

Argyll and Bute Council
Comhairle Earra Ghaidheal agus Bhoid

Customer Services
Executive Director: Douglas Hendry



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14 September 2011

RECONVENED MEETING OF ARGYLL AND BUTE LOCAL REVIEW BODY

**THURSDAY 22 SEPTEMBER 2011 AT 11.30AM IN KILMELFORD
VILLAGE HALL, KILMELFORD**

I refer to the above meeting and enclose herewith further written submissions which were requested by the Local Review Body at their meeting on 10 August 2011.

Please note that prior to this reconvened meeting a site visit will take place at Lagganbeg, Kilninver at 10.45am.

Douglas Hendry
Executive Director - Customer Services

BUSINESS

3. CONSIDER NOTICE OF REVIEW: LAGGANBEG, KILNINVER PA34 4UU

(d) Further Written Submissions

Written submission received from the Planning Department

Written submission received from the Roads Department

Written submission received from West of Scotland Archaeology Service

(Pages 1 - 16)

ARGYLL AND BUTE LOCAL REVIEW BODY

Councillor Daniel Kelly (Chair)
Councillor Al Reay

Councillor David Kinniburgh

Contact: Hazel Kelly, Senior Committee Assistant Tel: 01546 604269

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ADDITIONAL INFORMATION

REQUESTED BY

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

**GRANT OF PLANNING PERMISSION FOR
ERECTION OF EXTENSION TO DWELLINGHOUSE,
DEMOLITION OF RUINOUS OUTBUILDING AND
ERECTION OF SELF CATERING UNIT AND
ALTERATIONS AND RE-ROOFING OF FURTHER
OUTBUILDING TO FORM STORE AND GARAGE AT
LAGGANBEG , KILNINVER, OBAN, ARGYLL,
PA34 4UU**

**PLANNING PERMISSION REFERENCE NUMBER
11/00208/PP**

29 AUGUST 2011

ADDITIONAL INFORMATION

As requested by the Local Review Body on 15th August 2011, the Development Management Service responds with the following additional information:

Clarification of why there had been no requirement for the access road to be upgraded as part of previous developments at this site.

Response: As previously confirmed, there are no applications on the site that form relevant planning history in this case. There are however a range of properties served by the same private track. The last approvals served by this track were two houses granted Reserved Matters approval in 1998 and 1999 respectively (there have been more recent applications which were withdrawn or refused.) Since 1999, Roads requirements have been updated and the condition attached to the application reflects the current requirements of the Roads Authority.

Clarification on whether condition 4 also prevents other property owners from erecting walls, hedges, fences etc within two metres of the channel line of the public road.

Response: This requirement applies under the planning permission to which it is attached. If the condition were breached by a third party, the Planning Authority could potentially pursue the matter with the applicant, or a successor to the ownership of the application site, or a relevant landowner. The requirement to maintain a clear 2m wide verge reflects that the Roads Authority assume responsibility for 2m wide verges adjacent to public roads. Retention of a roadside verge would integrate well with the existing gaps between the road and fencing.

Clarification on what improvements would need to be carried out to the access road as specified in drawing SD 08/004a to satisfy Condition 4.

Response: The principle requirements to comply with SD 08/004a are for surfacing of the bellmouth with a bound material, which will prevent loose debris from spilling onto the public road as it currently does, and provision of a service bay to enable delivery vehicles and/or the bin lorry to stop clear of the single track public road. The gradient is acceptable at present and the current surfacing would likely form an acceptable sub-base over much of the affected ground. Ongoing maintenance of visibility splays is unlikely to be problematic in this case, where the agricultural land is open and splays are readily achievable.

Clarification on whether condition 5 permitting use of the development as holiday accommodation would apply if the property was sold.

Response: The provisions of condition 5 would continue to apply if the unit were sold separately from the existing house, but in practice, the terms of the condition, including the requirement for the occupation of the ancillary unit to be managed by the owners or occupiers of the main house would act as a deterrent to separate sale

of the unit from the main house. Banks are very unlikely to lend against a property as a separate entity with such a planning condition in force.

In regard to Condition 7, comments on whether the offer made by the applicant to arrange for a representative to be present during works on site and halt proceedings should it be necessary would be acceptable as an alternative to the requirement for a full archaeological investigation.

