

Public Document Pack

Argyll and Bute Council
Comhairle Earra-Ghàidheal Agus Bhòid

Executive Director: Douglas Hendry



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9 September 2020

SUPPLEMENTARY PACK 1

ARGYLL AND BUTE LOCAL REVIEW BODY - BY SKYPE on WEDNESDAY, 16 SEPTEMBER 2020 at 11:00 AM

Enclosed herewith copies of Agenda Packs issued for 1st calling on 19 February 2020 and 2nd calling on 25 May 2020.

Douglas Hendry
Executive Director

3. CONSIDER NOTICE OF REVIEW REQUEST: LAND NORTH OF PENMORE MILL, PENMORE, DERVAIG, ISLE OF MULL (REF: 20/0001/LRB)

- (a) Agenda Packs issued for 1st and 2nd Callings of this Local Review Body
(Pages 3 - 108)

Argyll and Bute Local Review Body

Councillor George Freeman
Councillor Jean Moffat

Councillor David Kinniburgh (Chair)

Contact: Fiona McCallum Tel: 01546 604392

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12 February 2020

NOTICE OF MEETING

A meeting of the **ARGYLL AND BUTE LOCAL REVIEW BODY** will be held in the **COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD** on **WEDNESDAY, 19 FEBRUARY 2020** at **11:00 AM**, which you are requested to attend.

Douglas Hendry
Executive Director

BUSINESS

- 1. APOLOGIES FOR ABSENCE**
- 2. DECLARATIONS OF INTEREST**
- 3. CONSIDER NOTICE OF REVIEW REQUEST: LAND NORTH OF PENMORE MILL, PENMORE, DERVAIG, ISLE OF MULL**
 - (a) Notice of Review and Supporting Documentation (Pages 3 - 70)
 - (b) Comments from Interested Parties (Pages 71 - 92)
 - (c) Comments from Applicant (Pages 93 - 96)

ARGYLL AND BUTE LOCAL REVIEW BODY

Councillor George Freeman
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Central Validation Team at Argyll and Bute Council 1A Manse Brae Lochgilphead PA31 8RD Tel: 01546 605518 Email: planning.hq@argyll-bute.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100220838-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	MH Planning Associates		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	Michael	Building Name:	<input type="text"/>
Last Name: *	Hyde	Building Number:	63
Telephone Number: *	07816 907203	Address 1 (Street): *	West Princes Street
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	Helensburgh
Fax Number:	<input type="text"/>	Country: *	Scotland
		Postcode: *	G84 8BN
Email Address: *	mh@mhplanning.co.uk		

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Other"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text" value="Mr and Mrs"/>	Building Name:	<input type="text" value="Penmore Mill"/>
First Name: *	<input type="text" value="Phil and Rae"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text" value="Tiernan"/>	Address 1 (Street): *	<input type="text" value="Dervaig"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Tobermory"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Isle of Mull"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="na"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

Site Address Details

Planning Authority:

Full postal address of the site (including postcode where available):

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Northing Easting

Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Erection of dwellinghouse, outbuilding and installation of septic tank

Type of Application

What type of application did you submit to the planning authority? *

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? *

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

See attached Grounds for Review

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

Yes No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Grounds for Review and Documents 1-5

Application Details

Please provide details of the application and decision.

What is the application reference number? *

19/01737/PP

What date was the application submitted to the planning authority? *

15/08/2019

What date was the decision issued by the planning authority? *

19/11/2019

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

Yes No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

Yes No

Is it possible for the site to be accessed safely and without barriers to entry? *

Yes No

If there are reasons why you think the local Review Body would be unable to undertake an unaccompanied site inspection, please explain here. (Max 500 characters)

None

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

Yes No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Michael Hyde

Declaration Date: 20/12/2019

**REQUEST FOR REVIEW OF DECISION TO
REFUSE PLANNING PERMISSION FOR THE
ERECTION OF DWELLINGHOUSE,
OUTBUILDING AND INSTALLATION OF
SEPTIC TANK, LAND NORTH OF PENMORE
MILL, PENMORE, DERVAIG, ISLE OF MULL
(LPA REFERENCE 19/01737/PP)**

GROUNDNS FOR REVIEW

Submitted on behalf of Mr Phil and Mrs Rae
Tiernan by



MH Planning
Associates

REQUEST FOR REVIEW OF DECISION TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF DWELLINGHOUSE, OUTBUILDING AND INSTALLATION OF SEPTIC TANK, LAND NORTH OF PENMORE MILL, PENMORE, DERVAIG, ISLE OF MULL (LPA REFERENCE 19/01737/PP)

GROUNDS FOR REVIEW

1. Site Description:

1.1 The site the subject of this review is a generally level piece of grazing land within a visually broken landscape setting. The proposed new dwellinghouse will be set alongside the western boundary of the site. The land outwith the western boundary of the site is raised, with woodland areas, which will provide a suitable backdrop to the dwellinghouse and which will help it to integrate with its surroundings.

2 Relevant Planning History:

2.1 Outline planning permission for the erection of a dwellinghouse on the same site as the review application was approved in June 2008 (LPA reference 08/00438/OUT). A copy of the officer's Report of Handling (**Document 1**) and the Decision Notice (**Document 2**) are submitted alongside this request for a review.

2.2 Following this, in December 2010, full planning permission for the erection of a dwellinghouse and shed, again on the same site as the review application, was approved (LPA reference 10/01597/PP). A copy of the officer's Report of Handling (**Document 3**) and the Decision Notice (**Document 4**) are also submitted alongside this request for a review.

3. Relevant Development Plan Policies:

3.1 Section 25 of the Town and County Planning (Scotland) Act 1997 states that "where in making any determination under the planning act regard is to be had to the Development Plan, the determination shall be in accordance with the plan unless material considerations indicate otherwise"

3.2 The Development Plan relevant to the current planning application comprises the:

- Argyll and Bute Local Development Plan (2017).

3.3 The following policy of the Local Development Plan is directly relevant to

the determination of the current review:

Policy LDP DM1, which states that encouragement shall be given to sustainable forms of development including, within the Countryside Zone up to small scale on appropriate infill, rounding off and redevelopment sites and changes of use of existing buildings. In exceptional cases development in the open countryside up to and including large scale may be supported on appropriate sites if this accords with an ACE. There is a presumption against development that seeks to extend an existing settlement into the Countryside Zone.

4. The Review Applications:

- 4.1 The review application was submitted in August 2019. It was refused on 13 November 2019 for the following reason:

" The site lies within the designated Countryside Zone wherein Policy LDP DM 1 of the Adopted Argyll and Bute Local Development Plan (LDP) 2015 gives encouragement to appropriate infill, rounding-off and redevelopment and changes of use of existing buildings. In exceptional cases development in the open countryside up to and including large scale may be supported on appropriate sites if this accords with an Area Capacity Evaluation (ACE). In this case the site does not present any opportunities for infill, rounding-off, redevelopment or change of use of existing buildings and no detailed and/or acceptable exceptional case argument has been demonstrated. Additionally, Supplementary Guidance SG LDP HOU 1 states that there is a presumption against small-scale housing development in the open/undeveloped areas of the Countryside Zone. The principle of development is therefore contrary to the settlement strategy of the LDP and cannot be supported. There are no material considerations of sufficient weight which demonstrate that the proposal should be determined otherwise in accordance with the development plan."

