

Argyll and Bute Council
Comhairle Earra Ghaidheal agus Bhoid

Customer Services
Executive Director: Douglas Hendry



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29 October 2010

**ARGYLL AND BUTE LOCAL REVIEW BODY – RE-CONVENED MEETING – 3
NOVEMBER 2010 AT 9.00AM IN THE COUNCIL CHAMBER, KILMORY,
LOCHGILPHEAD**

I refer to the above and enclose herewith the undernoted written submissions and comments in relation to case 10/0009/LRB.

Douglas Hendry
Executive Director - Customer Services

BUSINESS

**5. DRAFT CONDITIONS BY PLANNING OFFICER AND ASSOCIATED COMMENTS
FROM INTERESTED PARTIES**

- (a) Written Submission by Planning Authority (Pages 1 - 12)
- (b) Comments on Written Submission from Applicants (Pages 13 - 14)
- (c) Comments on Written Submission from Interested Party (Pages 15 -18)
- (d) Comments on Interested Party Submission from Applicant (Pages 19 -20)
- (e) Comments on (d) from Interested Party (Pages 21 - 22)

ARGYLL AND BUTE LOCAL REVIEW BODY

Councillor Roderick McCuish (Chair) Councillor Donald MacMillan
Councillor Alex McNaughton

Contact: Melissa Stewart

Tel. No. 01546 604331

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**PROPOSED CONDITIONS AND REASONS RELATIVE TO LOCAL REVIEW BOARD
REF. NO. 10/0009/LRB**

1. That the permission is granted in terms of Section 59 of the undernoted Act and Regulation 10 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2007 on the basis of an application for planning permission in principle, and that further approval of Argyll and Bute Council or of Scottish Minister on appeal shall be required, such application(s) must be made before whichever is the later of the following:-

- a) the expiration of a period of 3 years from the date of this permission.
- b) the expiration of a period of 6 months from the date on which an earlier application for the requisite approval was refused.
- c) the expiration of a period of 6 months from the date on which an appeal against such refusal is dismissed.

and in the case of b) and c) above only one such application can be made after the expiration of the period of 3 years from the original planning permission in principle.

Reason: In accordance with Section 59 (1) of the Town and Country Planning (Scotland) Act 1997

2. The proposed development shall be carried out in accordance with the details specified in the application form dated 25th January 2008; and the approved drawings numbered 1 of 2 and 2 of 2.

Reason: In order to ensure that the proposed development is carried out in accordance with the details submitted and the approved drawings.

3. No works shall commence until the junction of the private road serving the development hereby approved in principle and the A83 public highway has been fully formed as per Argyll and Bute Council's standard detail drawing refs. SD 08/002 Rev a. and SD 08/006 Rev a. (minimum access width 5.5m) with visibility splays of 160.0m x 2.4m measured from the centreline of the junction formed clear of obstruction in excess of 1.05m above the height of the adjoining carriageway.

Thereafter the visibility splays shall be maintained clear of obstruction above 1.05m in height above the adjoining carriageway in perpetuity.

Reason: In the interest of road safety.

4. No development shall commence until details of new planting proposals have been submitted to and approved by the Planning Authority. Such details shall show an extensive planting scheme of native tree/shrub species designed to integrate and sympathetically extend adjacent existing woodland associated with the Leth Uillt Burn (located to the south of the application site) and the existing tree/scrub line located along the field boundary to the west of the application site so as to provide an appropriate landscape screen and backdrop to the development and access road hereby approved in principle. The details of the planting proposals shall be shown on a plan at a scale of 1:500 or greater and will include:

- i) Definition of the extent of the planting scheme and private curtilage for each dwellinghouse;

- ii) Details of existing site contours at intervals of 0.5m;
- iii) Details of ground preparation;
- iv) Species of each tree/shrub;
- v) Nursery stock size in terms of British Standards;
- vi) Density of planting;
- vii) Programme for completion and subsequent on-going maintenance/management.

All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting and seeding seasons following the commencement of works unless an alternative phasing plan for such provision is agreed with the Planning Authority.

