

**MINUTES of MEETING of ARGYLL AND BUTE LOCAL REVIEW BODY held in the COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD on WEDNESDAY, 15 AUGUST 2012**

**Present:** Councillor Sandy Taylor (Chair)  
Councillor Robert G MacIntyre Councillor James McQueen

**Attending:** Iain Jackson, Governance Officer (Advisor)  
Hazel MacInnes, Committee Services Officer (Minute Taker)

**1. APOLOGIES FOR ABSENCE**

There were no apologies for absence.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3. CONSIDER NOTICE OF REVIEW REQUEST: LAND NORTH WEST OF ARDARE, COLINTRAIVE**

The Chair welcomed all those present to the meeting and introductions were made.

The Chair advised that no person present would be entitled to speak other than the Local Review Body Panel and Mr Jackson, who would provide procedural advice if required.

The Chair advised that his first task would be to establish if the Panel felt that they had sufficient information to come to a decision on the review.

Councillor Taylor advised that he had concerns over the intimation made by the applicant that they had received advice from Planning Officers during pre-application discussions that had led them to believe the application would be approved and were therefore surprised when it was refused. He added that he would be interested in investigating this.

Mr Jackson advised that pre-application discussions were informal and were not a guarantee of approval of an application.

Councillor Taylor advised that the second issue he had was related to the Tree Preservation Order. He advised that it was not clear what area was covered by the Tree Preservation Order and if the site was even affected by it.

Councillor MacIntyre agreed and added that it did not specify exactly where the Tree Preservation Order existed.

Councillor MacIntyre added that a site visit would be beneficial, would allow him to gauge the visual impact development would have on the site and also to gauge where the surrounding properties were in relation to the site.

Councillor McQueen advised that he was in agreement with Councillor Taylor and Councillor MacIntyre regarding the Tree Preservation Order.

Councillor Taylor advised that it was not clear to him on looking at the plans why a house would fill the gap in the row of houses already there would result in an extension of the established settlement boundary and also extend the ribbon development.

### **Decision**

1. To request further written submissions from the Planning Department in respect of –
  - a) An explanation of why during pre-application discussions in the progression of the application through the planning process was it not identified that the principle of the proposed use of the site would be contrary to Local Plan Policy.
  - b) A detailed explanation of why in the view of the Planning Department the proposed development in an area of Countryside Around Settlement would result in an extension of the established settlement boundary and also extend the ribbon development.
  - c) Clarification on the exact area the Tree Preservation Order affects, whether this relates to any part of the site and if so, which area of the site.
  
2. To hold an accompanied site visit to –
  - a) Gauge where the surrounding properties are in relation to the site
  - b) Gauge the visual impact and change of character any development would have on the area surrounding the site.

**The Argyll and Bute Local Review Body reconvened on 1 October 2012 at 11.45am in Colintrave Village Hall, Colintrave following an accompanied site visit.**

Present: Councillor Sandy Taylor (Chair)  
Councillor Robert Graham MacIntyre  
Councillor James McQueen

Attending: Charles Reppke, Head of Governance and Law (Adviser)  
Hazel MacInnes, Committee Services Officer (Minute Taker)  
David Eaglesham, Planning and Regulatory Services  
Elaine Anderson, Applicants Agent  
Nicholas Staunton, Applicant  
Ian Warnock, Objector

The Chair welcomed everyone to the meeting and advised that the only participants entitled to speak would be the Members of the Panel and Mr Reppke who would provide procedural advice if required.

The Chair referred to the earlier site inspection and advised that his first task would be to establish whether or not the Panel now felt they had sufficient information before them to reach a decision on the Review. Both Councillor MacIntyre and Councillor McQueen confirmed they now had sufficient information to come to a decision.

Councillor McQueen advised that following the site inspection he felt quite happy that the site could be considered as infill.

Councillor MacIntyre agreed with Councillor McQueen and added that he felt that the site could be developed on.

The Chair advised that taking into account the comments made by Members and the views that they had expressed; the meeting would need to adjourn and reconvene to allow for conditions and reasons to be provided before any decision could be made.

Mr Reppke confirmed that if Members were minded to approve the application, the Local Review Body would need to adjourn and reconvene at a future date to allow Members to look at a competent motion which would justify a departure from the Local Plan and to request from the Planning Authority, model conditions and reasons to accompany any consent.

## **Decision**

The Argyll and Bute Local Review Body agreed -

1. To request from the Planning Authority further written submissions in respect of model conditions and reasons which could accompany a consent should the Panel be minded to approve the application.
2. To reconvene the meeting on a suitable date in Kilmory, Lochgilphead.