Response: The offer by the applicant is acceptable to the Planning Service in principle, provided it is considered acceptable by WoSAS. Having an archaeologist on site during excavation is an option to propose as part of the written specification of work to be agreed under the terms of the condition as imposed. As such, the Planning Service is willing to accept the professional input of WoSAS on this matter.

SF

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Stephen Fair

Area Team Leader – Oban, Lorn & the Isles

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Kelly, Hazel

From: Heron, John
Sent: 31 August 2011 16:24
To: Kelly, Hazel
Cc: 'rfye@fastmail.fm'
Subject: RE: 11/0005/LRB

Afternoon Hazel

My apologies forgot to send further written submissions in previous reply, these are now attached:

As far as am aware the condition to upgrade the access road is part of previous developments of this site, however it depends on how far back we are talking about. This is a standard response if development causes intensification of use of the access.

If condition 4 is part of previous conditions then yes, this is a standard response.

The existing access will have to brought up to the standards indicated in drawing SD 08/004a

There are no details of the incidence of traffic at this location, the Roads section do not have the time to undertake a traffic survey at every planning application site. If the applicant is not happy then it is up to them to prove otherwise if they are not happy with the Roads response. The visibility splays are decided by the guestimate of the percentile speed of traffic at this location.

I trust this answers the information required.

John F Heron
Technical Officer
Development and Infrastructure
Jacksons Quarry
Millpark Road
Oban
PA34 4NH

01631 569170

john.heron@argyll-bute.gov.uk

From: Kelly, Hazel
Sent: 30 August 2011 13:37
To: Heron, John
Subject: 11/0005/LRB

Hi John

11/0005/LRB – LAGGANBEG HOUSE, KILNINVER

This AB7 form was sent to you on 15 August 2011 requesting further written submissions in connection with the above review request. Can you please confirm if you have sent me this

information as the deadline was yesterday and I have not received anything as yet. The AB5 form lists the parties that this information must be sent to as well as ourselves.

Thanks,
Hazel

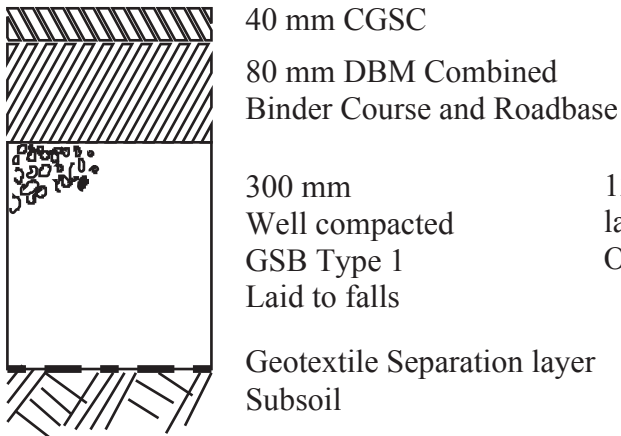
<< File: Form AB5.doc >> << File: Form AB7.doc >>

Hazel Kelly
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Notes.

1. Widened area and first 2 m of access to be surface in accordance the specification. Final 3m of access must be surfaced with 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.
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.

