

Argyll and Bute Council
Comhairle Earra Ghaidheal agus Bhoid

Customer Services
Executive Director: Douglas Hendry



Kilmory, Lochgilphead, PA31 8RT
Tel: 01546 602127 Fax: 01546 604435
DX 599700 LOCHGILPHEAD
e.mail –douglas.hendry@argyll-bute.gov.uk

16 January 2013

NOTICE OF MEETING

A meeting of the **ARGYLL AND BUTE LOCAL REVIEW BODY** will be held in the **COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD** on **WEDNESDAY, 23 JANUARY 2013** 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 REQUEST: HARBOUR MASTER, MELFORT, BY OBAN, PA34 4XD**
 - (a) Notice of Review and Supporting Documentation (Pages 1 - 18)
 - (b) Comments by Interested Parties (Pages 19 - 32)
 - (c) Comments by Applicant (Pages 33 - 34)

ARGYLL AND BUTE LOCAL REVIEW BODY

Councillor George Freeman
Councillor David Kinniburgh

Councillor Sandy Taylor

Contact: Fiona McCallum Tel: 01546 604392

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Ref:
AB1

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

OFFICIAL USE

30 November
2012Date Received
F McCollen**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	(2) AGENT (if any)
Name <input type="text" value="Melfort Pier Holidays"/>	Name <input type="text" value="Allan Macaskill"/>
Address <input type="text" value="Melfort"/>	Address <input type="text" value="5 Ferryfield Road"/>
<input type="text" value="By Oban"/>	<input type="text" value="CONNEL"/>
<input type="text"/>	<input type="text" value="BY Oban"/>
Postcode <input type="text" value="PA34 4XD"/>	Postcode <input type="text" value="PA37 1SR"/>
Tel. No. <input type="text"/>	Tel. No. <input type="text" value="01631710133"/>
Email <input type="text"/>	Email <input type="text" value="emacaskill@btinternet.com"/>

(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

Harbour Master
MELFORT
By Oban
PA34 4XD

(6) Description of Proposal

Removal of Condition No. 5 of Planning Permission 01/94/0409 restricting occupancy.

(7)

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

Reasons attached.

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

(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	Decision and reasons
2	Plans
3	email dated 5 July 2009 and permission and reasons for Pier Master and Pier East.
4	Plan of building and plot area
5	Copy of Planning Permission 01/94/0409
6	Planning Permission Ref: 10/01610/PP
7	Reasons for requesting Review
8	
9	
10	

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

①



Planning & Regulatory Services
 Seirbheisean Planaidh is Riaghlaidh
 Development Management • Municipal Buildings Albany Street Oban PA34 4AW
 Building Standards • Animal Health
 Trading Standards • Environmental Health

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(SCOTLAND) REGULATIONS 2008

REFUSAL OF PLANNING PERMISSION

REFERENCE NUMBER: 12/01624/PP

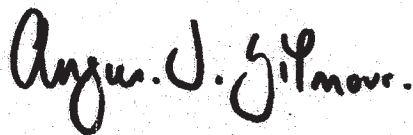
Melfort Pier Holidays Ltd
Mr Allan Macaskill
5 Ferryfield Road
Connel
By Oban
PA37 1SR

I refer to your application dated 27th July 2012 for planning permission under the above mentioned Act and Regulations in respect of the following development:

Removal of condition number 5 of planning permission 01/94/0409 restricting occupancy. at Harbour Master Melfort Pier And Harbour Kilmelford Oban Argyll And Bute

Argyll and Bute Council in exercise of their powers under the above mentioned Act and Regulations hereby refuse planning permission for the above development for the reason(s) contained in the attached appendix

Dated: 21 September 2012



Angus J. Gilmour
 Head of Planning and Regulatory Services

www.argyll-bute.gov.uk



REASONS FOR REFUSAL RELATIVE TO APPLICATION NUMBER 12/01624/PP

1. In terms of the adopted Argyll and Bute Local Plan, the application site is located within Sensitive Countryside which is subject to the effect of Policy STRAT DC 5 of the approved Argyll and Bute Structure Plan 2002 which establishes a general presumption against new housing developments.

The planning condition in question was imposed because the building was not considered appropriate for use as a permanent house, taking account of its proximity to and interrelationship with the established holiday development in which it is located. Those reasons to restrict occupancy remain relevant and policy still generally presumes against new housing in this area.