## **The Argyll and Bute Local Review Body reconvened on 22 November 2012 at 9.00am in the Council Chamber, Kilmory, Lochgilphead**

Present: Councillor Sandy Taylor (Chair)  
Councillor Robert Graham MacIntyre  
Councillor James McQueen

Attending: Charles Reppke, Head of Governance and Law (Adviser)  
Hazel MacInnes, Committee Services Officer (Minute Taker)  
Elaine Anderson, Applicants Agent

The Chair welcomed everyone to the meeting and advised that the only participants entitled to speak would be the Members of the Panel and Mr Reppke who would provide procedural advice if required.

The Chair referred to the site visit, the meeting held on 1 October 2012 in Colintrave and the Local Review Body's request for further written submissions from the

Planning Department in respect of conditions and reasons to accompany any approval. The Chair asked the Local Review Body if they now felt they had sufficient information before them to come to a decision on the review. Both Councillor McQueen and Councillor MacIntyre confirmed that they now considered they had enough information before them to come to a decision and Councillor McQueen added that he was minded to approve the application for a dwellinghouse on the site.

Mr Reppke advised that there would be a difficulty in approving any application for development on the site. He advised that any development on the site would be contrary to Local Plan Policy LP HOU 1 and circulated copies of this Policy to Members. He advised that the site sat within a designated countryside around settlement zone and any approval for development as infill on site would require extension of one of the six settlement boundaries in Colintrave. He advised that the Local Review Body did not have powers to approve this extension and therefore the application could not be approved. Any approval would leave the decision open to challenge. Mr Reppke advised that the review process of the Local Plan was due and would go out for consultation in January 2013. If Members, or the applicant, were so minded a proposal for the extension to the settlement boundary to include the site could be submitted as part of this process. If such an amendment to the Local Plan was approved the application could then be dealt with by the Local Review Body. Mr Reppke advised the Local Review Body that they could continue consideration of the application to a future meeting to allow for the Local Plan review process to be undertaken and suggested also giving the applicant opportunity to provide comment on the issue with the extension of the settlement boundary.

The Local Review Body thanked Mr Reppke for his advice and intimated that they wished to proceed with his proposals.

### **Decision**

1. Agreed to continue consideration of the application to provide opportunity for a proposal to extend the settlement boundary to be submitted as part of the Local Plan review process, taking into account the fact that the Local Review Body did not have powers to approve such an extension and therefore appear unable to approve any application on the site.
2. Agreed to request a further written submission from the applicant providing comments on the Policy constraint that could leave any approval open to challenge.

### **The Argyll and Bute Local Review Body reconvened on 23 January 2013 at 9.30am in the Council Chamber, Kilmory, Lochgilphead**

Present: Councillor Sandy Taylor (Chair)  
Councillor Robert Graham MacIntyre  
Councillor James McQueen

Attending: Iain Jackson, Governance Officer (Adviser)  
Hazel MacInnes, Committee Services Officer (Minute Taker)  
Elaine Anderson, Applicants Agent

The Chair welcomed everyone to the meeting and advised that the only participants entitled to speak would be the Members of the Panel and Mr Jackson who would provide procedural advice if required.

The Chair advised that a late representation had been received from the Planning Authority in response to the further written submissions by the applicant. Mr Jackson added that it would be for the Panel to decide whether they wished to accept the late response and that the reason for this was included in the letter.

The Local Review Body agreed to accept the late response and took some time to read the letter.

The Chair asked the Panel if they now considered that they had sufficient information to come to a decision on the review. Councillor McQueen and Councillor MacIntyre confirmed that they did.

Councillor Taylor advised that the view of the Panel was still that they would like to see the site developed but that they could not frame a competent motion to accompany an approval. He asked Mr Jackson to advise the Panel on the options available to them at the present stage.

Mr Jackson advised that the options available to the Panel would be to refuse the application or to defer the decision of the Local Review Body for a further 12 weeks to allow for the Local Development Plan consultation process to be undertaken as this may provide a proposal to extend the settlement boundary which in turn may allow Members the opportunity to frame a competent Motion.

Councillor MacIntyre advised that he would prefer to defer the decision for 12 weeks rather than refuse the application and Councillor McQueen agreed.

### **Decision**

Agreed to defer the decision of the Local Review Body for a further 12 weeks to allow for the Local Plan Development consultation process to be undertaken.

### **The Argyll and Bute Local Review Body reconvened on Wednesday 24 June 2015 at 4.00pm within the Council Chamber, Kilmory, Lochgilphead**

Present: Councillor Sandy Taylor (Chair)  
Councillor Jimmy McQueen  
Councillor Robert G MacIntyre

Attending: Charles Reppke, Head of Governance and Law (Adviser)

The Chair opened the meeting and advised that the only participants entitled to speak would be the Members of the Panel and Mr Reppke who would provide procedural advice if required. He invited Mr Reppke to remind Members of the current status of the matter. Mr Reppke advised that Members had agreed to adjourn consideration of the matter in 2012 to allow the Local Development Plan to be adopted. The Local Review Body had decided to do this to allow the sites policy designation to be considered within the development plan process.