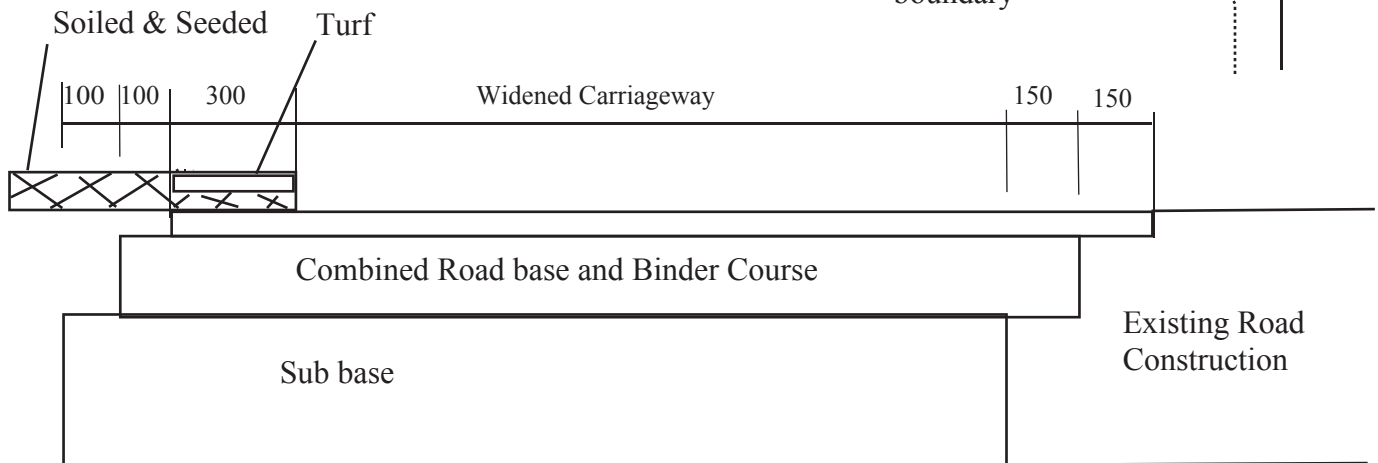
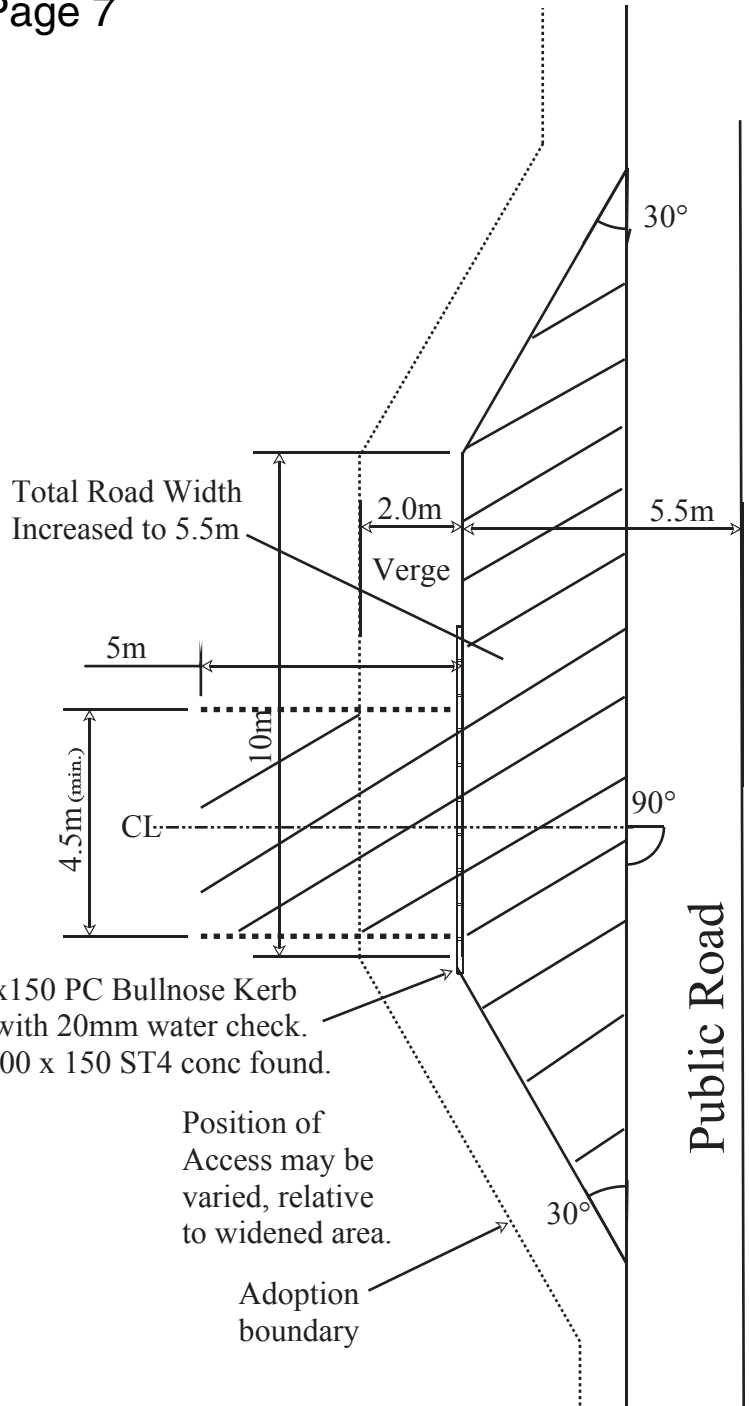


125 x150 PC Bullnose Kerb laid with 20mm water check. On 300 x 150 ST4 conc found.

