (A) *There is a general presumption in favour of housing development other than those categories, scales and locations of development listed in (B) below. Housing development for which there is a presumption in favour will be supported unless there is an unacceptable environmental, servicing or access impact.*
- (B) *There is a general presumption against housing development when it involves:*
- 1.-3. – *n/a*
- In the countryside development control zones:*
4. *Small-scale housing development in the Greenbelt, Very Sensitive Countryside and in open/undeveloped areas within Countryside Around Settlements and Sensitive Countryside.*
 5. *n/a*
- (C) *Housing development, for which there is a general presumption against will not be supported unless an exceptional case is successfully demonstrated in accordance with those exceptions listed for each development control zone in the justification for this policy.*
- (D) *Housing developments are also subject to consistency with other policies of both Structure and Local Plan ...*

Justification text for Policy LP HOU 1

The sensitive countryside zone may be viewed as intermediate between rural opportunity areas and very sensitive countryside. This zone does not have the general capacity to successfully absorb any scale of new housing development when it is in the open countryside. Consequently, the presumption in favour is restricted to small-scale housing development in close proximity to existing buildings in infill, rounding-off, change of use of building and redevelopment sites.

Notwithstanding the initial presumption against, in exceptional cases, where an operational need has been established and an applicant demonstrates that there is a specific locational need to be on, or in the near vicinity of the proposed site, small-scale housing may therefore be considered within this zone. This is provided that there is sufficient capacity to successfully integrate the proposed housing within the landscape. The planning authority will conduct an Area Capacity Evaluation (ACE) in order to assess the direct and cumulative impact of any such development. The ACE process is further explained in supplementary planning guidance.

REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING

The issues raised were covered in the Report of Handling which is contained in Appendix 1. 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 'local' development, 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 part (7) of the appellant's submission the following comments are noted for the record in respect of the specific issues raised:

1. The north eastern corner of the plot does indeed fall within 'Rural Opportunity Area'; unfortunately this portion of the site is insufficient to accommodate the proposed development. The appellant is also correct in identifying that the use of this more elevated portion of the site (within ROA) would also increase the visual impact of any building from the A83/A-Chleit.
2. Outline planning permission was previously granted under the provisions of STRAT 4 of the Kintyre Local Plan which set out a general presumption in favour of single house developments in the Kintyre countryside with the exception of identified areas.

Subsequent to the grant of planning permission the provisions of the Kintyre Local Plan have been superseded by uncontested elements of the finalised draft Argyll and Bute Local Plan during its lengthy and consultation and amendment process culminating in the adoption of the Argyll and Bute Local Plan in 2009. The application site currently lies

within an area designated as 'Sensitive Countryside' wherein the provisions of the Argyll and Bute Local Plan 2009 do not support development. The principle tenet of the Scottish Planning System is set out in S25 of the 1997 Act in that the principle consideration for the planning authority in the determination of applications is the considerations of the development plan and to other material considerations. Whilst officers have every sympathy for the situation of the appellant in this matter they have not afforded significant material weighting to the expired outline planning permission relating to this site solely for the reason that this permission had expired at the time of application being submitted in 2010 and as such was no longer capable of being pursued to implementation; in such circumstances it is necessary to undertake a fresh assessment of the acceptability of the development having regard to the current development plan and not the policies which were in force at the time of the previous permission being granted.

3. The appellant is correct in her statement that the Council's Planning Officers have previously considered the site as suitable for development. It is noted that whilst the physical circumstances of the site and immediate surrounds have not been subject to any significant change in the intervening period that the policy provisions which relate to the site have been amended significantly from the positive presumption set out in the Kintyre Local Plan (1st review) 1988 to the presumption against set out in the adopted Argyll and Bute Local Plan 2009. Having reassessed this matter in light of the current policy position Officers are no longer able to support the proposal as being consistent with the provisions of the development plan, these provisions presuming against the development of 'open countryside' site in the 'sensitive countryside' except where an overriding locational/operational justification is demonstrated and where an 'Area Capacity Evaluation' (ACE) demonstrates that there is sufficient capacity to successfully accommodate the development. For the purpose of clarity it is noted that an ACE has not been undertaken in respect of this proposal as no such locational/operational justification for the development has been presented.
4. The appellant's assessment in relation to the likely visibility of a development on the appeal site in comparison to other locations within the locality from key viewpoints are considered, in general, to be accurate and representative of the assessments previously undertaken by officers in relation to this matter.