Mr Reppke said that in light of the passage of time it might be appropriate to seek further information from the planning department on the outcome of the Local Development Plan consideration of the site and to invite all interested parties to submit information on any relevant material considerations prior to the Local Review Body making a decision.

### **Decision**

To agree to seek further information from the planning department on the outcome of the Local Development Plan consideration of the site and to invite all interested parties to submit information on any relevant material considerations prior to the Local Review Body making a decision.

### **The Argyll and Bute Local Review Body reconvened on Thursday 22 October 2015 at 2.30pm within the Council Chamber, Kilmory, Lochgilphead**

Present: Councillor Sandy Taylor (Chair)  
Councillor Jimmy McQueen  
Councillor Robert G MacIntyre

Attending: Charles Reppke, Head of Governance and Law (Adviser)  
Hazel MacInnes, Committee Services Officer

The Chair adjourned the meeting at this point until the conclusion of the Council meeting.

The meeting reconvened at 4.30pm. The Chair welcomed all those present to the meeting.

Mr Reppke recapped Members of the decisions they had taken at various meetings held during the process.

Councillor Taylor (Chair) advised that he had remembered the case well and advised that in the beginning he had viewed the site as an opportunity for infill and at that time the Local Review Body had agreed to await the outcome of the Local Development Plan Review to provide an opportunity for a proposal to be put forward to include the site in the settlement zone. He advised that the recommendation of the reporter had been to delete the site from the settlement zone and to designate the site as a countryside zone on the map for Colintraive.

Councillor Taylor added that an assessment on the landscape impact and the spacing of the housing were important and advised that his opinion had now changed since the outset of the review and he now felt that there was merit in keeping the site as it stood. He added that he felt it was important that the green space and dispersed settlement remained and that any development would have a detrimental impact. Councillor Taylor invited Councillor MacIntyre to speak.

Councillor MacIntyre advised that he had the opposite view to Councillor Taylor and added that he had always had the view that the site was suitable for development. He advised that he felt the application should be approved.

Councillor McQueen asked whether the tree preservation order would still stand should the application be approved and Mr Reppke advised that any decision taken

to approve development on the site would supersede the tree preservation order in so far as required to implement the development. Councillor McQueen then advised that he was in agreement with Councillor Taylor that development should not take place on the site.

Mr Reppke advised that should Members wish to uphold the decision taken by the planning department to refuse planning permission; given the passage of time Members would now need to take into account the new local development plan policies. Councillor Taylor read these Policies out to the LRB.

## **Decision**

The Argyll and Bute Local Review Body agreed to uphold the decision by the planning department to refuse the application for planning permission for the following reasons –

Colintraive is a relatively dispersed settlement and it contains clusters of housing separated by either undeveloped areas or sporadically-placed dwellings. In terms of the location of the site, as noted in the preceding section, the site is within the “*Countryside Zone*” although it is directly adjacent, on its western boundary, to an area termed “*Settlement Zone*”. The plot is the beginning of a linear coastal strip that stretches in a south-easterly direction which is characterised by woodland and the previously mentioned sporadically-placed dwellings.

The actual application site was formerly in the ownership of the property known as ‘*Ardare*’, which is to the immediate south east. The site is currently not located within the curtilage of ‘*Ardare*’ and, given its heavily wooded nature; that it has apparently been unmanaged for a significant number of years; and that there exists a more defined garden ground, there is no evidence to suggest that it was actively used as the curtilage of ‘*Ardare*’ for many years. In this sense, the site is a key environment feature that acts as a break between the dwelling to the north west (‘*Milton Wood*’) and ‘*Ardare*’.

On the basis of the foregoing, it is considered that the erection of a dwellinghouse would result in the loss of the distinctive wooded appearance of the site that would erode the character of the Kyles of Bute National Scenic Area.

The proposal is, therefore, contrary to the following policies:

### **Argyll and Bute Local Development Plan 2015**

LDP DM1 – Development Within the Development Management Zones

LDP 3 – Supporting the Protection, Conservation and Enhancement of Our Environment

LDP 9 – Development Setting, Layout and Design

The proposal is also contrary to the following Supplementary Guidance contained within the Argyll and Bute Local Development Plan 2015. Whilst yet to be formally approved by Scottish Ministers, the Supplementary Guidance constitutes a material consideration:

SG LDP ENV 6 – Development Impact on Trees/Woodland

SG LDP ENV 12 – Development Impact on National Scenic Areas

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