Position of Access may be varied, relative to widened area.

Adoption boundary

Total Road Width Increased to 5.5m



Cross Section

Access from a Single Track Road From an Un-Kerbed Road

Argyll & Bute Council Operational Services

Scale 1:150, NTS Date June 2008

Drawing No SD 08/004

REV. a

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Our ref: 7/3/2/Cons 23885
Your ref: 11/00208/PP
WoSASdoc: 11_00208 C.doc
Date: 19 August 2011
Contact: Paul Robins
Direct dial: 0141 287 8335

WEST of SCOTLAND
ARCHAEOLOGY
SERVICE



Committee Services
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PA31 8RT

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enquiries@wosas.glasgow.gov.uk

Dear Sir or Madam,

Re: Request for Further Information by Written Submissions in relation to Planning Consent 11/00208/PP - Erection of extension to dwelling house, demolition of ruinous outbuilding and erection of self-catering unit, and alterations and re-roofing of further outbuilding to form store and garage, Lagganbeg, Kilninver, PA34 4UU

I refer to your letter of the 15th of August 2011, requesting further information by written submission in relation to the above application for planning consent, for use by the Local Review Body. In your letter, clarification is requested on two points relative to Condition 7 of the issued consent, as follows:

- Whether the offer made by the applicant to arrange for a representative to be present during works on site and halt proceedings should it be necessary would be acceptable as an alternative to the requirement for full archaeological investigation.
- Clarification if previous works which had taken place on the site had been taken into consideration when providing representation on this application.

These points are addressed in my previous letter relating to this case, sent to Judith Steven of Argyll and Bute Council Planning Department on the 17th of June. This was written in response to statements made in one of Mr Fye's previous letters, to the effect that Condition 7 was unjustifiable as the settlement at Lagganbeg dated from no earlier than 1875 and was therefore of no archaeological significance. My letter of June the 17th provides cartographic evidence to support our position that there is likely to have been a settlement at Lagganbeg for at least the last 400 years, and also notes that it is identified as a site of potential archaeological interest in both our Sites and Monument Record (SMR) and the National Monument Record of Scotland (NMRS). I would ask that the Local Review Body takes this archaeological background into account when reaching its decision in relation to Condition 7, and I have therefore attached a copy of my previous letter and associated map extracts for information.

In addition to setting out the reasoning that underpins our recommendation that a programme of archaeological work should be undertaken in relation to the proposal, my response of the 17th of June also sets out the policy framework within which this advice was made. Both National Government and Council policies regarding the treatment of archaeological material in the planning process recommend that there should be a presumption in favour of preserving archaeological material *in situ*, by the refusal of planning consent where necessary. However, both also make provision for an alternative approach where preservation *in situ* is deemed to be inappropriate or impractical. Both Scottish Planning Policy (SPP) and the Argyll and Bute Local Plan indicate that where the Planning Authority deems that preservation *in situ* is not considered practical or desirable, conditions may be used to ensure that the developer undertakes appropriate excavation, recording, analysis and

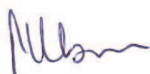
publication of the remains. Our advice as to the need for archaeological work in relation to the proposal proceeds from this starting point.

This policy background is relevant in relation to the second of the queries raised above, as to whether previous work on site had been taken into consideration when providing representation on this application. As was noted in my letter of the 17th of June, assessment of various historical maps indicated that the proposal was likely to have an impact on a recorded site of archaeological interest. As a result of the level of later disturbance in the vicinity, this impact was not considered sufficiently serious as to warrant a recommendation that planning consent should be refused in order to preserve archaeological material *in situ*. Instead, we advised that the Council as Planning Authority should attach a condition to any consent it was minded to grant, requiring that the developer appoint an archaeological contractor to undertake a programme of recording and monitoring work before and during his development. In this way, the Council would be able to ensure that the structures and any below-ground archaeological deposits were preserved by record, before being destroyed by construction activities. I would therefore answer the query by saying that it was because of the previous work that had taken place on site that we did not consider that it would be justifiable to advise the Council to refuse the application, in line with both National and Local policies. It was felt that as any archaeological material present was likely to have undergone some degree of disturbance resulting from subsequent human activity it would be more reasonable and appropriate to ensure the preservation of this material by record through a programme of archaeological fieldwork.