Any trees or plants which within a period of ten years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

Reason: To ensure the implementation of a satisfactory scheme of tree/shrub planting which are required to satisfactorily integrate the proposals with the surrounding landscape setting and, no such details having been submitted for approval.

5. Prior to the development commencing, a full appraisal to the satisfaction of the Council as Planning Authority of the wholesomeness and sufficiency of the private water supply to serve the development shall be carried out by a qualified hydrologist to the satisfaction of the Council's Chief Protective Services Officer. 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 and provided to the satisfaction of the Planning Authority.

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 supply and, no such details having been submitted for approval.

6. No development shall commence in respect of any individual plot within the development site, as delineated on the approved plans until details of the siting, design and external appearance of the proposed development within that plot have been submitted to and approved by the Planning Authority.

Such details shall incorporate the following elements:

- (i) The dwelling shall be single storey in height;
- (ii) The window openings shall have a strong vertical emphasis;
- (iii) The walls shall be finished in a recessively coloured wet dash render / smooth coursed cement render / natural stone;
- (iv) The roof shall be symmetrically pitched to at least 37 degrees and be

- finished in natural slate or a good quality substitute slate coloured dark blue/grey;
- (v) The building shall be of a general rectangular shape and gable ended with a maximum external footprint of 140m²;
 - (vi) Any porches (which are encouraged in the design) shall have traditional "peaked" roofs;
 - (vii) Details of the proposed finished floor level of the dwelling relative to an identifiable fixed datum located outwith the application site.

Reason: In the interests of visual amenity, to reflect/retain the vernacular building traditions of the area and the existing settlement pattern and, no such details having been submitted for approval.

7. No development shall commence in respect of any individual plot within the development site, as delineated on the approved plan ref. J250/P/01 rev. C, until details of the boundary and surface treatment within that plot have been submitted to and approved by the Planning Authority.

Such details shall incorporate the following elements:

- (i) Location and design, including materials, of any walls, fences and gates;
- (ii) Surface treatment of means of access and hardstanding areas;

The dwellinghouse shall not be occupied until the approved boundary treatment, surface treatment works have been undertaken in accordance with the duly approved details.

Reason: In the interests of visual amenity and to ensure the provision of an appropriate standard of hard surface and boundary treatment necessary to integrate the development with its surrounds and, no such detail having been submitted for approval.

8. No development shall commence in respect of any individual plot within the development site, as delineated on the approved plan until details of the access arrangements for that plot have been submitted to and approved by the Planning Authority.

Such details shall incorporate the following elements:

- i) A connection to the private road to be constructed as per standard detail drawing ref. SD 08/002 Rev a. (no requirement for tarred surface) with visibility splays of 25.0m x 2.0m clear of any obstruction over 1.05m in height above the adjoining carriageway;
- ii) The provision of adequate parking and turning provision within the plot to meet the requirements of policy LP TRAN 6 and Appendix C of the adopted Argyll and Bute Local Plan.

Reason: In the interests of road safety and, no such details having been submitted for approval.

9. No development shall commence until details of the proposed foul drainage arrangements to serve the development have been submitted to and approved by the Planning Authority. Thereafter the duly approved details shall be implemented prior to the first occupation of the dwellinghouse.

Reason: In the interest of public health, to ensure that the development is served by an appropriate means of foul drainage commensurate to the scale of the development and, no such details having been submitted for approval.

NOTE TO APPLICANT

- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.
- Having regard to condition 3. above, the Area Roads Manager notes that a Road Opening Permit will be required and that the improved access should be installed so that no surface water is discharged to the public highway. Contact should be made with James Ross – 01546 604655- for further information in this respect.