5. Grounds for Review:

- 5.1 As noted above, Section 25 of the Town and County Planning (Scotland) Act 1997 states that "where in making any determination under the planning act regard is to be had to the Development Plan, the determination shall be in accordance with the plan unless material considerations indicate otherwise".
- 5.2 The planning history of an application site is a material consideration to be

afforded significant weight when a planning application is being assessed and determined. In this instance it is considered that the planning history of the review site, which consists of two previous approvals for the same development as is now being proposed, has been ignored by Officers. This planning history of the site, which is summarised in Section 2 above, can be expanded upon as follows.

- 5.3 The applicants first obtained outline planning permission for the erection of a dwelling on the current application site in June 2008. Prior to applying for outline permission two meetings were held on site with Planning Officers.
- 5.4 In October 2007 a meeting was held with a now unknown Planning Officer, in order to discuss the erection of the proposed dwelling on the site known as 'The Coidh', i.e. the current application site. This site was however not favoured by the Planning Officer, on the basis that it was not within the soon to be adopted **Rural Opportunity Area** (ROA). The Planning Officer advised that the applicant's look at alternative sites on the croft that were also within the proposed ROA.
- 5.5 In November 2007 a second meeting took place on the site, this time with the original Planning Officer and a Mr Ewen Stewart. Two potential sites within the ROA were looked at, but both of these were not considered to be suitable development sites. Mr Stewart (who had not been at the previous site visit) asked to see the original site, i.e. the current application site. On seeing this site, the applicants were advised that this was the most preferable site, and that they should apply for outline planning permission for the development of this (even though as noted above the site was not within the proposed ROA).
- 5.6 This is what they did, and their outline planning application was submitted in February 2008. The application was determined to be in accordance with the provisions of the former Mull, Coll and Tiree Local Plan, and the Report of Handling (**Document 1**) states "the site is within an extensive Rural Opportunity Area where it is considered that there is capacity to absorb single developments set in isolation, where these maintain the sporadic nature of the settlement pattern. The current scheme complies with the location requirements of the housing and environmental policies set out in the Modified Finalised Draft Local Plan".
- 5.7 This is clearly wrong. The site never has been with the Rural Opportunity Area, as designated in the 2009 Argyll and Bute Local Plan (which replaced the former Mull, Coll and Tiree Local Plan). This can be seen from the extract below:

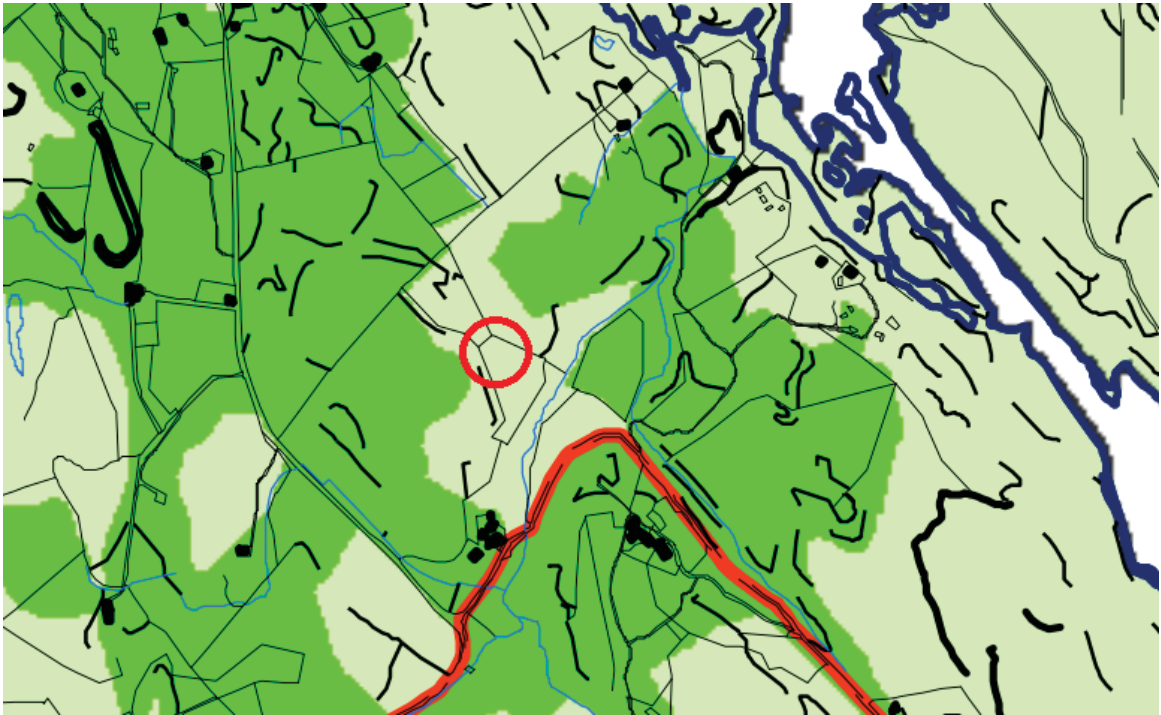


Figure 1: Extract from 2009 Local Plan Proposals Map.

- 5.8 It is not understood how the Planning Officer (Mr Ewen Stewart) who wrote the Report of Handling in 2008 could have made such a fundamental mistake, but nevertheless planning permission in principle was granted.
- 5.9 In 2010, following the grant of outline planning permission, an application for full permission for the erection of a dwellinghouse and shed (as opposed to an application for the approval of reserved matters) was submitted. The Officer's Report of Handling (**Document 3**) in this instance makes no mention of the ROA at all, however the Decision Notice (**Document 4**) states that "the development proposed is consistent with adopted Local Plan policy".
- 5.10 This however cannot be correct because the site was not then (and never was) within the ROA, and the erection of the dwelling could not reasonably be considered to be infill, rounding off or redevelopment. The fact that there was then an extant outline planning permission could have been a material consideration, that could then have outweighed the policy conflict, but this was not the explicit basis upon which approval was recommended. If the application proposal was however consistent with adopted Local Plan policy in 2010, it will also be now, given that the policy context is essentially the same.
- 5.11 In November 2012 the building warrant approval for the erection of the

approved dwelling was granted (LPA reference 12/00453/ERD). Some months prior to this works commenced on site. In June 2012 the access track was formed with rotten rock dug from a borrow pit adjacent to the site (see **Photograph 1** below), and in July 2012 the base for the shed laid (also with rotten rock dug from same borrow pit).



Photograph 1: Photo from Building Warrant submission showing the access track in place.

5.12 Finally, in September 2017, the applicant telephoned the Planning Office in order to discuss the possibility of amending the design of the previously approved dwelling. He was advised verbally that as a previous planning permission had been granted this "should not be a problem".

5.13 The Officer's Report of Handling with respect to the review application (**Document 5**) states with respect the planning history of the site that:

" There is, therefore, a significant ambiguity over the assessment of these previous applications and whether or not planning policy was applied correctly at that time.

Notwithstanding this, however, the argument as to whether or not officers now long retired from the employment of Argyll and Bute Council correctly applied the appropriate assessment of the previous applications is considered to carry little material weight in respect of the assessment of this current planning application."

5.14 There no "ambiguity" whatsoever. In 2008 the Planning Officer wrote in his Report of Handling that the site was "within an extensive Rural Opportunity Area" when it wasn't (and never had been). In 2009 a different Planning Officer did not mention the ROA in her Report of Handling, but nevertheless erroneously concluded that "the development proposed is

consistent with adopted Local Plan policy”.