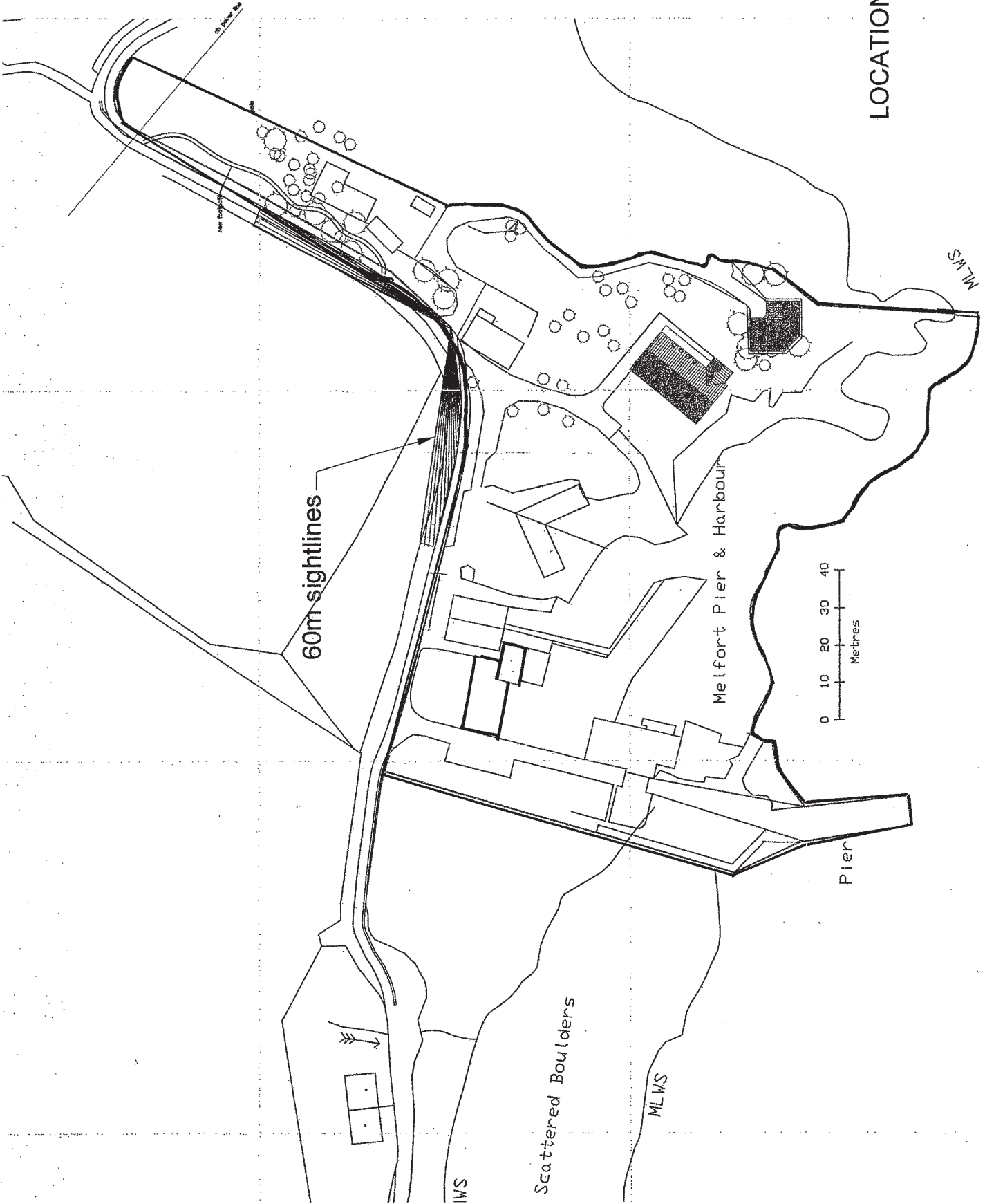
Whilst STRAT DC 5 does generally support change of use development, this is qualified by the need to ensure that developments integrate with the settlement pattern. The use of the property as a permanent residential dwellinghouse would not take account of, or relate to, the existing settlement pattern or character evident in the surrounding area and would result in the introduction of an inappropriate density and pattern of development which is unfamiliar to the area by virtue of lack of spacing between properties, small plot size, and interrelationship with an established holiday business; which, if approved, would lead to a precedent for similarly high density proposals on nearby sites, and also for further change of use applications. Such proposals could weaken the tourist economy of the local area through the loss of holiday units, and undermine the established high amenity character of the established low density sparse residential development in this rural context.

Furthermore, due to the restricted nature of the landholding afforded to the proposed development, it is considered unlikely that a sufficient area of private useable amenity space could be afforded to the residential unit, compared to the larger house plots that exist in the surrounding area, contrary to the terms of the aforementioned policies.

The proposal is considered contrary to the provisions of Development Plan policies STRAT DC 5, LP ENV 1, LP ENV 19 and LP HOU 1, which collectively seek to resist housing development which will have an unacceptable environmental, servicing or access impact; developments that give insufficient regard to the context of their individual site settings and show inappropriate densities.

The building would have unacceptably low privacy and amenity standards compared to that which is established within the area, and if approved for permanent residential occupation would lead to an unacceptable and undesirable precedent for lower amenity, higher density housing development in a rural area, as well as weakening the existing tourist economy of the area.