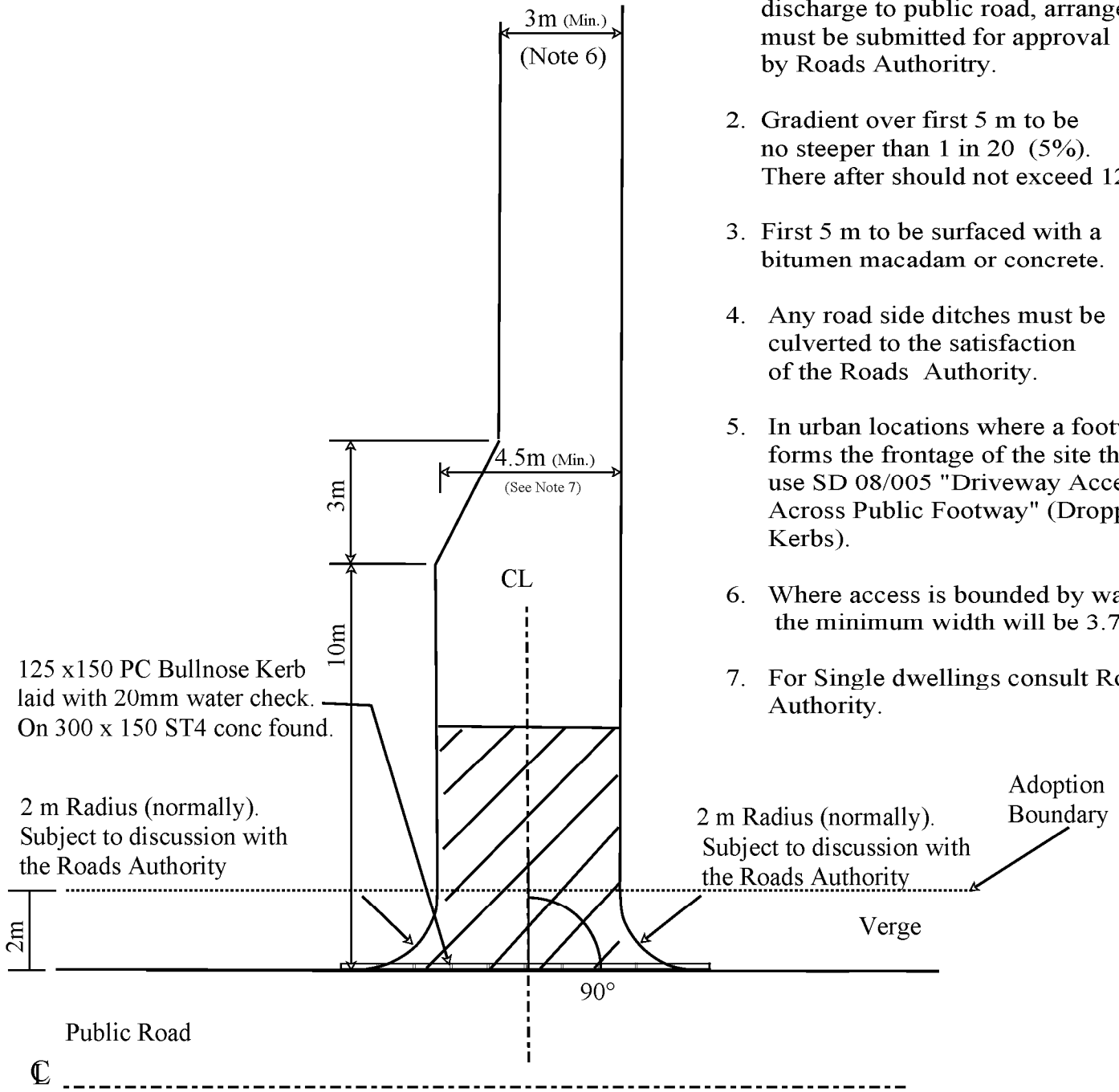
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COMMENTARY TEXT

