

**Argyll and Bute Council**  
Comhairle Earra Ghaidheal agus Bhoid

*Customer Services*  
*Executive Director: Douglas Hendry*



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9 December 2010

**ARGYLL AND BUTE LOCAL REVIEW BODY – RE-CONVENED MEETING -13  
DECEMBER 2010 AT 9.30 AM IN THE MEMBERS ROOM, KILMORY,  
LOCHGILPHEAD**

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

Douglas Hendry  
Executive Director - Customer Services

**BUSINESS**

**6. WRITTEN SUBMISSIONS REGARDING OWNERSHIP NOTICE**

(b) Comment from Applicant (Pages 1 - 4)

**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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From: Reppke, Charles  
Sent: 09 December 2010 10:33  
To: McCallum, Fiona  
Subject: FW: Land at Achanadriane, TAyinloan, Argyll - 10/0009/LRB

For lrb

From: John Campbell QC [mailto:jcampbellqc@oraclechambers.com]  
Sent: 09 December 2010 09:58  
To: Reppke, Charles  
Cc: bearATBENVIEW@aol.com  
Subject: Land at Achanadriane, TAyinloan, Argyll - 10/0009/LRB

Dear Mr Reppke

I refer to Mr Iain Logan's recent submission to you, sent on his own and his wife's behalf. In our respectful view, the submission by Mr Logan should be rejected.

Firstly, he has no standing to complain about a failure of process which has caused him no prejudice. If there has been any failure in process (as to which, see below) then it is one of which he has no lawful right, title or interest to complain. He can demonstrate none of these, and has asserted no personal prejudice - because there is none.

Secondly, the The Town and Country Planning (Development Planning) (Scotland) Regulations 2008 apply to the preparation, consultation, publication and adoption of Development Plans. They have nothing to do with development management. It is clear that Mr Logan has simply parroted somebody else's letter without reading into any references. This elementary error makes his submissions entirely irrelevant. It follows that any submission which bears to rely on those regulations in connection with a matter of notification to an affected proprietor may safely be ignored. We ask you to do that.

Thirdly, we think that Mr Logan intends to have referred to the the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, which do apply to development management procedure, as their title suggests.

Regulation 15(1) requires notification to be given to affected proprietors within 21 days before the date of the application. That was not done, nor was it discovered that it had not been done, until after the LRB had held its first meeting and site inspection. The omission was of course an oversight, and not deliberate.

Notification having since then been given by direction of the Board, and in the form prescribed by Schedule 1 of the Regulations, the affected proprietor in question (Largie Estate) has formally intimated by the hand of its factor, Mr Niall Macalister-Hall, that it (the estate) did not wish to make any representations anent the application in question. The notification defect was thus cured in advance of a decision of the LRB, and all risk of prejudice to Largie Estate has thus been eliminated.

Fourthly, it is trite law that any defect in an application may be cured if substantive procedure follows on the application without protest. (Pollock v Secretary of State for Scotland 1993 SLT 1173, amng others). In other words, one cannot unearth a procedural defect to defeat a pending application if, in good faith, parties have proceeded until the eleventh hour with the prescribed process in ignorance of the alleged defect.

The tests are threefold. The first is whether the affected 'neighbour' has been deprived of a right at a time when he might have exercised it. In this case he has not, since notification was given to him, although late. I direct you to Wordie Property Co Ltd v Secretary of State for Scotland 1984 SLT 345 at 356.

Second, did Mr Logan find out about the application anyway and comment upon it? Yes, he did, in detail and at some length, and the LRB has taken his remarks into account already.

Thirdly, would Largie Estate have commented if they had been properly notified? No, they would not. We now know that they would not, because they have said so.

Finally, the LRB has already determined that, in principle, this proposed development is acceptable, and that they are inclined to grant the Review following the repair of the acknowledged defect in procedure. It would be extraordinary, in my submission, if it was now to change its mind on account of a procedural challenge brought by a person with no legal interest and who can identify no prejudice.

All that Mr Logan is inviting the LRB to do is to force the applicant to start again, to cover ground already covered in his submissions. We hesitate to categorise this conduct as mischievous, but it certainly does not go to the merits of the application.

Please confirm receipt.

Yours sincerely

John Campbell, for James and Veronica Blair

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