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.

The proposal is for a 'small scale' housing development on an 'open countryside' location within 'sensitive countryside' wherein the provisions of STRAT DC 5 of the Argyll and Bute Structure Plan 2002 and LP HOU 1 of the adopted Argyll and Bute Local Plan 2009 set out a presumption against development except in specific circumstances relating to the management of land and subject of Area Capacity Evaluation. In this instance the appellant has not presented an overriding claim of locational/operational justification in support of the proposal.

Whilst Officers have every sympathy for the appellant's circumstances in relation to the significant change in development plan policy relating to this proposal it is advised that whilst development of this location may have been viewed as compatible with the provisions of the now superseded Kintyre Local Plan (1st review) 1988 that these previous considerations ceased to be material to the determination of any subsequent application upon expiry of the permission. The resultant requirement is that any further applications requires to be considered solely in regard to the requirements of the updated development plan, in this instance the provisions of policies STRAT DC 5 of the Argyll and Bute Structure Plan 2002 and LP HOU 1 of the adopted Argyll and Bute Local Plan 2009.

Taking account of the above, it is respectfully requested that the appeal be dismissed.

Appendix 1 – Report of Handling

**Argyll and Bute Council
Development & Infrastructure Services**

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 10/02058/PPP

Planning Hierarchy: Local

Applicant: Ms Catherine Pendreigh

Proposal: Erection of dwellinghouse and installation of septic tank

Site Address: Plot 1 Land South West Of North Beachmore Farm, Muasdale, Argyll And Bute

DECISION ROUTE (delete as appropriate)

(i) **Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997**

(A) THE APPLICATION

(i) **Development Requiring Express Planning Permission**

- Erection of dwellinghouse and installation of septic tank

(ii) **Other specified operations**

(B) RECOMMENDATION:

That permission be Refused for the reasons contained in this report.

(C) HISTORY:

Outline planning permission (05/00887/OUT) for the erection of a dwellinghouse, North Beachmore Farm, Muasdale (Plot 1) was granted on 9 June 2005. This plot was slightly smaller than the current application site.

Site for the erection of three dwellinghouses, west of North Beachmore Farm Muasdale (Plots 2,3 and 4) granted on 9 June 2005 (05/00888/OUT). Plots 2 and 3 have since been developed. Outline permission for plot 4 was renewed on 29 July 2008 (08/00979/OUT) and planning permission in principle granted on 3 June 2011 (11/00542/PPP)

(D) CONSULTATIONS:

| | | |
|------------------------|------------|-------------------------------------|
| Environmental Health - | 05.01.2011 | No objection subject to condition. |
| Area Roads Mid Argyll | 17.01.2011 | No objection subject to conditions. |
| Kintyre And Islay | | |

(E) PUBLICITY:

Regulation 20 Advert Local Application (EXPIRY DATE: 28.01.2011)

(F) REPRESENTATIONS: None

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) **Environmental Statement: N**
 - (ii) **An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: N**
 - (iii) **A design or design/access statement: N**
 - (iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc: N**
-

(H) PLANNING OBLIGATIONS

- (i) **Is a Section 75 agreement required: N**
-

(I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: N

(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.**

'Argyll and Bute Structure Plan' 2002

STRAT DC 5 – Development in Sensitive Countryside
STRAT DC 8 – Landscape and Development Control

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment
LP ENV 19 – Development Setting, Layout and Design
LP HOU 1 – General Housing Development
LP TRAN 4 – New and Existing Public Roads and Private Access Regimes

LP TRAN 6 – Vehicle Parking Provision

Appendix A – Sustainable Siting and Design Principles

- (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 4/2009.**

Planning history on this and nearby plots.

(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: N

(L) Has the application been the subject of statutory pre-application consultation (PAC): N

(M) Has a sustainability check list been submitted: N

(N) Does the Council have an interest in the site: N

(O) Requirement for a hearing (PAN41 or other): N

(P) Assessment and summary of determining issues and material considerations

The site lies just to the east of the West Kintyre Scenic area and approx 120m east of the A83 coastal road. The site is generally triangular in shape and located at the western extremity of a large pasture field. The land to the north/west falls away sharply to the raised beach area with the land to the east rising gently up to and beyond the North Beachmore Farm complex. Immediately to the south the land also falls away sharply to a small watercourse.