2

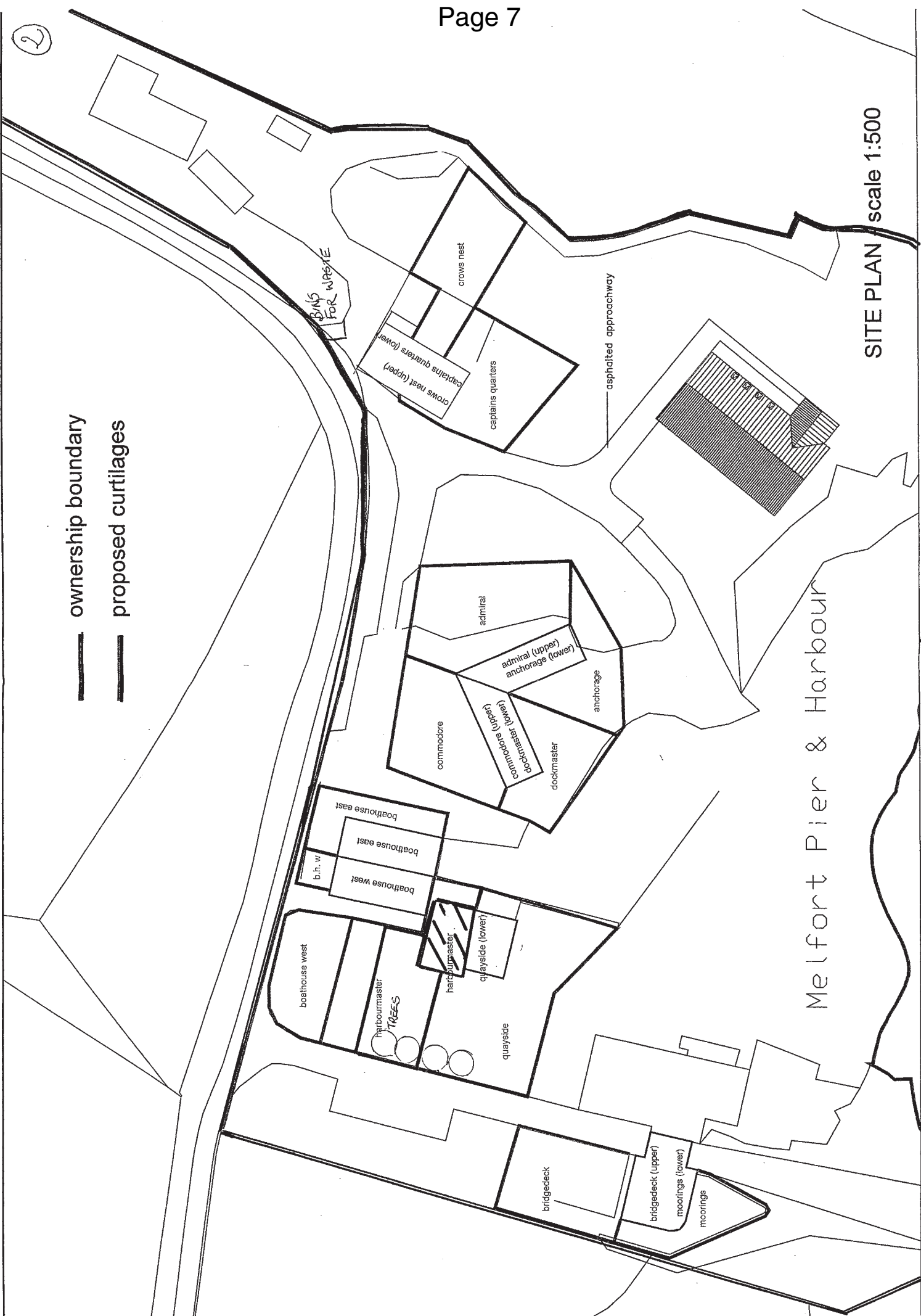


LOCATION - scale 1:1000

*this is a true copy of the plan
relating to the application by
Melfort Pier & Harbour dated
.....April 2009
signed.....*

2

-  ownership boundary
-  proposed curtilages



SITE PLAN scale 1:500

Melfort Pier & Harbour

REVISED
9/12
2/2/24
PP



(no subject)

Sunday, 5 July, 2009 6:22 PM

From: "Christliebeurope@aol.com" <Christliebeurope@aol.com>
To: emacaskill@btinternet.com

Alan.

Some time ago we discussed the possibility of standardizing the restrictions on the use of our letter properties. I list below the various restrictions, and would like your opinion as to whether we should apply to have the four houses that are restricted to two months per year reclassified into three months. The four that are without restriction and the two that have a **cannot be sold separate from the company** should all be left as they are, or should we have that last restriction lifted so that they could be sold if we wished? If we agree on this can handle the application? John.

PLANNING RESTRICTIONS ON THE 16 HOUSES IN THE LETTING POOL.

NO RESTRICTION ON OCCUPANCY.

- Pier Master.
- Pier East
- Pier North
- Pier West

RESTRICTION OF 3 MONTHS ANY ONE FAMILY GROUP PER YEAR.

- Commodore Suite
- Admirals Suite
- Anchorage
- Dock Master
- Moorings
- Bridge Deck

RESTRICTION OF 3 MONTHS ANY ONE FAMILY GROUP OR USE BY STAFF FULL TIME. CANNOT BE SOLD SEPARATE FROM THE COMPANY.

- Captains Quarters
- Crows Nest.

RESTRICTION OF 2 MONTHS ANY ONE FAMILY GROUP PER YEAR

Boat House West

Boat House East.

Quayside

Harbour Master.

3

CONDITIONAL PLANNING PERMISSION

No 330/87

TOWN AND COUNTRY PLANNING (SCOTLAND) ACTS
TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT)(SCOTLAND) ORDERS

To C E Stott
Melfort House
Kilmelford
by Oban

With reference to your application dated 1st May 1987 for planning permission under the above-mentioned Acts and Orders for the following development, viz:-

Erection of boatshed, boathouse and 2 dwellinghouses

at The Pier, Melfort, Kilmelford

the Argyll & Bute District Council in exercise of their powers under the above-mentioned Acts and Orders hereby grant planning permission for the said development in accordance with the plan(s) docquetted as relative hereto and the particulars given in the application subject however to the following condition(s), viz:-

- (1) that the development to which this permission relates must be begun within five years from the date of this permission.

See conditions as detailed in attached list

The foregoing condition(s) are imposed by the Council for the following reasons:-

- (1) to comply with Section 38 of the Town and Country Planning (Scotland) Act, 1972.

See reasons as detailed in attached list

It should be understood that this permission does not carry with it any necessary consent or approval to the proposed development under other statutory enactments.

Dated this 3rd day of September 19 87

James A McCallan
.....
Director of Administration

Conditions and reasons relative to application No 330/87

- (1) Standard
- (2) The proposed roofs being finished in natural slate.
- (3) The timber cladding finishes being stained dark brown.
- (4) No trees within the site shall be felled without the prior written consent of the Planning Authority.
- (5) No storage of boats or associated implements etc shall take place outwith the storage buildings hereby approved.
- (6) Visibility at the existing access shall be cleared so as to provide an uninterrupted view of the public road in each direction from the access centre line at up to 4.5 metres back from the carriageway edge.