- 5.15 To dismiss two unambiguous Reports of Handling by saying that “the argument as to whether or not officers now long retired from the employment of Argyll and Bute Council correctly applied the appropriate assessment of the previous applications is considered to carry little material weight in respect of the assessment of this current planning application” is fundamentally unreasonable.
- 5.16 Based upon the previous grants of planning permission for the erection of a dwellinghouse on the review site, under what is essentially the same policy context as is currently in force, the applicants had a justifiable expectation that a further grant of planning permission for the erection of a new dwelling on the site would be forthcoming.
- 5.17 In addition to the above, the **Proposed Local Development Plan 2 (LDP2)** has now been published and is currently being consulted upon. As such it is a ‘material consideration’, albeit with limited weight at this early stage of its progress towards adoption. LDP2 adopts a more flexible approach to sustainable development in non-environmentally protected countryside. These are defined as areas where suitably scaled new development, which in the opinion of the Council as Planning Authority is able to meet the sustainable development criteria outlined in **Policy 02(A)**, will normally be permitted.
- 5.18 **Policy 02(A)** states that within the Countryside Areas there is a presumption in favour of sustainable development where this is of an appropriate scale, design, siting and use for its countryside location, as detailed in the relevant subject policies. All developments will require a Landscape and Visual Impact Assessment demonstrating to the satisfaction of the Planning Authority, that the proposal can be successfully integrated into its land scape setting unless they are:
- Infill; or
 - Rounding off; or
 - Redevelopment opportunities of clusters; or
 - Previously developed sites.

Development adjacent to, but outwith settlement boundaries which are delineated in the Proposals Maps will not constitute infill, rounding off or redevelopment.

- 5.17 Coupled with the weight to be attached to the planning history of the site, the Proposed LDP2 (which would offer support to the current

proposal) should further be able to tip the 'planning balance' in favour of an approval of the review application.

6. Conclusions:

- 6.1 In conclusion it is strongly considered that the planning history of the site, as detailed above, is a significant material consideration sufficient to indicate that the current application should have been able to have been approved as a minor departure from the provisions of **Policy LDP DM1** of the adopted Local Development Plan. This is essentially what happened in 2008, and again in 2010, given that the review site never has been with a Rural Opportunity Area.
- 6.2 It is furthermore important to remember that the review site, although it is not within the ROA, was one which was specifically promoted by the Council's appointed Planning Officer in 2008. The site was his preference, and on this basis the original approval of outline planning permission was granted.
- 6.3 Finally, whilst possibly not relevant to the planning assessment to be made, the applicants are currently living in temporary accommodation along with their three young children, who attend the local primary and high schools. Mr Tiernan's business is growing, and is in huge demand, and Mrs Tiernan is employed as an 'additional support needs person' and also as a school bus driver at a local primary school. All that they now want is for their planning permission to be granted again, so that they can complete the project that they began back in 2007.
- 6.4 Once these Grounds for Review have been considered by the Local Review Body it is therefore hoped that a further final planning permission for the erection of the previously approved dwelling will be able to be granted, and that the applicants will at last be able to build and move into their new home.

Delegated Planning Application Report

Reference No: 08/00438/OUT
Applicant: Rae Tiernan
Proposal: Site for erection of dwellinghouse.
Site Address: The Coidh Penmore Dervaig Isle Of Mull Argyll

CONSULTATIONS:

Area Manager Roads, 21.04.2008 No objections subject to conditions.
Oban, Lorn And The
Isles

PUBLICITY:

ADVERT TYPE: NONE REQUIRED.

EXPIRY DATE:

REPRESENTATIONS:

NONE RECEIVED.

ASSESSMENT:

The site is within an extensive Rural Opportunity Area where it is considered that there is capacity to absorb single developments set in isolation, where these maintain the sporadic nature of the settlement pattern. The current scheme complies with the location requirements of the housing and environmental policies set out in the Modified Finalised Draft Local Plan.

The Adopted Mull, Coll and Tiree local plan has designated this part of the island as a local scenic area (Loch a' Chumhainn/Calgary Area). Proposals within this area require therefore to be considered against Policy RUR 2, which seeks to ensure that developments will not have an adverse environmental impact. As noted above the proposal reflects the sporadic nature of development in the area and will not be out of place within the visually broken landscape setting. The design of the building will of course be subject of further review

through the submission of a further application to consider the orientation, form, scale and proportions of the new structure.

Government guidance in the form of Planning Advice Note 72 (Housing in the countryside) also seeks to ensure that new developments reflect the established pattern of development within an area. The proposal satisfies this guidance in that a new building will not look awkward or out of place at the chosen location.

RECOMMENDATION:

Recommend that outline planning permission be granted subject to the standard conditions and the following additional conditions.

Signature Caseload Officer:
Ewen Stewart

Dated: 17.06.2008

Area Team Leader Signature:

Dated: 18.06.2008



CONDITIONS AND REASONS RELATIVE TO APPLICATION 08/00438/OUT

1. This permission is granted under the provision of 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 that the further approval of Argyll and Bute Council or of the Scottish Executive on appeal shall be required with respect to the undermentioned reserved matters before any development is commenced.
 - a. The siting, design and external appearance of the proposed development.
 - b. The landscaping of the site of the proposed development.
 - c. Details of the access arrangements.
 - d. Details of the proposed water supply and drainage arrangements.

Reason: In order to limit the duration of this consent in accordance with section 59 of the Town and Country planning (Scotland) Act 1997.

2. In the case of the reserved matters specified in (1) above, an application for approval of the reserved matters in terms of Article 6 of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992 must be made to Argyll and Bute Council no later than the expiration of 3 years beginning with the date of this permission.

Reason: In order to limit the duration of this consent in accordance with section 59 of the Town and Country planning (Scotland) Act 1997.

3. That the development to which this permission relates must be begun not later than the expiration of 5 years from the date of this permission or within the expiration of 2 years from the final approval of all reserved matters, whichever is the later.

Reason: In order to limit the duration of this consent in accordance with section 59 of the Town and Country planning (Scotland) Act 1997.

4. No development shall commence on site until there has been submitted to and approved in writing by the planning authority full details of the proposed means of water supply to serve the development. Such details shall also include a report, prepared by a suitably qualified person, detailing the suitability, with regards to the quality and quantity of water available, of the proposed water supply to serve the dwellings hereby approved. The report shall also include, if necessary, any methods needed to improve the proposed supply. Thereafter, prior to the first occupation of the dwellings, the water supply shall be fully operational and constructed in accordance with the approved details, unless otherwise agreed in writing with the planning authority

Reason: Insufficient information has been submitted with regard to the proposed means of water supply within the application and therefore it is necessary for the above details to be submitted for the consideration of the planning authority in order to protect the amenities of other existing users of any proposed supply.

5. Prior to the commencement of development full details of all external lighting to serve the development shall be submitted for the further written approval of the Council as

planning authority. The submitted details shall show the position of all proposed external lights and their illumination levels (provided in lux), together with appropriate mitigation measures to prevent light spillage and glare beyond the site boundary. Thereafter, the development shall be carried out in accordance with the agreed details and within six months of the development being completed or of the occupation of the dwellinghouse, unless otherwise approved in writing by the planning authority.

Reason: The application site is in a rural area. Therefore in order to protect and enhance the visual character and integrity of the area, particularly during the hours of darkness, the submission of such details is necessary in order that the planning authority could consider such matters fully.