**TO PROPOSED CONDITIONS AND REASONS RELATIVE TO LOCAL REVIEW BOARD
REF. NO. 10/0009/LRB**

1. Standard Planning Permission in Principle condition – sets time limit of permission and period for submission of further details by submission of formal 'Approval of Matters Specified in Conditions' (AMSC) application(s). *Note that an AMSC application may be submitted in respect of approval of the details 'reserved' by either a single or multiple conditions.*
2. Standard condition identifying approved drawings that relate to the permission.
3. Suspensive condition requiring the upgrade of the junction of the A83 and private road serving the development – required by the Area Roads Managers comments dated March 2010 which identifies that the existing junction is substandard in respect of both layout and visibility and as such is unsuited to accommodate any intensification in use without commensurate improvement. In this instance the identified commensurate improvements involve localised widening of the access to permit two vehicles to pass in the throat of the junction, provision of improved visibility splays to meet the Council's current minimum standards and, provision of a lay-by arrangement to allow the refuse collection vehicle to pull off of the main carriageway. The appellant was made aware of these requirements prior to submission of the current application and has accordingly included the necessary land for such works within the application site boundary and notified third party owners accordingly – whilst the applicant does not have control over the land required for these road improvements there is no procedural barrier to imposing a negative suspensive condition preventing the development commencing in the absence of such necessary works.
4. Suspensive condition requiring details of an extensive planting scheme to be submitted as an AMSC application for approval – requirements specified are in line with the recommendations of the 'Landscape and Visual Impact Report' dated July 2010 and submitted by the appellant in support of his application for a local review.
5. Suspensive condition requiring the adequacy of the proposed private water supply to be demonstrated – required by Area Environmental Health Manager comments dated Feb 2008.
6. Suspensive condition requiring the details of the siting, design and finishes of the proposed dwellinghouse within each plot to be submitted as an AMSC application(s) for approval. Proposed restrictions on height and use of recessive colour are in line with the recommendations of the 'Landscape and Visual Impact Report' dated July 2010 and submitted by the appellant in support of his application for a local review.
7. Suspensive condition requiring details of hard surface and boundary treatment for each plot to be submitted as an AMSC application(s) for approval.
8. Suspensive condition requiring details of access and parking/turning details for each plot to be submitted as an AMSC application(s) for approval – required by Area Roads Manager – comments dated March 2010
9. Suspensive condition requiring details of foul drainage details for each plot to be submitted as an AMSC application(s) for approval.

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1. Access to be formed or drained to prevent surface water discharge to public road, arrangement must be submitted for approval by Roads Authority.
2. Gradient over first 5 m to be no steeper than 1 in 20 (5%). There after should not exceed 12.5%.
3. First 5 m to be surfaced with a bitumen macadam or concrete.
4. Any road side ditches must be culverted to the satisfaction of the Roads Authority.
5. In urban locations where a footway forms the frontage of the site then use SD 08/005 "Driveway Access Across Public Footway" (Dropped Kerbs).
6. Where access is bounded by walls the minimum width will be 3.7m.
7. For Single dwellings consult Roads Authority.