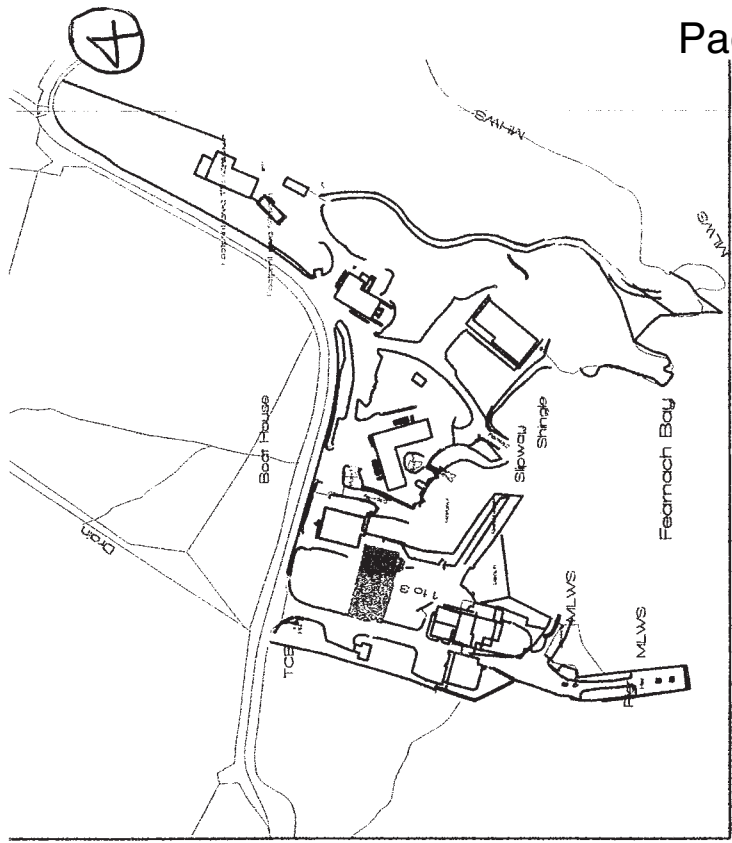
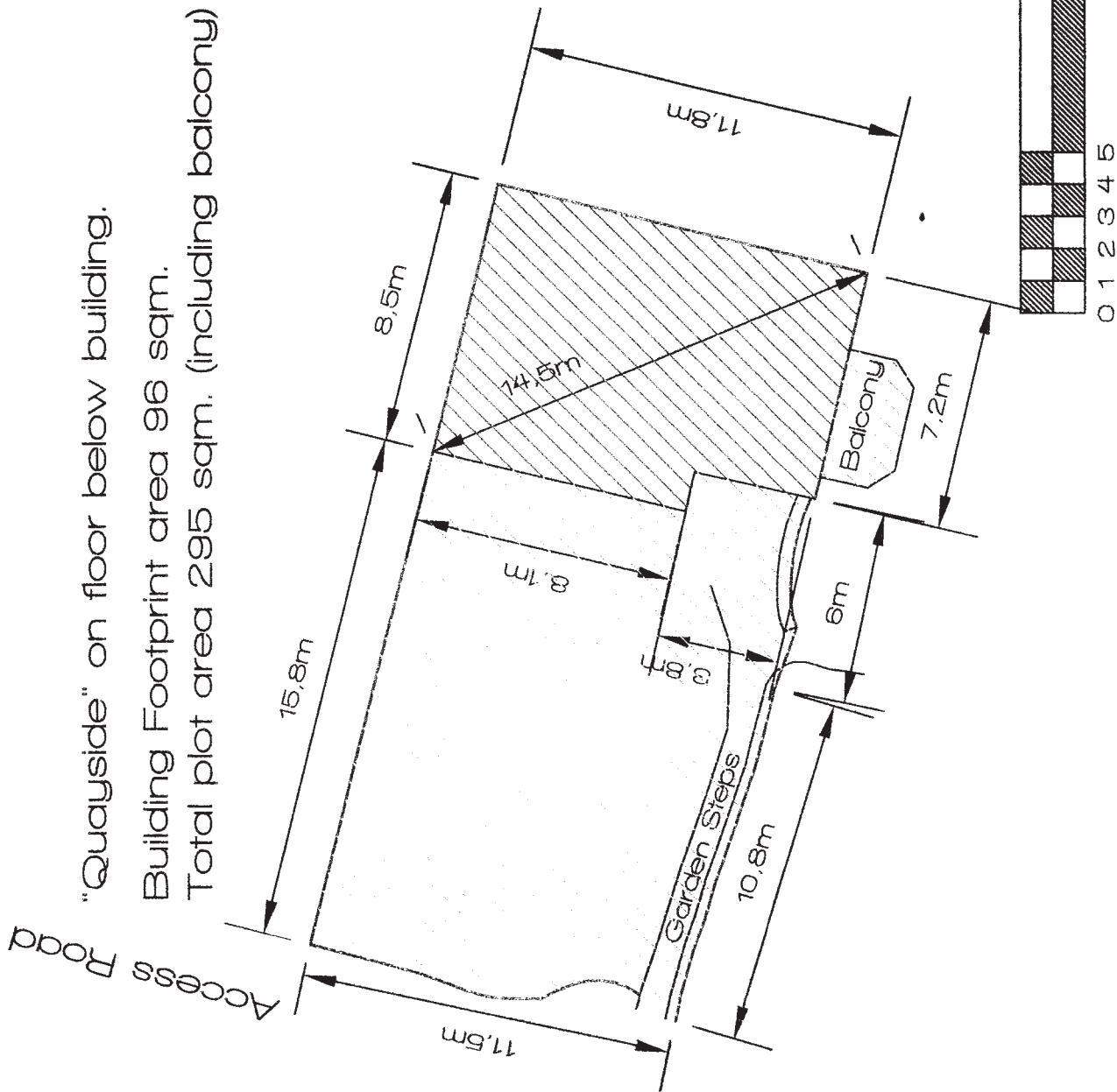
Reasons:

- (1) Standard
- (2) For the avoidance of doubt and in the interests of visual
- (3) amenity.
- (4) In the interests of amenity and to maintain the woodland character of the area which is an important feature in integrating the development into its wider landscape setting.
- (5) In order to protect the amenities of the area.
- (6) In the interests of road safety.

"Quayside" on floor below building.

Building Footprint area 96 sqm.

Total plot area 295 sqm. (including balcony)



Location Plan Scale 1 to 2500



Digital Land Surveys Ltd

Bonn-na-Bruaich

Benderloch by Oban, Argyll PA437 1ST

Phone 01631 720449

Mob 07795144663

www.digitalandsurveys.com

info@digitalandsurveys.com

Title sizes for "Harbourmaster" Mairport Pk

For Mr J Christlieb.