A slightly smaller plot had previously been granted consent in 2005 at which time the site was within a Rural Opportunity Area in the Draft Argyll and Bute Local Plan; this permission lapsed in 2008 and as such no longer remains a material planning consideration. However, the extent of the ROA was reduced before the Local Plan was adopted in 2009, so the site now lies within Sensitive Countryside, where the presumption in favour of development is restricted to small scale housing development in close proximity to existing buildings in infill, rounding-off, change of use and redevelopment sites.

Access is from the surfaced private way that runs adjacent to the south and north-west boundaries of the plot. This access originally served North Beachmore and North Beachmore Cottage and now also serves the two dwellings recently constructed on plots 2 and 3. The access to the A83 has been improved in accordance with permissions on nearby plots.

Although the proposed development reflects to some extent the scattered, bank-head pattern of development in this area of Kintyre, it is isolated by some 250m from the cluster of development at North Beachmore and cannot be considered as conforming

with the policies regarding Sensitive Countryside in both the approved Structure Plan and adopted Local Plan.

The proposed development is now therefore considered to be contrary to the development plan and in particular to policies STRAT DC 5, STRAT DC 8, STRAT HO 1 of the Argyll and Bute Structure Plan and to policies LP ENV 10, LP ENV 19 and LP HOU 1 of the Argyll and Bute Local Plan.

(Q) Is the proposal consistent with the Development Plan: N

(R) Reasons why planning permission or a Planning Permission in Principle should be refused

1. In the adopted Argyll & Bute Local Plan, the site lies within Sensitive Countryside where the presumption in favour of development is restricted to small scale housing development in close proximity to existing buildings in infill, rounding-off, change of use and redevelopment sites. It is considered that the proposed development would be materially detrimental to the character and appearance of the wider landscape and contrary to the existing prevailing settlement pattern, and therefore contrary to Argyll & Bute Structure Plan policies STRAT DC 5 and STRAT DC 8 and to Argyll & Bute Local Plan policies LP ENV 1, LP ENV 19, LP HOU 1 and the design and siting principles contained within Local Plan Appendix A – 'Sustainable Siting and Design Principles'.

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

N/A

(T) Need for notification to Scottish Ministers or Historic Scotland: N

Author of Report:



Date: 24 February 2012

Reviewing Officer:



Date: 28th February 2012

Angus Gilmour
Head of Planning & Regulatory Services

REASONS FOR REFUSAL RELATIVE TO APPLICATION REF. NO. 10/02058/PPP

1. In the adopted Argyll & Bute Local Plan, the site lies within Sensitive Countryside where the presumption in favour of development is restricted to small scale housing development in close proximity to existing buildings in infill, rounding-off, change of use and redevelopment sites. It is considered that the proposed development would be materially detrimental to the character and appearance of the wider landscape and contrary to the existing prevailing settlement pattern, and therefore contrary to Argyll & Bute Structure Plan policies STRAT DC 5 and STRAT DC 8 and to Argyll & Bute Local Plan policies LP ENV 1, LP ENV 19, LP HOU 1 and the design and siting principles contained within Local Plan Appendix A – ‘Sustainable Siting and Design Principles’.

Appendix 2 – Statutory and other Consultee Comments

Other Consultees:

- **Argyll and Bute Council – Area Roads 17th January 2011**

Operational Services - Roads and Amenity Services
OBSERVATIONS ON PLANNING APPLICATION

Grid Reference 168562 641802 Dated

Applicant Ms Catherine Pendreigh
Proposed Development Erection of dwellinghouse
Location Plot 1 Land South West of North Beachmore Farm, Muasdale
Type of consent Detailed Permission
Drawing Refs.

Application No. **10 02058 PPP**
Contact James Ross
Tel. 01546-604655
Received 11/01/2011
Return By Date 19/01/2011

Call By Date
District Kintyre

Recommendation

No objection subject to conditions

Comments

CONDITIONS AND COMMENTS AS PER PREVIOUS OUTLINE APPLICATION REF 05/00887/OUT

1. Connection of private access to A83. Additional G300 type access detail required for refuse collection vehicle.

Conditions/Reasons for refusal/deferment

- 1. Connection of private access to the A83. Existing visibilities of 175 to the south and 215 to the north x 2.5 x 1.05 to be maintained.**
- 2. Connection of private access to the A83, G300 & TM197.**
- 3. Parking for 2 vehicles within site.**