Private Drive Way

From Un-Kerbed Road

Argyll & Bute Council Operational Services

Scale 1:150

Date June 2008

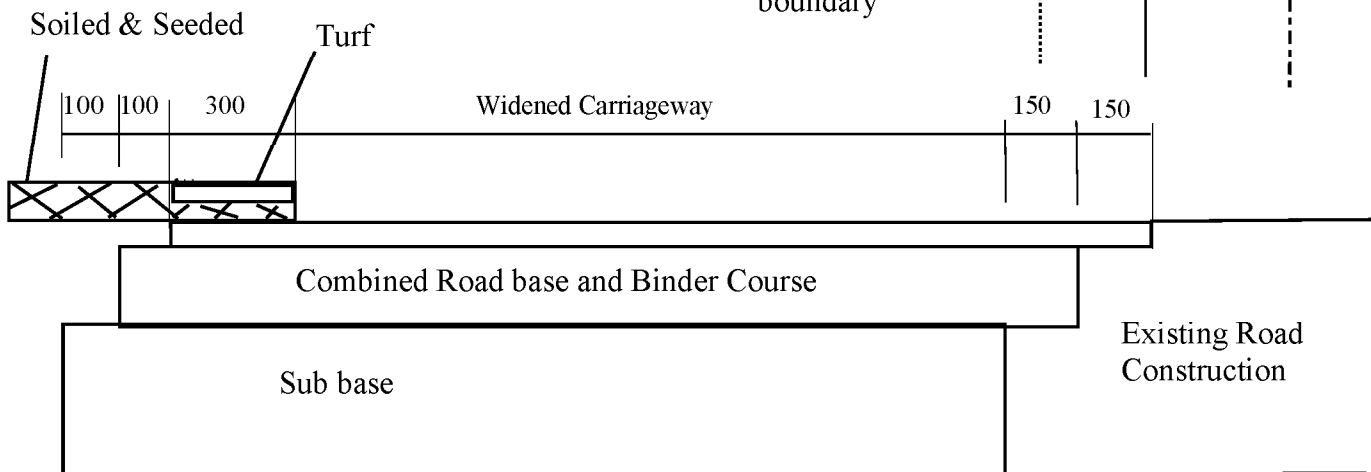
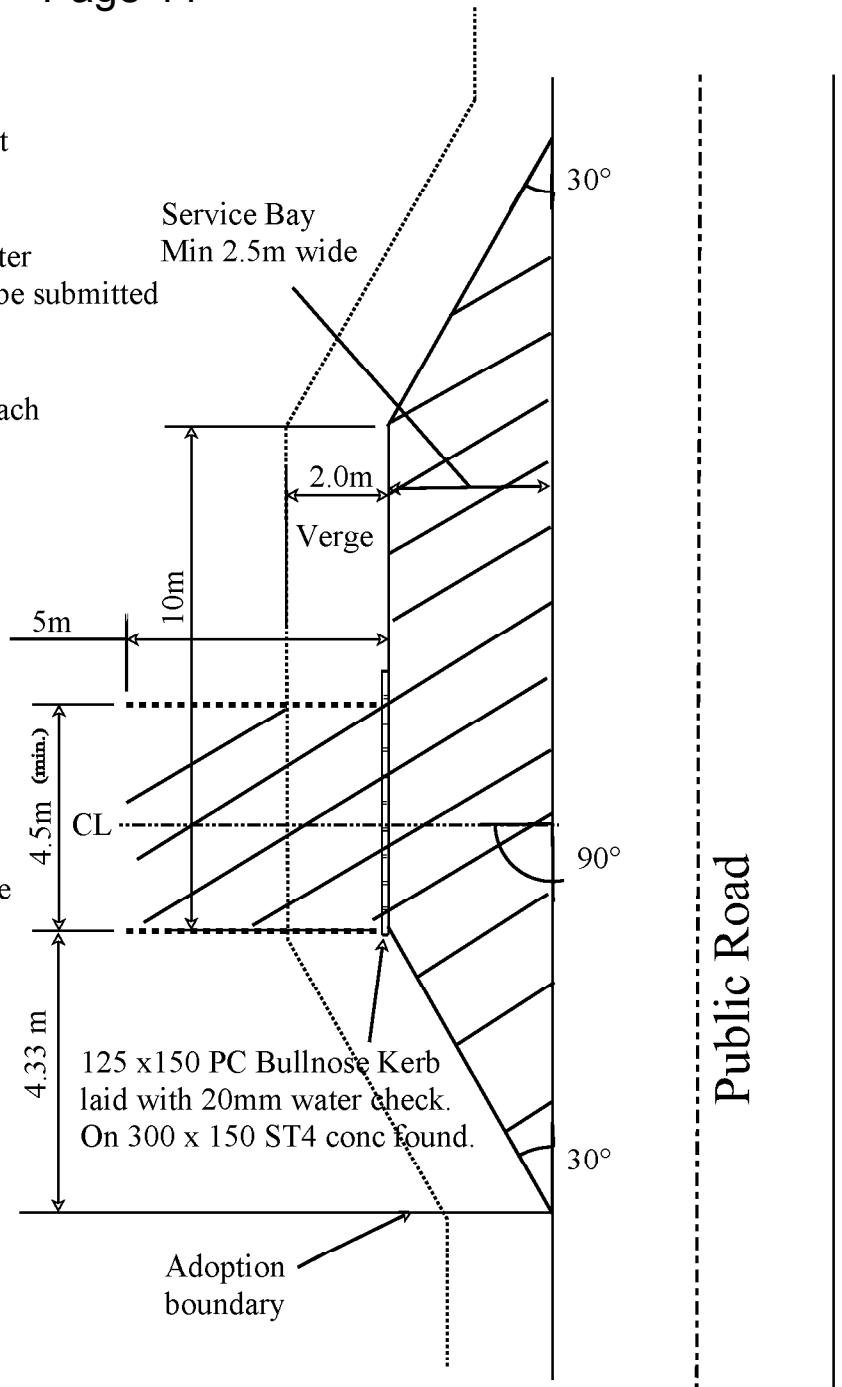
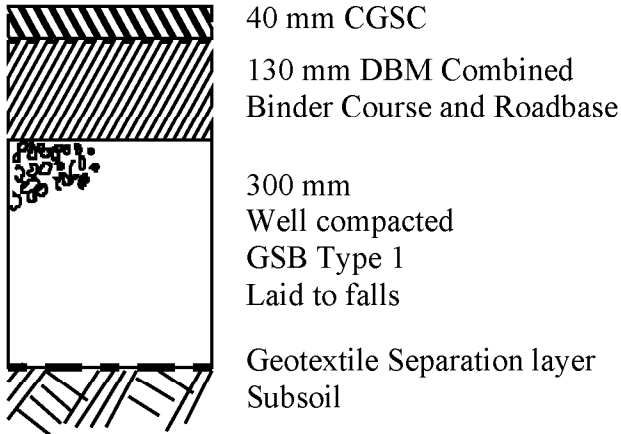
Drawing No SD 08/002