Surveyed by REA Dec 2010

Scale 1 to 200



5

CONDITIONAL PLANNING PERMISSION

ARGYLL and BUTE DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING (SCOTLAND) ACTS

TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT) (SCOTLAND) ORDERS

Melfort Pier Ltd.,
per Tom Grant Partnership,
24 Argyll Street,
Lochgilphead.

With reference to your application dated 16th May 1994 for planning permission under the above - mentioned Acts and Orders for the following development, viz:-

Erection of workshop and staff accommodation, Melfort Pier, Kilmelford.

the Argyll and Bute District Council in exercise of their powers under the above - mentioned Acts and Orders hereby grant planning permission for the said development in accordance with the plan(s) docquetted as relative hereto and the particulars given in the application subject however to the following condition(s), viz:-

- (1) that the development to which this permission relates must be begun within five years from the date of this permission.

See additional conditions as per attached list.

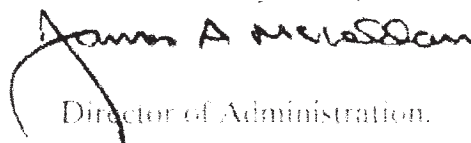
The foregoing condition(s) are imposed by the Council for the following reasons:-

- (1) to comply with Section 38 of the Town and Country Planning (Scotland) Act 1972.

See additional reasons as per attached list.

It should be understood that this permission does not carry with it any necessary consent or approval the proposed development under other statutory enactments.

Dated this 22nd day of August 1994.


Director of Administration.

1. Standard.

2. The roof shall be finished in Redland Cambrian, or other good quality slate substitute tile to match those on the adjoining buildings as agreed in writing with the District Council as Planning Authority.

3. Notwithstanding the provisions of the Town & Country Planning (Use Classes) (Scotland) Order 1989 the use of the proposed workshop shall be restricted to storage use in connection with the existing chalet complex.

4. No external storage shall take place outside the building(s) hereby permitted without the prior submission and subsequent approval of the District Council as Planning Authority of any external storage details, including the areas designated for storage use. Types of materials to be stored and the provision of a suitable screen compounding where appropriate, all to the satisfaction of the District Council as Planning Authority.

5. The use of the proposed dwellinghouse shall be confined to the particular use applied for, ie. staff accommodation as described in the submitted application form and no other, notwithstanding the provisions of the Town and Country Planning (Use Classes) (Scotland) Order 1989.

Page

REASONS

1. Standard.

2. In the interest of visual amenity in order to ensure the proposed roofing material matches that of the adjoining buildings on the site.

3. In the interests of amenity in order to protect the adjoining staff accommodation, and adjacent holiday accommodation from unsympathetic industrial type uses.

4. In order to protect the amenities of the area.

5. In accordance with the use applied for, this being the operational justification for the new development of this site which is in a location where a new house would not normally be approved in accordance with Local Plan policies.

6



**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(SCOTLAND) REGULATIONS 2008**

PLANNING PERMISSION

REFERENCE NUMBER: 10/01610/PP

**Melfort Pier And Harbour
Mr Allan Macaskill
5 Ferryfield Road
Connel
By Oban
PA37 1SR**

I refer to your application dated 28th September 2010 for planning permission in respect of the following development:

**Partial change of use from store and laundry to staff accommodation (retrospective)
AT:
Melfort Pier Kilmelford Oban Argyll And Bute PA34 4XD**

Argyll and Bute Council in exercise of their powers under the above mentioned Act and Regulations hereby grant planning permission for the above development in accordance with the particulars given in the application form and docketed plans subject however to the conditions and reasons detailed on the following page(s).

It should be understood that this permission does not carry with it any necessary consent or approval for the proposed development under other statutory enactments and is not a Building Warrant.

Dated: 25 November 2010

Angus J. Gilmour
Head of Planning and Regulatory Services

www.argyll-bute.gov.uk



REQUEST FOR REVIEW

REF: 12/01624/PP

REMOVAL OF CONDITION No. 5 OF PLANNING PERMISSION 01/94/0409 RESTRICTING OCCUPANCY AT HARBOUR MASTER, MELFORT, BY OBAN PA34 4XD TO STAFF ACCOMMODATION

The above application was refused on 21 September 2012.

The main reason for refusal was "The use of the property as a permanent residential dwelling house would not take account of, or relate to, the existing settlement pattern or character evident in the surrounding area and would result in the introduction of an inappropriate density and pattern of development which is unfamiliar to the area".

That statement is not correct as four properties Pier Master, Pier East, Pier North and Pier West have no occupancy restriction and can be occupied on a permanent basis. Those properties are situated near Harbour Master and the settlement pattern would therefore not be affected. The Conditions attached to the consents for those properties did not restrict occupancy. (Documentation No. 3 attached, email and Conditions for Pier Master and Pier East)

Another reason stated "due to the restricted nature of the landholding afforded to the proposed development, it is considered unlikely that a sufficient area of private useable amenity space could be afforded to the residential unit".

Again that statement is not correct as the footprint of the building is 96m² and the total plot area is 295 m². Therefore the dwelling house occupies less than one third of the plot. (Plan No. 4 attached). Some of the other permanently occupied houses have far less useable amenity space. The building would not have an unacceptably low privacy and amenity standard compared to that which is established in the area.

There are sixteen dwelling houses situated at Melfort Pier and Harbour and the removal of one unit would not weaken the existing tourist economy of the area. There are many self catering properties in the area and the loss of one unit will not weaken the tourist economy. This year there has been a fall of 14% from 2010 in the number of persons entering the Oban Tourist Office. I have interviewed several persons engaged in the Tourism sector and they all state that business is declining.

Planning permission Reference 01/94/0409 (Documentation No. 5 attached) was granted on 22 August 1994 for the building called Harbour Master and Condition No. 5 restricted the use to staff accommodation.

Melfort Pier and Harbour operated a restaurant on the site but that is now closed. Five persons were employed and therefore there is not the same requirement for a building for staff accommodation.

