

Argyll and Bute Council
Comhairle Earra Ghaidheal agus Bhoid

Customer Services
Executive Director: Douglas Hendry



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19 August 2013

ARGYLL AND BUTE LOCAL REVIEW BODY RECONVENED MEETING

**MONDAY 26 AUGUST 2013 AT 9.30 AM IN COMMITTEE ROOM 1, KILMORY,
LOCHGILPHEAD**

I enclose herewith further written submissions as requested by the Argyll and Bute Local Review Body at their meeting held on 26 June 2013.

Douglas Hendry
Executive Director - Customer Services

BUSINESS

3. **CONSIDER NOTICE OF REVIEW REQUEST: ARDUAINE FARM, ARDUAINE, KILMELFORD (REF. NO: 13/0002/LRB)**
 - (i) Further Written Submissions from Planning Authority (Pages 1 - 4)

ARGYLL AND BUTE LOCAL REVIEW BODY

Councillor Gordon Blair
Councillor Sandy Taylor (Chair)

Councillor Rory Colville

Contact: Fiona McCallum Tel: 01546 604392

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**Local Review Board (LRB) consideration of appeal against refusal of 12/00361/PPP
13/0002/LRB
Proposed Dwellinghouse, Arduaine Farm, Arduaine, PA34 4XQ**

Planning Department submission

The LRB recently requested details on whether or the business operation of Arduaine Farm Services Ltd from the holding created a locational or operational need for the proposed dwelling on the site. Through application 13/01066/CLAWUA, the applicant is seeking to establish the use of the barn for a period in excess of ten years as a storage facility serving the business. Additional information has been submitted which is likely to be sufficient to prove that the operation is now immune from enforcement action, and accordingly, a certificate of lawfulness is likely to be issued in early course.

Use of the site as a storage facility for the Arduaine Farm Services Ltd operation does not carry with it any direct need for an on-site residential presence. The site has no demonstrated history of criminal damage of theft, nor is any evidence submitted to suggest this is a problem. The use of the site for storage purposes has been successfully managed from the appellant's existing property within Arduaine for a number of years. The Certificate of Lawfulness application 13/01066/CLAWU verifies the presence of the storage operation at the site for a period in excess of 10 years. This has been undertaken without a residential presence. There are residential properties at the site already that act as a passive security measure deterring any would-be criminal activity. The site identified for a proposed house under 12/00361/PPP is concealed from view from the farm building and storage operation, and so will add nothing towards enhanced security of the site.

The appellant states that regular trips to Arduaine Farm interrupt the working day. This is not considered to be a sufficient argument to agree to a new house in the countryside around settlement development control zone.

Finally, the appellant states that a new farmhouse would be beneficial to the farming operation, however the same statement also comments that the contracting/engineering business is has now grown to be the main form of income. The applicant has not submitted a strong business case arguing for the requirement of another house in this location either by virtue of the farming operation or the contracting/engineering business operation.

To ensure a thorough response to issues raised through the request for review, the planning service has requested input from Environmental Health and Animal Welfare officers with regard to two key questions about this proposal:

1. Would a house serving the farm within the farmyard represent a 'bad neighbour in reverse' scenario as per adopted Local Plan policy LP BAD 2?
2. Does the applicants' submission represent a reasonable case for operational need in terms of animal welfare as claimed within the applicants' submission?

The Council's Environmental Health officer, has confirmed that as any house within the farmyard would be owned by the operators of the farming operation then this would not represent a bad neighbour in reverse scenario.

Secondly, the Council's Senior Animal Welfare Officer, has confirmed that the business case as submitted by the applicant during the processing of the planning application does not represent a sound case for the need of a dwelling house in terms of animal welfare. It has been confirmed that

the applicant has minimal farming activities and currently has two sheep registered to the farm. This information was obtained from the Department of Agriculture.

Copies of both these emails can be reviewed in appendices 1 and 2 below.

As referenced above, the following is in response to a request for further information by written submissions by the LRB in connection with the application for certificate of lawful use currently under consideration by this department:

1. The applicant has recently submitted sworn affidavits to support the application of certificate of lawful use (reference: 13/01066/CLAWU) to demonstrate that the site has been used as a storage facility for Arduaine Farm Services Ltd operations for an uninterrupted period of more than 10-years. The storage facility contains machinery and materials associated with the contracting/engineering business. The business itself is registered to an address in Tarbert. The sworn affidavits and the submission of other details including evidence that Mr Michael Campbell was operating the site in this manner since becoming a registered sole trader in 1997 and the subsequent formation of Arduaine Farm Services Ltd in 2003 together with the relevant VAT and business registration documents provides enough evidence that, on the basis of probability, the site has been used for the storage of machinery and materials associated with Arduaine Farm Services Ltd for an uninterrupted period of 10-years. The certificate of lawful use will be issued shortly.

Stephen Fair
Area Team Leader
Oban, Lorn and the Isles
16 July 2013

Appendix 1 – Copy of Email from Environmental Health Officer to David Love, Senior Planning Officer dated 10/05/2013

From: Stefek, Sue
Sent: 10 May 2013 15:43
To: Love, David
Subject: RE: Arduaine Farmhouse proposals

Good afternoon David

With regards to your question, Environmental Health would not consider this to be a bad neighbour in reverse as the applicant and the possible generator of any noise/machinery are one in the same. The condition of the farmyard is also at the discretion of the applicant.

Kind Regards

Sue

From: Love, David
Sent: 10 May 2013 15:15
To: Stefek, Sue
Subject: Arduaine Farmhouse proposals

Afternoon Sue,

Thank you for meeting me earlier to discuss the above proposal and current LRB.

The applicant has proposed a house in countryside around settlement, however we have suggested that a site within the settlement zone and in the farmyard would be more appropriate and satisfy the test of planning policy. The appellant has claimed that this is not acceptable presumably given the noise generated by machinery and by the general unkempt environment of the farmyard. My question is, would a house proposal serving the farm within the farmyard be a bad neighbour in reverse as per policy LP BAD 2? The farmhouse would be occupied by the appellant and his family.

Kind regards,

David Love

Appendix 2 – Copy of Email from Animal Welfare Officer to David Love, Senior Planning Officer, dated 13/05/2013

From: Kerr, David
Sent: 13 May 2013 10:26
To: Love, David
Subject: Arduaine

Hello David

While the application doesn't give me very much details with respect to the sheep enterprise, I cannot see any justification for an operational need there.

Primarily this is because there is no change in the management structure by building a new house- the applicant is already on site and has managed whatever farm enterprise exists for the past 13 years. Therefore the welfare has been adequately addressed-unless the applicant disagrees, which would imply a current and on-going criminal liability.

Even if he intends a massive expansion and development of the agricultural enterprise, this would not be conditional on a locational change of domicile over such a short distance.

I hope this is of assistance to you.

David Kerr
Senior Animal Health and Welfare Officer