6. The proposed access shall be formed in accordance with the Council's Highway Drawing No. NA/32/05/2a and shall have visibility splays of 90 metres X 2.4 metres in each direction formed from the centre line of the proposed access. Prior to work starting on site these visibility splays shall be cleared of all obstructions over one metre in height above the level of the adjoining carriageway and thereafter shall be maintained clear of all obstructions over one metre in height to the satisfaction of the Planning Authority.

Reason: In the interests of road safety.

7. Prior to work starting on site, the access hereby permitted shall be formed in accordance with the Council's Highway Drawing No. NA/32/05/2a with the bellmouth area surfaced in dense bitumen macadam for a distance of 5 metres back from the existing carriageway edge and dropped kerbs formed to the satisfaction of the Planning Authority or as otherwise agreed in writing with the Planning Authority.

Reason: In the interests of road safety.

8. The access shall be constructed to ensure that no surface water is discharged to the public highway to the satisfaction of the Planning Authority.

Reason: To prevent surface water from being discharged onto the public highway in the interests of road safety.

9. Any details pursuant to condition (1) above shall incorporate the following elements:-
 - i) finished in wet dash render or natural local stone.
 - ii) with roof coverings of natural slate.
 - iii) of no greater than one and a half storeys in height.
 - iv) incorporating windows with a strong vertical emphasis.
 - v) a roof pitch of not less than 37 degrees and not greater than 42 degrees.
 - vi) which is predominantly rectangular in shape with traditional gable ends.
 - vii) with the predominant ridgeline located parallel to the line of the public road.

Reason: In the interests of visual amenity and in order to integrate the proposed dwelling house with its surroundings.

NOTE TO APPLICANT

NOTE TO APPLICANT RELATIVE TO APPLICATION

Scottish Water has advised as follows:

It is advisable that any septic tank or other suitable treatment system be sited in such a manner as to allow easy access for emptying by tanker.

You are advised to contact them direct to discuss this matter

Scottish Water
Developer Services
Clyde House
419 Balmore Road
Glasgow
G22 6NU
Tel: 0845 601 8855

The Scottish Environment Protection Agency (SEPA) has advised as follows:

The septic tank and soakaway will require to be designed and constructed in accordance with the current code of practice BS6297:1983 and the Building Standards (Scotland) Regulations 2005. This will require percolation testing on site to assess the suitability of the sub-soil for effluent disposal. Surface water should be excluded from the septic tank.

The soakaway system should be constructed at least 50m from any spring, well or borehole used as a drinking water supply, at least 10m horizontally from any watercourses (including inland or coastal waters) permeable drain, road or railway and at least 5m from a building or a boundary.

During the construction phase of the project, any muddy surface waters or discoloured groundwater generated on the construction site should not be admitted to any surface water drain or watercourse. All construction work must be in accordance with SEPA's Pollution Prevention Guideline PPG6 'Working at Construction and Demolition Sites'.

A full land soakaway effluent disposal system to be investigated.

It is a requirement of The Water Environment (Controlled Activities)(Scotland) Regulations 2005 that all discharges to land and water require authorisation from SEPA.(Registration or licensing) Additionally the site is to have surface water drainage in accordance with the requirements of the above Order - Sustainable Urban Drainage System. Further details can be obtained from SEPA's website;- www.sepa.org.uk/pdf/fd/regimes/car_practical_guide.pdf

You are advised to contact them direct to discuss this matter.

SEPA
Graesser House
Fodderty Way
Dingwall Business Park
Dingwall
IV15 9XB Tel: 01349 862021

SEPA
Greyhope House
Greyhope Road
Torry
Aberdeen
AB11 9RD Tel: 01224 248 338

The Council's Area Roads Manager has advised as follows:

Road openings permit required.

You are advised to contact them direct to discuss this matter:

Area Roads Engineer
Operational Services
Argyll and Bute Council
Kilbowie House
Gallanach Road
Oban Tel: 01631 562125

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE)
(SCOTLAND) ORDER 1992

OUTLINE PLANNING PERMISSION

REFERENCE NUMBER: 08/00438/OUT

Rae Tiernan
Penmore Mill
Dervaig
Isle Of Mull
Argyll
PA75 6QS

I refer to your application dated 29th February 2008 for outline planning permission for the following development:

Site for erection of dwellinghouse.

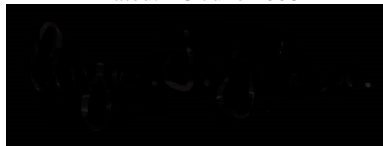
AT:

The Coidh Penmore Dervaig Isle Of Mull Argyll

Argyll and Bute Council in exercise of their powers under the above mentioned Act and Order hereby grant outline planning permission for the above development in accordance with the particulars given in the application form and docketed plans, subject however to the conditions and reasons on the following page(s).

It should be understood that this permission does not carry with it any necessary consent or approval for the proposed development under other statutory enactments and is not a Building Warrant.

Dated: 23 June 2008



Angus J. Gilmour
Head of Planning

REFERENCE NUMBER: 08/00438/OUT

Site for erection of dwellinghouse.

AT:

The Coidh Penmore Dervaig Isle Of Mull Argyll

The planning application as detailed above is subject to the following conditions:

1. This permission is granted under the provision of 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 that the further approval of Argyll and Bute Council or of the Scottish Executive on appeal shall be required with respect to the undermentioned reserved matters before any development is commenced.
 - a. The siting, design and external appearance of the proposed development.
 - b. The landscaping of the site of the proposed development.
 - c. Details of the access arrangements.
 - d. Details of the proposed water supply and drainage arrangements.

Reason: In order to limit the duration of this consent in accordance with section 59 of the Town and Country planning (Scotland) Act 1997.

2. In the case of the reserved matters specified in (1) above, an application for approval of the reserved matters in terms of Article 6 of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992 must be made to Argyll and Bute Council no later than the expiration of 3 years beginning with the date of this permission.

Reason: In order to limit the duration of this consent in accordance with section 59 of the Town and Country planning (Scotland) Act 1997.

3. That the development to which this permission relates must be begun not later than the expiration of 5 years from the date of this permission or within the expiration of 2 years from the final approval of all reserved matters, whichever is the later.

Reason: In order to limit the duration of this consent in accordance with section 59 of the Town and Country planning (Scotland) Act 1997.

4. No development shall commence on site until there has been submitted to and approved in writing by the planning authority full details of the proposed means of water supply to serve the development. Such details shall also include a report, prepared by a suitably qualified person, detailing the suitability, with regards to the quality and quantity of water available, of the proposed water supply to serve the dwellings hereby approved. The report shall also include, if necessary, any methods needed to improve the proposed supply. Thereafter, prior to the first occupation of the dwellings, the water supply shall be fully operational and constructed in accordance with the approved details, unless otherwise agreed in writing with the planning authority

Reason: Insufficient information has been submitted with regard to the proposed means of water supply within the application and therefore it is necessary for the above details to be submitted for the

consideration of the planning authority in order to protect the amenities of other existing users of any proposed supply.

5. Prior to the commencement of development full details of all external lighting to serve the development shall be submitted for the further written approval of the Council as planning authority. The submitted details shall show the position of all proposed external lights and their illumination levels (provided in lux), together with appropriate mitigation measures to prevent light spillage and glare beyond the site boundary. Thereafter, the development shall be carried out in accordance with the agreed details and within six months of the development being completed or of the occupation of the dwellinghouse, unless otherwise approved in writing by the planning authority.