There are other buildings where staff can be accommodated if required. Planning Permission Ref: 10/01610/PP was granted on 25 November 2010 for change of use from store and laundry to staff accommodation. (Documentation No.6 attached)

There is no reason for Harbour Master to remain as a property for staff accommodation and I therefore request the Review Panel to grant permission for the removal of Condition No. 5 of Planning Consent 01/94/0409 which was approved in August 1994 over eighteen years ago.

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STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

12/0015/LRB

**REFUSAL OF PLANNING PERMISSION FOR
REMOVAL OF CONDITION 5 OF PLANNING
PERMISSION 01/94/0409 RESTRICTING
OCCUPANCY**

**HARBOUR MASTER, MELFORT, KILMELFORD,
BY OBAN**

**PLANNING PERMISSION REFERENCE NUMBER
12/01624/PP**

12 DECEMBER 2012

STATEMENT OF CASE

The Planning Authority is Argyll and Bute Council ('the Council'). The appellant is Melfort Pier Holidays ('the appellant').

Planning Permission Reference Number 12/01624/PP for removal of condition 5 of planning permission 01/94/0409 restricting occupancy of a dwellinghouse at Harbour Master, Melfort, Kilmelford, by Oban ('the appeal site') was refused under delegated powers on 21 September 2012.

The planning decision has been challenged and is subject of review by the Local Review Body.

DESCRIPTION OF SITE

The property is a detached unit situated within a long established holiday development at Melfort Pier, Kilmelford, by Oban.

The holiday development is centred around the pier and harbour at Loch Melfort where the development is a well contained complex set within the existing landscape.

SITE HISTORY

11/01495/PREAPP

Change of use of self catering units to dwellinghouses – 02/09/12 negative response advising proposal would not be supported.

01/94/0409

Erection of workshop and staff accommodation – Granted: 11/08/94

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 building is considered appropriate for use as a permanent dwellinghouse, taking account of its proximity to and interrelationship with the established holiday development within which it is located, and whether the use of the property as a separate dwellinghouse would be compatible with the prevailing settlement pattern within this rural area which is allocated Sensitive Countryside.

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.

REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING

It is not considered that any additional information is required in light of the appellant's submission. 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 small-scale, has no complex or challenging issues and has not been the subject of any public representation, it is not considered that a Hearing is required.

COMMENT ON APPELLANTS' SUBMISSION

The appellant contends that the reason for refusal is not correct as four properties have no occupancy restriction and can be occupied on a permanent basis.

This is noted, however these four properties are in the minority. The remaining twelve units within the Melfort Pier and Holiday complex are restricted to holiday occupation or staff accommodation by means of a planning condition. Furthermore, the planning permission which the appellant has referred to in his submission relates to a boatshed, boathouse and two dwellinghouses which would have been fully assessed at the time of granting permission on its suitability for permanent residential use. To allow the property to become a separate residential unit with no control on occupancy would establish a precedent for the change in use of all holiday units at the site, which would drastically alter the character of the development, undermine the economic justification for the creation of the holiday development in the first place, undermine the local tourist economy, and create a form of residential development which is not appropriate in this rural area, which is allocated as Sensitive Countryside.

The appellant contends that there is no issue with lack of amenity to be afforded to the residential unit. *This is addressed below.*

The appellant contends that there are sixteen dwellinghouses situated at Melfort Pier and Harbour and the removal of one unit would not weaken the existing tourist economy of the area. *This contention is noted but is not supported by any evidence, nor does the statement address the precedent that would be established if the review were to be successful. The statement does nothing to address the lack of compatibility with the prevailing low density settlement pattern.*

The appellant contends that due to a decline in staff numbers, there is not the same requirement for a building for staff accommodation and also that there are other buildings where staff can be accommodated if required. *This is noted. A change from staff accommodation to a holiday unit would be appropriate, but the change to a permanent separate house is not considered appropriate.*

Whilst the appellant's comments are noted, it is still considered that the proposed building is not suitable for use as a permanent residential dwellinghouse taking

account of the context of the site. Existing housing within the area is predominantly characterised by low density dwellinghouses with good spacing and high amenity values. The use of the property as a permanent residential dwellinghouse would not take account of, or relate to, the existing settlement character evident in the surrounding area and would result in the introduction of an inappropriate density and pattern of development which is unfamiliar to the area by virtue of lack of spacing between properties. Allowing the unit to be used as a permanent house would be at variance with the character of the surrounding low density settlement, and would introduce a small residential property amidst a denser holiday use development, where there is the potential for a conflict between uses and a precedent for further change of use developments to be proposed in a similar fashion in the adjacent units, which would further undermine and challenge the established settlement pattern as well as weaken the tourism economy.

The original reasons for restricting occupancy of the building remain applicable. The holiday development complex which this staff accommodation unit was designed to serve still exists and as such, the retention of the unit for its intended purpose is to be encouraged. If the staff accommodation is no longer required for that purpose, then the unit could readily be changed to a holiday unit compatible with the wider development within which it is located, but such a change is not what is being sought by this review.

Due to the restricted nature of the landholding afforded to the proposed development, it is considered that an insufficient area of private useable amenity space would be afforded to the residential unit, compared to the high amenity values and large plots that are predominant in the area all of which is contrary to the terms of the aforementioned policies.

The appellant's statement does not conclusively address the lack of compatibility with the existing settlement pattern to allow the property to be considered for permanent residential use. A full detailed assessment of the proposal is contained within the Report of Handling at Appendix 1.

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 planning condition in question was imposed because the building was not considered appropriate for use as a permanent house, taking account of its proximity to and interrelationship with the established holiday development in which it is located. Those reasons to restrict occupancy remain relevant and policy still generally presumes against new housing in this area of Sensitive Countryside.