Regarding the applicant's other query, whether the offer to arrange for a WOSAS representative to be present during works on site is acceptable as an alternative to the requirement for a full archaeological investigation, this would not be acceptable as current guidance, National and Local Authority policy put the onus clearly on the applicant to secure the archaeological works required of them. Under the current system it is not the role of the West of Scotland Archaeology Service to undertake fieldwork on behalf of developers; rather, we are specifically employed by the Council to identify when planning applications raise archaeological issues, to make recommendations as to how these issues may be addressed, and to ensure that the resultant fieldwork is carried out to an appropriate level. For us to both recommend the need for fieldwork and then undertake this work ourselves could be viewed as a potential conflict of interest, and would potentially leave us (and by extension the Council) open to the charge of acting in an anti-competitive manner. Furthermore, as we are a joint service, providing advice to eleven other planning authorities, any time taken to undertake fieldwork for an individual developer would represent a period when a member of staff was unavailable to deal with work on behalf of other Councils. Also, as part of recent cost-cutting measures instituted at the request of our member Councils, we have recently reduced our staff numbers from four to three, meaning that there is no time to deal with un-resourced work outside our normal planning advice remit. Undertaking fieldwork would fall outside our Service Level Agreement with Argyll and Bute and our other member Councils and so is not acceptable.

I hope the above clarifies our position and the written submissions are those that you require but please contact me if there is anything else you need.

Yours faithfully



West of Scotland Archaeology Service

Our ref: 7/3/2/Cons 23885
Your ref: 11/00208/PP
WoSASdoc: 11_00208 B.doc
Date: 17 June 2011
Contact: Paul Robins
Direct dial: 0141 287 8333

WEST of SCOTLAND
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Head of Development & Building Control
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FAO: Judith Steven

Dear Ms Steven,

Re: Planning Consent 11/00208/PP - Erection of extension to dwelling house, demolition of ruinous outbuilding and erection of self-catering unit, and alterations and re-roofing of further outbuilding to form store and garage, Lagganbeg, Kilninver, PA34 4UU

I refer to your email of the 16th of June 2011, enclosing a letter submitted by Richard Fye, the applicant in the above case, appealing an archaeological condition attached to this consent on our recommendation. In light of this, I would like to provide the following additional comments.

Mr Fye's letter stated that to the best of his knowledge, the property dates from around 1800, and in support of this, he supplied an extract from the 1st edition Ordnance Survey map of 1875. This map is one of those available in our Sites and Monuments Record, and was consulted as part of our original assessment of the site. While the appearance of Lagganbeg on the 1st edition does demonstrate that the settlement was in existence during the later 19th century, it provides no information on the date of first occupation on the site. Mr Fye then states that there is no reference to any historical settlement or site, which is not the case. As was stated in my original letter, Lagganbeg was depicted on Roy's Military Survey of Scotland, conducted in the period 1747-55, and I attach an extract from this map for information. The depiction of Lagganbeg on Roy's map demonstrates that its foundation predates the period of widespread agricultural improvement in the later 18th and early 19th centuries, an interpretation that is supported by its position in the landscape, as pre-improvement farming settlements are often found on the side of valleys, leaving the valley floor free for cultivation.

Patterns of settlement and landholding in pre-improvement Scotland could be very stable and long-lived, meaning that the date of first occupation at Lagganbeg could be considerably earlier. This is supported by the appearance of the place-name on Blaeu's Atlas of Scotland, dating from 1654, and I have also attached an extract from this map, which may be passed to Mr Fye for information. As a result of the early date of survey, the Blaeu Atlas is less detailed than the Roy map or the subsequent Ordnance Survey plans, but it does indicate that the general pattern of settlement within the valley has been fairly consistent for at least the last 350 years, with a settlement named Shellachan (or Sellachan) at the eastern end of Glen Euchar, close to Loch Scammadale, one called Lagganmore at its western end, with Lagganbeg between the two. The Blaeu Atlas was based on the work of Timothy Pont, who spent the late 1580s and 1590s travelling through Scotland, mapping the country. Following his death, his maps were passed to Blaeu, meaning that it is likely that the appearance of Lagganbeg on Blaeu can be taken as strongly indicating that the settlement was already in place before 1600.