Reason: The application site is in a rural area. Therefore in order to protect and enhance the visual character and integrity of the area, particularly during the hours of darkness, the submission of such details is necessary in order that the planning authority could consider such matters fully.

6. The proposed access shall be formed in accordance with the Council's Highway Drawing No. NA/32/05/2a and shall have visibility splays of 90 metres X 2.4 metres in each direction formed from the centre line of the proposed access. Prior to work starting on site these visibility splays shall be cleared of all obstructions over one metre in height above the level of the adjoining carriageway and thereafter shall be maintained clear of all obstructions over one metre in height to the satisfaction of the Planning Authority.

Reason: In the interests of road safety.

7. Prior to work starting on site, the access hereby permitted shall be formed in accordance with the Council's Highway Drawing No. NA/32/05/2a with the bellmouth area surfaced in dense bitumen macadam for a distance of 5 metres back from the existing carriageway edge and dropped kerbs formed to the satisfaction of the Planning Authority or as otherwise agreed in writing with the Planning Authority.

Reason: In the interests of road safety.

8. The access shall be constructed to ensure that no surface water is discharged to the public highway to the satisfaction of the Planning Authority.

Reason: To prevent surface water from being discharged onto the public highway in the interests of road safety.

9. Any details pursuant to condition (1) above shall incorporate the following elements:-
 - i) finished in wet dash render or natural local stone.
 - ii) with roof coverings of natural slate.
 - iii) of no greater than one and a half storeys in height.
 - iv) incorporating windows with a strong vertical emphasis.
 - v) a roof pitch of not less than 37 degrees and not greater than 42 degrees.
 - vi) which is predominantly rectangular in shape with traditional gable ends.
 - vii) with the predominant ridgeline located parallel to the line of the public road.

Reason: In the interests of visual amenity and in order to integrate the proposed dwelling house with its surroundings.

NOTE TO APPLICANT RELATIVE TO APPLICATION

Scottish Water has advised as follows:

It is advisable that any septic tank or other suitable treatment system be sited in such a manner as to allow easy access for emptying by tanker.

You are advised to contact them direct to discuss this matter

Scottish Water
Developer Services
Clyde House
419 Balmore Road
Glasgow
G22 6NU
Tel: 0845 601 8855

The Scottish Environment Protection Agency (SEPA) has advised as follows:

The septic tank and soakaway will require to be designed and constructed in accordance with the current code of practice BS6297:1983 and the Building Standards (Scotland) Regulations 2005. This will require percolation testing on site to assess the suitability of the sub-soil for effluent disposal. Surface water should be excluded from the septic tank.

The soakaway system should be constructed at least 50m from any spring, well or borehole used as a drinking water supply, at least 10m horizontally from any watercourses (including inland or coastal waters) permeable drain, road or railway and at least 5m from a building or a boundary.

During the construction phase of the project, any muddy surface waters or discoloured groundwater generated on the construction site should not be admitted to any surface water drain or watercourse. All construction work must be in accordance with SEPA's Pollution Prevention Guideline PPG6 'Working at Construction and Demolition Sites'.

A full land soakaway effluent disposal system to be investigated.

It is a requirement of The Water Environment (Controlled Activities)(Scotland) Regulations 2005 that all discharges to land and water require authorisation from SEPA.(Registration or licensing) Additionally the site is to have surface water drainage in accordance with the requirements of the above Order - Sustainable Urban Drainage System. Further details can be obtained from SEPA's website;- www.sepa.org.uk/pdf/regimes/car_practical_guide.pdf

You are advised to contact them direct to discuss this matter.

SEPA
Graesser House
Fodderty Way
Dingwall Business Park
Dingwall
IV15 9XB Tel: 01349 862021

SEPA
Greyhope House
Greyhope Road

Torry
Aberdeen
AB11 9RD Tel: 01224 248 338

The Council's Area Roads Manager has advised as follows:

Road openings permit required.

You are advised to contact them direct to discuss this matter:

Area Roads Engineer
Operational Services
Argyll and Bute Council
Kilbowie House
Gallanach Road
Oban Tel: 01631 562125

Delegated or Committee Planning Application Report and Report of Handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 10/01597/PP

Planning Hierarchy: Local Development

Applicant: Phil and Rae Tiernan

Proposal: Erection of dwellinghouse and shed

Site Address: The Coidh, Penmore, Dervaig

DECISION ROUTE

(i) Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of dwellinghouse
 - Erection of shed
 - Installation of septic tank
 - Proposed private water supply
-

(B) RECOMMENDATION:

Having due regard to the development plan and all other material considerations, it is recommended that planning permission be granted subject to the conditions and reasons appended to this report.

(C) HISTORY:

08/00438/OUT – Site for the erection of dwellinghouse, granted 23.06.10

(D) CONSULTATIONS:

Area Roads – No objections subject to conditions regarding the provision of SD08/004a at access at junction of public road, provision of adequate visibility splays, parking and turning, 25.11.10

Environmental Health – No objections subject to a condition regarding the provision of an adequate private water supply, 09.11.10

(E) PUBLICITY:

The proposal was advertised under (Regulation 20 – Advert Local Application). The publication date was 11th November 2010 and the closing date was 2nd December 2010.

(F) REPRESENTATIONS: None received

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) Environmental Statement:** No
 - (ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No
 - (iii) A design or design/access statement:** Yes
 - (iv) A report on the impact of the proposed development e.g. retail impact, transport impact, noise impact, flood risk, drainage impact etc:** No
-

(H) PLANNING OBLIGATIONS

- (i) Is a Section 75 agreement required:** Not required
-

(I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: No

(J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application

- (i) List of all Development Plan Policy considerations taken into account in assessment of the application.**

Argyll and Bute Structure Plan 2002

STRAT DC 4 – Development in Rural Opportunity Areas

The Argyll and Bute Local Plan 2009

LP ENV 1 – Development Impact on the General Environment

LP ENV 19 – Development Setting, Layout and Design

LP SERV 4 – Water Supply

LP TRAN 4 – New and Existing, Public Roads and Private Access Regimes

LP TRAN 6 – Vehicle Parking Provisions

- (ii) **List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 4/2009.**

Argyll & Bute Sustainable Design Guidance (2006)

The Town & Country Planning Act (Scotland) 1997

The Planning etc. (Scotland) Act, 2006

Scottish Planning Policy (SPP), 2010

- (K) **Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:** No
-

- (L) **Has the application been the subject of statutory pre-application consultation (PAC):** No
-

- (M) **Has a sustainability check list been submitted:** No
-

- (N) **Does the Council have an interest in the site:** No
-

- (O) **Requirement for a hearing (PAN 41 or other):** Not required
-

- (P) **Assessment and summary of determining issues and material considerations**

This is a proposal for the erection of a dwellinghouse and shed at a site at The Coidh, Penmore, Dervaig, Isle of Mull. The site has the benefit of Outline Planning Permission (ref 08/00438/OUT) for the erection of a dwellinghouse which was granted on the 23rd of June 2010. Therefore the principle of development for a single house is established at the site.

The site is a generally level piece of grazing land within a visually broken landscape setting. The proposed dwellinghouse will be set alongside the western boundary of the site. The land outwith the western boundary is raised with woodland areas, which will provide a suitable backdrop to the dwellinghouse to help it to integrate with its surroundings.