Whilst Policy STRAT DC 5 does generally support change of use development, this is qualified by the need to ensure that developments occur on appropriate sites and integrate with the settlement pattern. The use of the property as a permanent residential dwellinghouse would not take account of, or relate to, the existing settlement pattern or character evident in the surrounding area and would result in the introduction of an inappropriate density and pattern of development which is unfamiliar to the area by virtue of lack of spacing between properties, small plot size, and interrelationship with an established holiday business; which, if approved, would lead to a precedent for similarly high density proposals on nearby sites, and also for further change of use applications. Such proposals could weaken the tourist economy of the local area through the loss of holiday units, and undermine the established high amenity character of the established low density residential development in this rural context.

Furthermore, due to the restricted nature of the landholding afforded to the proposed development, an insufficient area of private useable amenity space would be afforded to the residential unit, compared to the larger house plots that exist in the surrounding area, contrary to the terms of the aforementioned policies.

The proposal is considered contrary to the provisions of Development Plan policies STRAT DC 5, LP ENV 1, LP ENV 19 and LP HOU 1, which collectively seek to resist housing development which will have an unacceptable environmental, servicing or access impact; developments that give insufficient regard to the context of their individual site settings and show inappropriate densities.

Taking account of the above, it is respectfully requested that the review be dismissed and the original refusal be upheld.

APPENDIX 1

Argyll and Bute Council
Development and Infrastructure

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: 12/01624/PP

Planning Hierarchy: Local Development

Applicant: Melfort Pier Holidays Ltd

Proposal: Removal of Condition 5 of Planning Permission 01/94/0409 Restricting Occupancy

Site Address: Harbour Master, Melfort Pier and Harbour, Kilmelford

DECISION ROUTE

Section 43 (A) of the Town and Country Planning (Scotland) Act 1997 (as amended)

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Removal of condition 5 of planning permission 01/94/0409 restricting occupancy
-

(B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission be refused subject to the conditions and reasons appended to this report.

(C) HISTORY:

11/01495/PREAPP

Change of use of self catering units to dwellinghouses – 02/09/12 negative response advising proposal would not be supported.

01/94/0409

Erection of workshop and staff accommodation – Granted: 11/08/94

(D) CONSULTATIONS:

N/A

(E) PUBLICITY:

The proposal has been advertised in terms of Regulation 20 procedures, closing date 30/08/12.

(F) REPRESENTATIONS:

No representations have been received regarding the proposed development.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- | | | |
|-------|---|----|
| (i) | Environmental Statement: | No |
| (ii) | An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: | No |
| (iii) | A design or design/access statement: | No |
| (iv) | A report on the impact of the proposed development e.g. retail impact, transport impact, noise impact, flood risk, drainage impact etc: | No |

(H) PLANNING OBLIGATIONS

- | | | |
|-----|-------------------------------------|----|
| (i) | Is a Section 75 agreement required: | No |
|-----|-------------------------------------|----|

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

Argyll and Bute Structure Plan 2002

STRAT DC 5 – Development in Sensitive Countryside

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

Appendix A – Sustainable Siting and Design Principles

Appendix C – Access and Parking Standards

(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.

Argyll & Bute Sustainable Design Guidance (2006)

The Town & Country Planning Act (Scotland) 1997

The Planning etc. (Scotland) Act, 2006

SPP, Scottish Planning Policy, 2010

(K)	Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:	No
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(L)	Has the application been the subject of statutory pre-application consultation (PAC):	No
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(M)	Has a sustainability check list been submitted:	No
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(N)	Does the Council have an interest in the site:	No
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(O)	Requirement for a hearing:	No
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(P) Assessment and summary of determining issues and material considerations

Planning permission reference 01/94/0409 was granted on 11 August 1994 for erection of workshop and staff accommodation at Melfort Pier and Harbour, Kilmelford.

Condition 5 of the permission restricted the occupation of the dwellinghouse to staff accommodation due to the operational justification which underpinned the development as it was proposed in a location where a new house would not normally have been supported by the Local Plan in force at that time.

This application seeks to remove the condition to allow for permanent residential use of the property. It has been alleged that the staff accommodation unit has been in holiday occupation for around 17 years, similarly to the adjacent holiday units that have been approved alongside. The use of the application site is currently defined by the 1994 planning consent as staff accommodation, and the alleged holiday use could perhaps be proved through a certificate of lawful development application, if

one were submitted. Even if such an application was made and was successful, this would still not allow permanent residential occupation.

Negative pre-application advice has been given for the change of use of the unit to a permanent house for the reasons detailed below.

Whilst change of use developments are generally supported by current policy, even in Sensitive Countryside, this is qualified by the requirement to avoid inappropriate densities and achieve development which is consistent with the established settlement pattern of the area. The standards and pattern for permanent housing is different from that expected for other non-permanent types of accommodation, such as holiday units or staff accommodation units, which by their nature are for short term or dependant use only.

Policy LP HOU 1 gives a general presumption in favour of housing development in the countryside development zones where there is no unacceptable environmental, servicing or access impact with Policy LP ENV 1 requires applications to be assessed for their impact on the natural, human and built environment.

Policy LP ENV 19 requires that development is sited and positioned so as to pay regard to the context within which it is located and that development layout and density shall integrate with the setting of surrounding development. Developments with poor quality or inappropriate layouts, including over-development, shall be resisted.

Appendix A of the Local Plan further advises on the standards that will be applied to new housing in the countryside. Section 3.1 relates to housing within the countryside development zones and states that new houses must respect local identity and the environment and must respect development patterns and the amenity of other dwellinghouses.

Existing permanent residential development within the area is characterised by low density dwellinghouses with good spacing and high amenity values. The use of the property as a permanent residential dwellinghouse would not take account of, or relate to, the existing settlement character evident in the surrounding area and would result in the introduction of an inappropriate density and pattern of development which is unfamiliar to the area by virtue of lack of spacing between properties. Allowing the unit to be used as a permanent house would be at variance with the character of the surrounding low density settlement, and would introduce a small residential property amidst a denser holiday use development, where there is the potential for a conflict between uses and a precedent for further change of use developments to be proposed in a similar fashion in the adjacent units, which would further undermine and challenge the established settlement pattern.

