

**COMMENT ON FURTHER INFORMATION BY
WRITTEN SUBMISSIONS**

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

14/0008/LRB

**REFUSAL OF PLANNING PERMISSION IN
PRINCIPLE FOR THE ERECTION OF A
DWELLINGHOUSE AND INSTALLATION OF SEPTIC
TANK RELATIVE TO PLANNING APPLICATION
REFERENCE 13/01858/PPP**

**LAND SOUTH OF B.T. MAST, KILNAUGHTON, THE
OA, ISLE OF ISLAY**

09/12/2014

Response to issues raised in the submission by Keppie Planning & Development dated 14th November 2014

Comments re. expiration date of 07/01618/OUT

Within this correspondence Chris Mitchell of Keppie Planning and Development makes the wholly erroneous and mischievous allegation that the 'administrative error' referred to in his original submission was, *'largely as a result of incorrect advice from Council officers with regards to the expiry date of the 2007 consent (in that it did not lapse in September 2010, but rather lapsed in September 2012)'*. In order to evidence this claim, Mr Mitchell has provided a copy of the decision notice for application 07/01618/OUT and has highlighted Condition 3 of that approval notice with the comment that Condition 3, *'makes quite clear that development required to be begun within 5 years from the date of the permission'*.

However, Mr Mitchell omits totally any commentary relating to Conditions 1 and 2 of that approval notice and appearing immediately above his highlighted paragraph.

The decision notice for application 07/01618/OUT follows, for Conditions 1, 2 and 3, the standard form for all outline planning permission decision notices issued by the Council during this period and makes clear in Condition 1 that the permission is granted under the provisions of the then extant Article 4 of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992 on the basis of an outline application for planning permission and states unequivocally that, *'the further approval of Argyll and Bute Council... shall be required with respect to the undermentioned reserved matters before any development is commenced'*. The 'reserved matters' being the subsequent approval of the siting, design and external appearance of the development; the landscaping of the site of the proposed development; details of the access arrangements; details of the proposed water supply and drainage arrangements. To date, no such application has been made to discharge any or all of these reserved matters.

Condition 2 of this decision notice further states that an application for the approval of these reserved matters must be made to the Council, *'no later than the expiration of 3 years beginning with the date of this permission'*, i.e. by 26th September 2010.

Condition 3 of the decision notice goes on to state that, following the necessary approval of all reserved matters, the development itself must be begun either no later than five years from the date of the outline permission, or within two years from the final approval of the reserved matters, whichever is the later.

Clearly, then, as no application was made at all for the approval of any of the reserved matters, any conventional reading of this document makes it clear that the outline permission expired after three years, i.e. on 26th September 2010. Therefore, Mr Mitchell's claim that an application under S42 of the Act could have been entertained by the Planning Authority if received prior to 26th September 2012 is erroneous - in this respect, and for the purpose of clarity, it is confirmed that it would not be procedurally competent to vary the time limit condition on a permission which has already expired.

It is further noted that the original outline planning permission under application reference 04/01234/OUT contained exactly the same wording of its Conditions 1, 2 and 3 as that of the subsequent renewal under 07/01618/OUT. At this time the Appellant, Mr Peacock, (who had

purchased the site and its outline planning permission from the original applicant) was sufficiently aware of the wording of these Conditions to ensure that he applied to have this 2004 permission renewed within the required three year period. Yet when faced with a near-identical decision notice following his successful application in 2007 his claim now is that he was somehow misled by the Planning Authority into thinking that his new outline permission would afford him five years before making any follow-on application.

Comments re. advice provided by Officers to delay submission:

Within the correspondence dated 14th November 2014 it is alleged that the appellant, Mr Peacock, has been misadvised by Officers on 18th September 2012 to delay the submission of his planning application until early 2013 when the draft Local Development Plan was due to be published and to which Mr Peacock would have the opportunity to make representations with a view to seeking a more positive policy position.

It is confirmed that whilst Mr Peacock was advised by Officers that the position set out above was an option it was also advised that this approach was not without risk of failure. The allegation that Mr Peacock was misadvised by Officers is strenuously denied and in this respect it is confirmed that Mr Peacock was also provided with advice at that time in respect of his ability to make a fresh application for planning permission at any time which would come with the right to appeal/review in the expected event of the application being refused as development contrary to the provisions of STRAT DC 2 and LP HOU 1 of the adopted Argyll and Bute Local Plan 2009.

In summary, the claims advanced by Mr Mitchell simply do not stand up to scrutiny. There has been no administrative error on the part of the Council as Planning Authority, nor has the appellant been misadvised in respect of his ability to make fresh submissions; accordingly the Local Review Board is respectfully requested to dismiss these allegations.