Mr Fye states that it is recognised that the neighbouring property of Lagganmore was a historical settlement with archaeological interest, and that its significance is noted on ancient and modern maps. He further states that nothing is recorded for Lagganbeg, and suggests that it was unlikely that there were two medieval settlements within the glen at such close proximity. I hope that the information provided above will demonstrate that there is a tradition of occupation at Lagganbeg dating back at

least 350 years; indeed, the appearance of the settlement on Blaeu demonstrates that it was already in existence by the mid 17th century and that as a result, its origins must pre-date this period. While detailed mapping is not available for the medieval period, the presence of three settlements in the glen by the mid 17th century would imply that it is not implausible to suggest that these three settlements may also have co-existed in earlier periods.

I would also note that Lagganbeg appears as a site of potential archaeological interest in both our Sites and Monument Record (SMR) database, and in the National Monument Record of Scotland (NMRS), having been identified by the First Edition Survey Project (FESP), run jointly by the Royal Commission on the Ancient and Historical Monuments of Scotland (RCAHMS) and Historic Scotland. This project sought to identify rural structures depicted as abandoned or unroofed on the 1st edition maps, as a way of mapping changing patterns of rural landuse.

Both Government and Council policy regarding development proposals that have the potential to affect archaeological material is that preservation *in situ* should be the favoured option wherever possible. Paragraph 123 of Scottish Planning Policy (SPP), which deals with Archaeology and Planning, states that '*archaeological sites and monuments are an important, finite and non-renewable resource and should be protected and preserved in situ wherever feasible,*' while Policy LP ENV 17 of the Argyll and Bute Local Plan states that '*there is a presumption in favour of retaining, protecting, preserving and enhancing the existing archaeological heritage and any future discoveries found in Argyll and Bute*'. Accordingly, our preferred advice for dealing with planning applications with the potential to disturb archaeological material would always attempt to secure the preservation of this material, either by advising that the Council refuse to grant planning consent, or by asking the Council to secure the redesign or alteration of details of the application to achieve preservation *in situ* of archaeological material, whether this exists as an upstanding structure or whether it survives in the form of buried sub-surface deposits.

While preservation *in situ* of archaeological material is always to be preferred, in line with current Government and Council policy, both National and Local Plan policies make provision for an alternative approach should preservation *in situ* be deemed inappropriate or impractical. In relation to this possibility, Paragraph 123 of SPP states that '*where preservation in-situ is not possible planning authorities should, through the use of conditions or a legal agreement, ensure that developers undertake appropriate excavation, recording, analysis, publication and archiving before and/or during development.*' This is supported by policy LP ENV 17 of the Argyll and Bute Local Plan, which deals with developments which impact on sites of archaeological importance, and which states that '*developers will be expected to make provision for the protection and preservation of archaeological deposits in situ within their developments*', but goes on to state that '*where the Planning Authority deems that the protection and preservation of archaeological deposits in situ is not warranted for whatever reason, it shall satisfy itself that the developer has made appropriate and satisfactory provision for the excavation, recording, analysis and publication of the remains*'.

In relation to the current application for development at Lagganbeg, assessment of various historical maps indicated that the proposal was likely to have an impact on a recorded site of archaeological interest. As a result of the level of later disturbance in the vicinity, this impact was not considered sufficiently serious as to warrant a recommendation that planning consent should be refused in order to preserve archaeological material *in situ*. Instead, we advised that the Council as Planning Authority should attach a condition to any consent it was minded to grant, requiring that the developer appoint an archaeological contractor to undertake a programme of recording and monitoring work before and during his development. In this way, the Council could ensure that the structures and any below-ground archaeological deposits were preserved by record, before being destroyed by construction activities.

In terms of the scale of work required to satisfy the condition, this is likely to be relatively limited. A standing building survey would be needed, in order to record the structures in their final forms before renovation or demolition. A watching brief would also be required during the demolition process itself and during the initial phase of ground disturbance associated with construction, in order to ensure that any deposits relating to the early settlement that were exposed during this work were excavated and recorded. Any such discoveries would have to be excavated before their destruction

through a staged series of further works, including further full excavation and any post excavation analyses and publication, as required.

Thank you for requesting our comments.

Yours faithfully

West of Scotland Archaeology Service

Extract from Roy's Military Survey of Scotland, surveyed in the period 1747-1755



Bleau Atlas of Scotland, 1654



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