REV.
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Notes.

1. Service Bay minimum width 2.5m, and first 2 m of access to be surface in accordance the specification. Remaining 3m of access must surface in a bound material.
2. Gradient over first 5 m to be less than 5% and access shaped or drained to prevent surface water discharge onto the public road arrangement to be submitted for approval by Roads Authority.
3. Walls, fences or hedges must be set no closer to the public road than 2 m and must not encroach into the visibility splay.
4. Any roadside ditch must be culverted to the satisfaction of the Roads Authority.
5. Surface water drainage to be carried to ditch or other drainage course.
6. Carriageway widening shall be formed in accordance with this standard detail and on satisfactory completion will form part of the public road.



Cross Section

Service Bay Detail

Argyll & Bute Council
Operational Services

Scale 1:150, NTS Date June 2008

Drawing No SD 08/006

REV.

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I have received draft conditions from the ABC Roads Department in respect of this case, which as you may recall went to an LRB at Tarbert on 28 September.

On behalf of the applicant, I respectfully object to proposed condition 3, which seeks to impose two things; a layby for a bin lorry, and an improved roads junction. May I deal with these in turn.

The layby for a bin lorry is a condition which, with great respect, is not required. Along the entire length of the Mull of Kintyre, there are numerous houses by the side of the road which do not have such laybys. It is my understanding that the "bin layby" is not a required condition according to the building regulations, and that neither the frequency of the bin lorry service, nor the density of traffic, nor the number of bins to be emptied makes this a requirement.

The junction improvements will require the applicant to encroach on land which he does not own. This fact appears to be recognised by the Roads Department in its "reasons"; but in the applicant's submission, it is not reasonable to impose such conditions for a mere two additional houses, particularly where the applicant is only able to comply within the limits of the land available. Of course, the condition of the entranceway will be improved where the track meets the public road, and within the available lands. We hope that you will understand that the imposition of the proposed conditions is practical only so far as the land is within the applicants control. Any further requirement is likely to result in a protracted disagreement about the realisation of the project for which planning permission has already been given in principle.

Would you please be kind enough to send this email on to Cllr McCuish, the chairman of the LRB?

Best regards

John Campbell



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**Benview
Tayinloan
TARBERT
Argyll
PA29 6XG**

25 October 2010

Head of Democratic Services and Governance
Argyll and Bute Council
Kilmory
Lochgilphead
PA31 8RT

Dear Sir

**Reference 10/0009/LRB, 08/00231/OUT
Mr & Mrs James Blair
Site for the erection of two dwelling houses
Land south of Achanadriane Farm, by Tayinloan**

Thank you for the opportunity to make a further representation regarding the additional submission relating to this case review.

**Comments On Proposed Conditions And Reasons Submitted By
Planning**

We would request that the following additional conditions and alterations to Planning's proposed conditions, be made.

ADDITIONAL CONDITIONS

Condition 1

Before any work commences on the development, the applicant has to submit a copy of an irrevocable, written legal agreement with the Steel family partnership which grants the applicant permission to use the land owned by the Steel family partnership in order to carry out the necessary alterations to the access track junction with the A83, stipulated by the Roads Department for road safety reasons.