The original reasons for restricting occupancy of the building remain applicable, and the designation of the site within Sensitive Countryside, applies a general presumption against new housing development. The holiday development complex which this staff accommodation unit was designed to serve still exists and as such, the retention of the unit for its intended purpose is to be encouraged, and if holiday use can be proven to have taken place for 17 years without challenge, then a certificate of lawful development could be used to allow holiday usage, which would also be compatible with the adjacent holiday units, none of which require the higher amenity and privacy standards that are necessary for housing in this area.

Due to the restricted nature of the landholding afforded to the proposed development, it is considered that an insufficient area of private useable amenity space would be afforded to the residential unit, compared to the high amenity values and large plots that are characteristic of surrounding housing in the area all of which is contrary to the terms of the aforementioned policies.

In light of the above, the removal of the condition to allow permanent occupation of the property is considered contrary to the provisions of Development Plan Policies STRAT DC 5, LP ENV 1, LP ENV 19, LP HOU 1 and Appendix A and it is recommended that the application be refused for the reasons appended to this report.

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

(R) Reasons why planning permission should be refused

The proposal is contrary to Development Plan policy for the reasons for refusal recommended below.

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

N/A – recommendation for refusal.

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

Author of Report: Fiona Scott Date: 13/09/12

Reviewing Officer: Stephen Fair Date: 19/09/12



**Angus Gilmour
Head of Planning**

REASONS FOR REFUSAL RELATIVE TO APPLICATION 12/01624/PP

1. In terms of the adopted Argyll and Bute Local Plan, the application site is located within Sensitive Countryside which is subject to the effect of Policy STRAT DC 5 of the approved Argyll and Bute Structure Plan 2002 which establishes a general presumption against new housing developments.

The planning condition in question was imposed because the building was not considered appropriate for use as a permanent house, taking account of its proximity to and interrelationship with the established holiday development in which it is located. Those reasons to restrict occupancy remain relevant and policy still generally presumes against new housing in this area.

Whilst STRAT DC 5 does generally support change of use development, this is qualified by the need to ensure that developments integrate with the settlement pattern. The use of the property as a permanent residential dwellinghouse would not take account of, or relate to, the existing settlement pattern or character evident in the surrounding area and would result in the introduction of an inappropriate density and pattern of development which is unfamiliar to the area by virtue of lack of spacing between properties, small plot size, and interrelationship with an established holiday business; which, if approved, would lead to a precedent for similarly high density proposals on nearby sites, and also for further change of use applications. Such proposals could weaken the tourist economy of the local area through the loss of holiday units, and undermine the established high amenity character of the established low density sparse residential development in this rural context.

Furthermore, due to the restricted nature of the landholding afforded to the proposed development, it is considered unlikely that a sufficient area of private useable amenity space could be afforded to the residential unit, compared to the larger house plots that exist in the surrounding area, contrary to the terms of the aforementioned policies.

The proposal is considered contrary to the provisions of Development Plan policies STRAT DC 5, LP ENV 1, LP ENV 19 and LP HOU 1, which collectively seek to resist housing development which will have an unacceptable environmental, servicing or access impact; developments that give insufficient regard to the context of their individual site settings and show inappropriate densities.

The building would have unacceptably low privacy and amenity standards compared to that which is established within the area, and if approved for permanent residential occupation would lead to an unacceptable and undesirable precedent for lower amenity, higher density housing development in a rural area, as well as weakening the existing tourist economy of the area.

NOTES TO APPLICANT RELATIVE TO APPLICATION NUMBER 12/01624/PP

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended) within three months from the date of this notice. The notice of review should be addressed to the Director of Customer Services, Argyll and Bute Council, Kilmory, Lochgilphead, PA31 8RT.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state, and it cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the landowner's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997 (as amended).

APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **12/01624/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.

No

- (B)** The reason why planning permission has been refused.

The proposal is contrary to Development Plan policy for the reasons for refusal recommended above.

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REVIEW REFERENCE NO: 12/0015/LRB**COMMENTS ON STATEMENT OF CASE BY THE PLANNING AUTHORITY OF ARGYLL & BUTE COUNCIL**

The Statement of Case states “Due to the restricted nature of the land holding afforded to the proposed development, it is considered that an insufficient area of private useable amenity space would be afforded to the residential unit compared to the high amenity values and large plots that are predominant in the area”.

The footprint of the building is 96m² and the total plot area is 295m². Less than one third of the plot is occupied by the building. Clearly over development is not applicable. The adjoining permanently occupied buildings have far less amenity space. This can be confirmed at a site inspection and it can be demonstrated that the building would not have unacceptably low privacy and amenity standards compared to the other units. Reference is made to the fact that those four properties would have been assessed on their suitability for permanent residential use. No evidence has been advanced to show how those properties have been assessed.

Every planning application is dealt with on its own merits and if the review was successful it would not set a precedent as the majority of the remaining holiday units do not have sufficient amenity ground for permanent occupation.

Policy LP HOU1 gives a presumption in favour of housing in the countryside and there is no unacceptable environmental servicing or access impact with the property called Harbour Master.

The removal of one self catering property would not weaken the existing tourist economy of the area. There are many self catering properties in the area. Thirty two other holiday cottages are located at Melfort Village which is very near Melfort Pier.

This property is no longer required for staff accommodation as the restaurant has closed and planning permission has been granted for the Change of Use to a dwelling house from a restaurant. (Ref: 11/01407PP). Staffing at the complex has been reduced from 10 full time and 4 part time to 2 and 1 respectively. This again proves that the income is declining.

During the first week of December all the self catering units were empty but the four privately owned properties were occupied. Contractors were working in three of the four buildings upgrading and renovating.

There has been a decline in tourism income in the area and Argyll & Bute is one of the few Council areas where the population is falling. A fall of nearly 4% has been recorded.

There is no good reason for the Review Panel to refuse the Variation of Condition as submitted for this one unit.