The proposed dwellinghouse is 1½ storey and of a relatively contemporary design, albeit constructed with straw bale timber lined walls. The plan is rectangular and building lines are simple. The overall design follows an agricultural theme. The exterior walls will be finished in timber cladding of which the finished colour is not specified. A pre-commencement condition will therefore be applied in order to ensure that details of the proposed finish of the timber cladding is submitted for the written approval of the Planning Authority. The roof is to be clad in silver/grey Mill Finish Corrugated Metal

Sheeting. It is considered that the choice of materials is appropriate to the overall agricultural design of the building at this specific location, and corrugated sheeting is a traditional material in our rural areas. A small shed finished in identical materials will be sited along the north eastern boundary of the site and will complement the proposed dwellinghouse. Overall it is considered that the proposed dwellinghouse and shed will have an appropriate layout and density and will be of a suitable scale, form and design at this location. The proposed dwellinghouse will therefore accord with the provisions of LP ENV 19 of the adopted Local Plan.

A septic tank will be installed within the site to serve the proposed dwellinghouse. This raises no issues. The applicant has indicated that a private water supply will serve the proposed dwellinghouse. Legal and Protective Services have raised no objections to the proposed development subject to a condition being attached to the grant of permission in order to ensure that an adequate water supply is provided in accordance with Policy LP SERV 4 of the Local Plan.

Area Roads have raised no objections to the proposed development. Area Roads have recommended that planning permission be granted subject to conditions with regards to the provision of SD 08/004a at the junction of the public road, the provision of adequate visibility splays and parking at the site in the interests of road safety and in accordance with Policy LP TRAN 4 and LP TRAN 6 of the Local Plan.

In light of the above we can conclude that the development proposed is consistent with adopted Local Plan policy and will have no adverse impact in terms of layout, design, servicing and infrastructure. The proposed development therefore accords with Policy LP ENV 1 of the adopted Local Plan which sets out a general basis for consideration of all applications for planning permission.

(Q) Is the proposal consistent with the Development Plan: Yes

(R) Reasons why planning permission or a Planning Permission in Principle should be granted

1. It is considered that the proposed dwellinghouse will have an appropriate layout and density and will be of a suitable scale, form and design at this location. The proposed dwellinghouse will therefore accord with the provisions of LP ENV 19 of the adopted Local Plan.

2. Legal and Protective Services have raised no objections to the proposed development subject to a condition being attached to the grant of permission in order to ensure that an adequate water supply is provided in accordance with Policy LP SERV 4 of the Local Plan.

3. Area Roads have recommended that planning permission be granted subject to conditions with regards to the provision of SD 08/004a at the junction of the public road, the provision of adequate visibility splays and parking at the site in the interests of road safety and in accordance with Policy LP TRAN 4 and LP TRAN 6 of the Local Plan.

4. The development proposed is consistent with adopted Local Plan policy and will have no adverse impact in terms of layout, design, servicing and infrastructure. The proposed development therefore accords with Policy LP ENV 1 of the adopted Local Plan which sets out a general basis for consideration of all applications for planning permission.

(S) Reasoned justification for a departure to the provisions of the Development Plan

No Departure

(T) Need for notification to Scottish Ministers or Historic Scotland: Not required

Author of Report: Lesley Cuthbertson

Date: 21.12.10

Reviewing Officer: Stephen Fair



Date: 23/12/10

Angus Gilmour
Head of Planning

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO.10/01597/PP

1. That the development to which this permission relates must be begun within three years from the date of this permission.

Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997.

2. The development shall be implemented in accordance with the details specified on the application form dated 20th of October 2010 and the approved drawing reference numbers:

- Plan 1 of 9(Land Ownership Plan)
- Plan 2 of 9(Location Plan)
- Plan 3 of 9(Proposed Site Plan)
- Plan 4 of 9(Road Plan)
- Plan 5 of 9(Elevations)
- Plan 6 of 9(Design Statement)
- Plan 7 of 9(General Cross Section)
- Plan 8 of 9(First Floor Plan)
- Plan 9 of 9(Ground Floor Plan)

unless the prior written approval of the Local Planning Authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.

3. Prior to the commencement of works at the site, details of the colours of the proposed timber cladding wall finish to the dwelling house and shed hereby approved shall be submitted to and approved in writing by the Planning Authority. The development shall thereafter be completed in strict accordance with such details as are approved.

Reason: To ensure that the materials are appropriate to the character of the area and sympathetic to established finishing materials in the area.

4. Prior to the development commencing a full appraisal to demonstrate the wholesomeness and sufficiency of the private water supply to serve the development shall be submitted to and approved in writing by the Planning Authority. This assessment shall be carried out by a qualified and competent person(s). 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.

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 or nearby private water supplies.

5. No development shall commence on site until the vehicular access at the junction of the public road has been formed in accordance with the Council's Road Engineers

Drawing Number SD 08/004a with visibility splays of 75.0m x 2.4m in each direction formed from the centre line of the proposed access. Prior to work starting on site these visibility splays shall be cleared of all obstructions above the level of the adjoining carriageway and thereafter maintained to the satisfaction of the Planning Authority.

The vehicular access granted consent shall be constructed to at least base course level prior to any work starting on the erection of the dwellinghouse which it is intended to serve and the final wearing surface of the road shall be applied prior to the first occupation of the dwellinghouse.

Reason: In the interests of road safety to ensure the proposed development is served by a safe means of vehicular access and in accordance with LP TRAN 4 of The Argyll and Bute Local Plan 2009.

6. The residential curtilage, over which permitted development rights conveyed through Classes 1 to 6 the Town & Country Planning (General Permitted Development) (Scotland) order 1992 as amended, shall be restricted to the area entirely contained on and outlined with a dashed purple line on Plan 3 of 9 (Proposed Site Plan) drawing number 0905 D 02. For the avoidance of doubt, no residential permitted development can occur within the extended application site shown outlined red unless first consented in writing by the Planning Authority.

Reason: In the interests of visual amenity and to prevent overdevelopment of the wider rural area which could otherwise occur.

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.
- Operational Services (Roads and Amenity Services) have advised that a Roads Opening Permit will be required. Please find enclosed a Roads Opening Permit application form for your convenience.

APPENDIX TO DECISION APPROVAL NOTICE

Appendix relative to application

- (A)** Has the application required an obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended).

No

- (B)** Has the application been the subject of any “non-material” amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing.

No

- (C)** The reasons why Planning Permission has been approved.

1. It is considered that the proposed dwellinghouse will have an appropriate layout and density and will be of a suitable scale, form and design at this location. The proposed dwellinghouse will therefore accord with the provisions of LP ENV 19 of the adopted Local Plan.

2. Legal and Protective Services have raised no objections to the proposed development subject to a condition being attached to the grant of permission in order to ensure that an adequate water supply is provided in accordance with Policy LP SERV 4 of the Local Plan.

3. Area Roads have recommended that planning permission be granted subject to conditions with regards to the provision of SD 08/004a at the junction of the public road, the provision of adequate visibility splays and parking at the site in the interests of road safety and in accordance with Policy LP TRAN 4 and LP TRAN 6 of the Local Plan.

4. The development proposed is consistent with adopted Local Plan policy and will have no adverse impact in terms of layout, design, servicing and infrastructure. The proposed development therefore accords with Policy LP ENV 1 of the adopted Local Plan which sets out a general basis for consideration of all applications for planning permission.