Reason

The applicants do not own any of the land on which the required junction alterations are required. The land on the south side of the access track is owned by the Steel Family Partnership.

Condition 2

Before any work commences on the development, the applicant has to submit a copy of an irrevocable, written legal agreement with Largie Estate Limited which grants the applicant permission to use the land owned by that company

in order to carry out the necessary alterations to the access track junction with the A83, stipulated by the Roads Department for road safety reasons.

Reason

The applicants do not own any of the land on which the required junction alterations are required. The access track is owned by Largie Estate Limited.

Condition 3

Before any work commences on the development, the applicant has to submit a copy of an irrevocable, written legal agreement with Largie Estate Limited which grants the new owners of the building plots the right of access to them over the existing access track which Largie Estate Limited owns. This agreement should stipulate the revised agreed allocation of track maintenance charges as they are split between track users.

Reason

The applicants do not own the existing access track, which is owned by Largie Estate Limited. Only Largie Estate Limited can grant access rights over their track to any new houses built that are accessed over their land.

Condition 4

As part of the alterations to the access junction with the A83, the dry stone dyke alongside the existing track would require to be moved. This dyke should be rebuilt alongside the new track and round the service bay. A design and specification plan of this work should be agreed with Planning before the work begins.

Reason

- In order to retain and improve the existing stone dyke.
- To provide protection to property and pedestrians from vehicles which may accidentally leave the road at this point of the bend.
- In the interests of visual amenity.

Condition 5

Before any work starts on the development, plans for the proposed new access track drainage should be agreed with Planning/Building Control.

Reason

- Fairness to other land and track users by ensuring that there are no additional maintenance costs due to unnecessary flooding/ landslip on to the existing track,/properties on the lower side of the track due to inadequate drainage.

The new access track to the proposed development runs across a steep hill and joins the existing access track at 90 degrees. The new track is likely to shed a very large amount of water that may flood the existing track/ground at a lower level. There is also a risk of landslip in this area. The junction of this new track, with the existing track, is likely to be particularly vulnerable to flooding/landslip and therefore damage. If adequate drainage is not provided at this point there is also risk of flood water/landslip damage to the designed landscape at Benview.

- There is also a risk of flood water/debris being carried from the steep slope of the access track to the two new development plots, down the existing access track on to the A83. Recent floods in the Tayinloan area have shown the damage/danger that this can cause.

Condition 6

There are no existing rights to the **water supply** to Achanadriane for the two development plots as only the householders of Benview and Achanadriane Farmhouse have shared rights to the existing water supply.

There are no existing rights to remove water from the Leth Uillt burn as only the owners of Tigh na Drochit and the currently disused fish farm have rights to a water supply from the burn.

Bore holes would require to be drilled to give a water supply to the two development plots.

- 1 Any damage to the existing track, the steep sides of the track, and vegetation alongside the track, caused by the huge vehicles required for drilling boreholes, should be made good.
- 2 There is risk of soil slip caused by drilling into the wet ground of the development site. Precautions must be taken to prevent soil slip on to the existing track and beyond on to the designed landscape at Benview.

CHANGES TO PLANNINGS CONDITIONS

Condition 6 (iv)

The roof should be finished in natural slate.

Reason

- Appearance and consistency.

The three existing properties all have their roofs finished in natural slate. In particular the roofs of the new houses should match that of Tigh na drochit, which lies adjacent to plot one and the roofs of both houses will be seen together.

Condition 6 (iii)

As a condition of the development is that existing woodland in the area is to be extended to form an appropriate landscape screen and background to the development, it seems appropriate that the external appearance of the houses on both plots should reflect the requirement of a woodland setting by having a wood-clad finish.

Reason

Although the use of recessively coloured wet dash render/smooth coursed cement render/natural stone is usually prescribed for developments in open

landscape, in this case, where a woodland setting is *prescribed*, then an external wood-clad finish, more sympathetic to the woodland landscape, should also be prescribed.

This is particularly the case with Plot One, where the development will be seen alongside the slate roof of Tigh na Drochit, with its wood-clad dormer window. A wood-clad finish would enhance the proposed low impact of this house in the landscape as a woodland house when the proposed screening by woodland is complete.