Notes for Intimation to Applicant

- (i) Construction Consent(S21)*
- (ii) Road Bond (S17)*
- (iii) Road Opening Permit (S56)*

Not Required
Not Required
Required

(iv) No surface water discharge*

Required

*Relevant Section of the Roads(Scotland) Act 1984

| | | | | | |
|---------|---------|--------------------|------------|---------|------|
| Signed: | J. Ross | Date | 17/01/2011 | ID | 3190 |
| | | Actual Return Date | 17/01/2011 | Replied | |

17 January 2011

Copies to : Planning

Maint

File

Page 1 of 1

- **Argyll and Bute Council – Area Environmental Health Manager
29th December 2010**

Argyll and Bute Council
Comhairle Earra Ghàidheal agus Bhòid

Memorandum

Planning and Regulatory Services **Date:** 29/12/2010

To: Development Services 67 Chalmers Street, Ardrishaig

From: Patrick Mackie,
Area Environmental Health Manager **Extension:** 4780

Planning Application No: 10/02058/PPP Erection of dwellinghouse and installation of septic tank Plot 1 Land South West Of North Beachmore Farm Muasdale

I refer to your consultation dated 29/12/2010.

This application proposes to utilise a new private supply of water.

If approval for the above application is to be granted, I recommend that the following standard conditions be attached:

C31001 Water Details to Specification

Prior to the development commencing a full appraisal to demonstrate the wholesomeness and sufficiency of the private water supply to serve the development shall be submitted to and approved in writing by the Planning Authority. This assessment shall be carried out by a qualified and competent person(s). Such appraisal shall include a risk assessment having regard to the requirements of Schedule 4 of the Private Water Supplies (Scotland) Regulations 2006 and shall on the basis of such risk assessment specify the means by which a wholesome and sufficient water supply shall be provided and thereafter maintained to the development. Such appraisal shall also demonstrate that the wholesomeness and sufficiency of any other supply in the vicinity of the development, or any other person utilising the same source or supply, shall not be compromised by the proposed development. Furthermore, the development itself shall not be brought into use or occupied until the required supply has been installed in accordance with the agreed specification.

Reason: In the interests of public health and in order to ensure that an adequate private water supply in terms of both wholesomeness and sufficiency can be provided to meet the requirements of the proposed development and without compromising the interests of other users of the same or nearby private water supplies.

Patrick Mackie
Area Environmental Health Manager
Mid-Argyll, Kintyre & The Islands

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The Whins
Ferry Road
Tayinloan
TARBERT
PA29 6XG

9 May 2012

Local Review Body
Customer Services
Argyll and Bute Council
Kilmory
LOCHGILPHEAD
PA31 8RT

Dear Sirs

RESPONSE TO PLANNING AUTHORITY REPRESENTATION
REF: 12/0005/LRB
Plot 1, Land South West of Beachmore Farm, Muasdale

Thank you for the opportunity to respond to the representation made by the Planning Authority. I note that the Authority agrees with the assessment I made in sections 1, 3 and 4 of my submission.

I would like to comment on one issue:

I believe that a **material consideration** relates to the *process* by which my relatively small plot within a large area designated as "Rural Opportunity Area" in the 'Draft Argyll and Bute Local Plan' became wrongly designated as "Sensitive Countryside" in the 'Final Argyll and Bute Local Plan'.

This change of designation could only be justified if the Planning Authority had visited the site, and carried out a detailed landscape survey which showed that my site, in contrast to the whole "Rural Opportunity Area", was somehow more sensitive and warranted a change of designation to "Sensitive Countryside". Clearly this did not happen, as the Planning Authority has agreed with me that development in the adjacent "Rural Opportunity Area" would have a *greater* visual and landscape impact than development on my well-screened site.

By making a desk-top assessment of the area using an arbitrary Ordnance Survey contour line [50 metres] as the border between "Rural Opportunity Area" and "Sensitive Countryside", the Planning Authority has not justified the change to the designation of my site. This inadvertent **designation error** discriminates against me and has resulted in my facing severe and unaffordable financial loss of £70,000.

I would therefore request that the Planning Authority acknowledges this and makes the necessary site visit to ensure that my site is restored to the designation of "Rural Opportunity Area" as soon as possible.

Yours faithfully

Catherine Pendreigh