CHECK SHEET FOR PREPARING AND ISSUING DECISION

Application Number	10/01597/PP
Decision Date	23/12/10
Issue Latest Date	24.12.10
Decision	Approve

Date signed by ATL

Don't Issue Decision	Tick if relevant	Action (tick)	Date sent
Notification to Scottish Ministers			
Notification to Historic Scotland			
Section 75 Obligation			
Revocation			

Issue Decision		x	Tick	Standard Conditions/Notes to include				
Tick	Dev/Decision Type		Time Scale*	Initiation	Completion	Display Notice	1A & 2A	1B & 2B
				Only use if PP/AMSC & Granted				
	Local – Sch.3 – Delegated							
x	Local – Delegated			X	X			

*standard time condition not required if application retrospective.

Include with Decision Notice	
Terms of Section 75	None
Summary of Variations made	None
Notification of Initiation Form	x
Notification of Completion Form	x
Notice for Display	
Roads Schedule/standard drawing	x
Archaeology Guidance	
Scottish Water Consultation response	
Other:	

Notify of Decision	
Objectors/Contributors	
Roads	x
Ongoing Monitoring – priorities	
Other:	

Total residential units FP3 (uniform)			
Houses	1	Sheltered	0
Flats	0	Affordable	0

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(SCOTLAND) REGULATIONS 2008**

PLANNING PERMISSION

REFERENCE NUMBER: 10/01597/PP

**Phil And Rae Tiernan
Locate Architects
19 Caledonian Place
Dunblane
FK15 9AF**

I refer to your application dated 17th September 2010 for planning permission in respect of the following development:

Erection of dwellinghouse and shed

AT:

The Coidh Penmore Dervaig Isle Of Mull Argyll And Bute

Argyll and Bute Council in exercise of their powers under the above mentioned Act and Regulations hereby grant planning permission for the above development in accordance with the particulars given in the application form and docketed plans subject however to the conditions and reasons detailed on the following page(s).

It should be understood that this permission does not carry with it any necessary consent or approval for the proposed development under other statutory enactments and is not a Building Warrant.

Dated: 24 December 2010



Angus J. Gilmour
Head of Planning and Regulatory Services

REFERENCE NUMBER: 10/01597/PP

Erection of dwellinghouse and shed

AT:

The Coidh Penmore Dervaig Isle Of Mull Argyll And Bute

The planning application as detailed above is subject to the following conditions:

1. That the development to which this permission relates must be begun within three years from the date of this permission.

Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997.

2. The development shall be implemented in accordance with the details specified on the application form dated 20th of October 2010 and the approved drawing reference numbers:

- Plan 1 of 9(Land Ownership Plan)
- Plan 2 of 9(Location Plan)
- Plan 3 of 9(Proposed Site Plan)
- Plan 4 of 9(Road Plan)
- Plan 5 of 9(Elevations)
- Plan 6 of 9(Design Statement)
- Plan 7 of 9(General Cross Section)
- Plan 8 of 9(First Floor Plan)
- Plan 9 of 9(Ground Floor Plan)

unless the prior written approval of the Local Planning Authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.

3. Prior to the commencement of works at the site, details of the colours of the proposed timber cladding wall finish to the dwelling house and shed hereby approved shall be submitted to and approved in writing by the Planning Authority. The development shall thereafter be completed in strict accordance with such details as are approved.

Reason: To ensure that the materials are appropriate to the character of the area and sympathetic to established finishing materials in the area.

4. Prior to the development commencing a full appraisal to demonstrate the wholesomeness and sufficiency of the private water supply to serve the development shall be submitted to and approved in writing by the Planning Authority. This assessment shall be carried out by a qualified and competent person(s). 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.

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 or nearby private water supplies.

5. No development shall commence on site until the vehicular access at the junction of the public road has been formed in accordance with the Council's Road Engineers Drawing Number SD 08/004a with visibility splays of 75.0m x 2.4m in each direction formed from the centre line of the proposed access. Prior to work starting on site these visibility splays shall be cleared of all obstructions above the level of the adjoining carriageway and thereafter maintained to the satisfaction of the Planning Authority.

The vehicular access granted consent shall be constructed to at least base course level prior to any work starting on the erection of the dwellinghouse which it is intended to serve and the final wearing surface of the road shall be applied prior to the first occupation of the dwellinghouse.

Reason: In the interests of road safety to ensure the proposed development is served by a safe means of vehicular access and in accordance with LP TRAN 4 of The Argyll and Bute Local Plan 2009.

6. The residential curtilage, over which permitted development rights conveyed through Classes 1 to 6 the Town & Country Planning (General Permitted Development) (Scotland) order 1992 as amended, shall be restricted to the area entirely contained on and outlined with a dashed purple line on Plan 3 of 9 (Proposed Site Plan) drawing number 0905 D 02. For the avoidance of doubt, no residential permitted development can occur within the extended application site shown outlined red unless first consented in writing by the Planning Authority.

Reason: In the interests of visual amenity and to prevent overdevelopment of the wider rural area which could otherwise occur.

NOTES TO APPLICANT (1) RELATIVE TO APPLICATION NUMBER 10/01597/PP

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended) within three months from the date of this notice. The notice of review should be addressed to the Director of Customer Services, Argyll and Bute Council, Kilmory, Lochgilphead, PA31 8RT.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state, and it cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the landowner's interest in the land, in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997 (as amended).

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.

- Operational Services (Roads and Amenity Services) have advised that a Roads Opening Permit will be required. Please find enclosed a Roads Opening Permit application form for your convenience.

APPENDIX TO DECISION APPROVAL NOTICE

Appendix relative to application

- (A)** Has the application required an obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended).

No

- (B)** Has the application been the subject of any “non-material” amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing.

No

- (C)** The reasons why Planning Permission has been approved.

1. It is considered that the proposed dwellinghouse will have an appropriate layout and density and will be of a suitable scale, form and design at this location. The proposed dwellinghouse will therefore accord with the provisions of LP ENV 19 of the adopted Local Plan.

2. Legal and Protective Services have raised no objections to the proposed development subject to a condition being attached to the grant of permission in order to ensure that an adequate water supply is provided in accordance with Policy LP SERV 4 of the Local Plan.

3. Area Roads have recommended that planning permission be granted subject to conditions with regards to the provision of SD 08/004a at the junction of the public road, the provision of adequate visibility splays and parking at the site in the interests of road safety and in accordance with Policy LP TRAN 4 and LP TRAN 6 of the Local Plan.

4. The development proposed is consistent with adopted Local Plan policy and will have no adverse impact in terms of layout, design, servicing and infrastructure. The proposed development therefore accords with Policy LP ENV 1 of the adopted Local Plan which sets out a general basis for consideration of all applications for planning permission.

Delegated or Committee Planning Application Report and Report of Handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 19/01737/PP
Planning Hierarchy: Local
Applicant: Mr Phil and Mrs Rae Tiernan
Proposal: Erection of dwellinghouse, outbuilding and installation of septic tank
Site Address: Land North of Penmore Mill, Penmore, Dervaig, Isle of Mull, Argyll and Bute

DECISION ROUTE

Section 43 (A) of the Town and Country Planning (Scotland) Act 1997 (as amended)

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of dwellinghouse
- Construction of vehicular access
- Installation of sewage treatment plant
- Installation of private water supply

(ii) Other specified operations

- N/A
-

(B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission be refused for the reasons appended to this report.

(C) CONSULTATIONS:

Environmental Health

No response at time of report and no request for an extension of time

Area Roads

No objection subject to conditions. Report dated 13th September 2019

Scottish Natural Heritage

No formal comments offered as the application falls below the threshold for consultation. E-mail dated 22nd August 2019

Woodlands Trust

No objection following receipt of further information from applicant. E-mail dated 26th September 2019

(D) HISTORY:

08/00438/OUT

Site for erection of dwellinghouse. Granted 23rd June 2008.