Condition 9

No discharge of foul drainage into the Leth Uillt burn should be allowed as other parties have a right to extract water from the burn at points below the proposed development.

Reason

In the interests of public health and farm animal health.

We hope that the Board members will give our proposals detailed consideration and that they will recommend that they form part of the attached conditions to planning consent, should this be given.

In particular, we would draw the Boards attention to our additional conditions 1 to 3. We believe that the applicants failed to give the relevant notice, outlined in the Town And Country Planning regulations, of their planning application to Largie Estate Limited. This failure has resulted in Largie Estate Limited being denied the opportunity to make representations regarding the original application and subsequently to the Local Review Body. We believe that the application should be deemed to be void, as it should never have been validated due to this failure.

Yours faithfully

Iain and Kathryn Logan

I have received a copy of a letter from Mr Iain Logan of Benview, Tayinloan. He evidently considers that he is better placed than the Planning Authority to propose draft conditions, and is now proposing even more stringent and far reaching conditions than those advanced by Mr Peter Bain of the Council following the recent LRB Hearing. It is obvious that he is intent on attempting to frustrate the permission which the LRB indicated it was prepared to issue. I respectfully submit that the Authority should not entertain such conduct.

I respectfully submit that Mr Logan's relentless pursuit of his own interests has passed beyond what is reasonable in the circumstances, and that it is open to the LRB now to disregard his further requests.

However, in the interests of a measured reply, my clients' response to the draft conditions now proposed by Mr Logan is as follows

- 1 A title matter, and therefore irrelevant.
- 2 A title matter, and therefore irrelevant.
- 3 A title matter, and therefore irrelevant.
- 4 Unnecessary. The removal and reinstatement of the wall, if required, is a matter to be agreed with its owner(s) and in due course the Building Control officer. The wall is neither listed nor situated in a Conservation Area.
- 5 Unnecessary. This is a matter probably to be designed in advance, but in any event to be agreed with the Building Control Officer before work is carried out. The statements appended to Reason 5 are mere assertion, and unsupported by any scientific or engineering evidence.
- 6 Mere assertion; the use of the applicants' private ground without damage to neighbours' interests is required as a matter of law. The installation and procurement of the water supply to either or both of the proposed new dwellings is a matter for the developer.

.....
Changes to existing draft conditions

- 6(iv) A matter for the Building Control Officer in due course.
- 6(iii) The external finish of the houses is a matter for the Building Control Officer. The applicant disagrees that a wood finish will be appropriate for a permanent dwellinghouse.
- 9 A matter for the LPA as Drainage Authority. The applicant is required to meet modern drainage standards.

Mr Logan's additional observations are noted. No communication has been received from Largie Estate concerning intimation, or a failure of intimation, to it when the application was made. The application and the LRB Hearing were duly advertised in accordance with the regulations.

Yours sincerely

*John Campbell
for James and Veronica Blair*

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10/0009/LRB - Response To Proposed Planning Conditions

Please accept this further submission to the Local Review Board in response to Mr Campbell's attempt to undermine our previous comments on Plannings proposed attached conditions.

We are sure that Mr Campbell is very aware of the hypocrisy contained within his accusations and it would seem that he is the party trying to disrupt the democratic process and LRB procedures.

He is evidently attempting to deny us our democratic right, under the LRB procedures, to lodge a response to the submission made by the Planning Department as regards their recommendations for attaching planning conditions. It is obvious that he is intent on attempting to undermine our submissions by having them dismissed as uninformed and based on self interest. He of course is aware that he is acting on the self interest of his clients and that it is his party that presumes to know better than the Argyll and Bute Planners and the Argyll and Bute Landscape Consultants. That is his, as it is our, prerogative and this presumption underpins any debate or disagreement. Far from trying to have Mr and Mrs Blairs submissions to the Board dismissed, we would hope that the members of the Board will give their full consideration to all of the submissions lodged by all parties.

We trust that the Board will recognise Mr Campbell's rant as nothing more than the tactic that it is and that they will give our submission the full consideration that it is due.

Sincerely

Iain and Kathryn Logan

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