10/01597/PP

Erection of dwellinghouse and shed. Granted 24th December 2010

(E) PUBLICITY:

The proposal has been advertised in terms of Regulation 20 procedures, closing date 26th September 2019.

(F) REPRESENTATIONS:

No representations have been received during the determination of the planning application.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- | | | |
|-------|--|----|
| (i) | Environmental Statement: | No |
| (ii) | An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: | No |
| (iii) | A design or design/access statement: | No |
| (iv) | A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc: | No |

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: No

-
- (I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: No**
-

(J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application

(i) List of all Development Plan Policy considerations taken into account in assessment of the application.

Policy

LDP STRAT 1 – Sustainable Development
LDP DM 1 – Development within the Development Management Zones
LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment
LDP 8 – Supporting the Strength of Our Communities
LDP 9 – Development Setting, Layout and Design
LDP 10 – Maximising our Resources and Reducing Our Consumption
LDP 11 – Improving our Connectivity and Infrastructure

Supplementary Guidance

SG LDP ENV 1 - Development Impact on Habitats, Species and our Biodiversity
SG LDP ENV 14 – Landscape
SG LDP ENV 20 - Development Impact on Sites of Archaeological Importance
SG LDP HOU 1 – General Housing Development including Affordable Housing Provision
SG LDP SERV 1 – Private Sewage Treatment Plants and Wastewater (i.e. drainage) Systems
SG LDP SERV 2 – Incorporation of Natural Features/Sustainable Drainage Systems (SuDS)
SG LDP TRAN 4 – New & Existing Public Roads and Private Access Regimes
SG LDP TRAN 6 – Vehicle Parking Provision
Sustainable Siting & Design Principles

(ii) List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 4/2009.

Scottish Planning Policy 2014
PAN 72 – Housing in the Countryside
Consultation responses

(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: No

(L) Has the application been the subject of statutory pre-application consultation (PAC): No

(M) Has a sustainability check list been submitted: No

(N) Does the Council have an interest in the site: No

(O) Requirement for a hearing: No

(P) **Assessment and summary of determining issues and material considerations**

Planning permission is sought for the erection of a dwellinghouse on Land North of Penmore Mill, Penmore, Dervaig, Isle of Mull.

The site lies within the designated Countryside Zone wherein Policy LDP DM 1 of the adopted Argyll and Bute Local Development Plan (LDP) 2015 supports up to small scale sustainable forms of development on appropriate infill, rounding-off and redevelopment sites and changes of use of existing buildings. In exceptional cases development in the open countryside up to and including large scale may be supported on appropriate sites if this accords with an Area Capacity Evaluation (ACE). In this case the site is not infill, rounding-off, redevelopment or a change of use of an existing building and no exceptional case has been made. The proposal is therefore contrary to Policy LDP DM 1 of the LDP.

Policy LDP 3 assesses applications for their impact on the natural, human and built environment with Policy LDP 9 seeking developers to produce and execute a high standard of appropriate design and to ensure that development is sited and positioned so as to pay regard to the context within which it is located.

Policy LDP 8 supports new sustainable development proposals that seek to strengthen communities. Supplementary Guidance SG LDP HOU 1 gives general support to new housing provided there is no unacceptable environmental, servicing or access impact.

Policy LDP 11 supports all development proposals that seek to maintain and improve internal and external connectivity by ensuring that suitable infrastructure is delivered to serve new developments. Supplementary Guidance SG LDP TRAN 4 and SG LDP TRAN 6 expand on this policy seeking to ensure that developments are served by a safe means of vehicular access and have an adequate on-site parking and turning area.

There is some historic and long-expired planning history to this site and the applicant has submitted supporting information which requires further assessment.

Planning permission has previously been granted for the erection of a dwellinghouse on this site. Planning permission 08/00438/OUT for the site for the erection of a dwellinghouse was granted on the 23rd June 2008. The planning officer's report states that, in his assessment at that time, the site is within a Rural Opportunity Area *"where it is considered that there is capacity to absorb single developments set in isolation, where these maintain the sporadic nature of the settlement pattern. The current scheme complies with the location requirements of the housing and environmental policies set out in the Modified Finalised Draft Local Plan."*

The planning officer's report therefore assesses that the development would be in compliance with both the adopted plan as well as the emerging draft plan at that time. This permission expired on the 23rd June 2011.

A detailed planning permission 10/01597/PP was granted for the erection of a dwellinghouse and outbuilding on the 24th December 2010. The planning officer's report states that, in his assessment at that time, the site is consistent with adopted local plan policy but it does not make any reference to which development management zone the site was located. At that time, it is evident that the site was not within a ROA and it would have been contrary to the settlement strategy contained within the adopted plan. However, it may well be that detailed planning permission was granted due to the extant outline planning permission 08/00438/OUT as a material planning consideration as the report states that "*The site has the benefit of Outline Planning Permission (ref 08/00438/OUT) for the erection of a dwellinghouse which was granted on the 23rd of June 2010. Therefore the principle of development for a single house is established at the site.*" (Note that the report incorrectly states that the outline planning permission was granted on the 23rd June 2010 when it was in actual fact the 23rd June 2008). Planning permission 10/01597/PP expired on the 24th December 2013.

There is, therefore, a significant ambiguity over the assessment of these previous applications and whether or not planning policy was applied correctly at that time.

Notwithstanding this, however, the argument as to whether or not officers now long retired from the employment of Argyll and Bute Council correctly applied the appropriate assessment of the previous applications is considered to carry little material weight in respect of the assessment of this current planning application.

There has been a significant passage of time since planning permission 10/01597/PP was granted and a new LDP has been adopted. The applicant has not applied to renew the previous permission, which expired nearly six years ago, nor has any attempt been made by the applicant to discharge any of the planning conditions attached to that earlier permission. The applicant has advised that in 2012 they formed an access track from 'rotten rock' which they claim was dug from a borrow pit adjacent to the site. The applicant has also claimed that in July 2012 the base for a shed within the site was laid, again from 'rotten rock'. Photographs have been submitted which purports to illustrate this. The applicants argue therefore, that a lawful commencement of works has taken place. However, the same photograph of the alleged access track was included with the planning application drawings for 10/01597/PP which was submitted on 17th September 2010 and granted on the 24th December 2010. The application location plan illustrates this track and is annotated as "gravel track" and the proposed site plan also illustrates it and is annotated as "existing gravel track upgraded as described, left". Therefore, the claimed access track cannot have been implemented after the date of the 2010 planning permission.

Similarly, whilst undated photographs have been submitted purporting to show the alleged works in connection with a 'shed base', there is very little evidence of any significant engineering or building works surviving on the site.

There is therefore, in the considered opinion of the planning authority, no persuasive evidence that any material operation has taken place to implement the earlier planning permission as required by Section 27 of the Town and Country Planning (Scotland) Act 1997 (as amended).

The applicant's Agent also suggests that, in his opinion, the intended 'Local Development Plan 2' now represents the 'settled view' of the Council and weighting should be afforded to it in the decision making process. However, Proposed Local Development Plan 2 remains at an early stage. It has not yet been published and therefore no material weighting can be afforded to it at this time.

Having regard to the adopted LDP, the proposed development is contrary to Policy LDP DM 1 and the planning authority are not persuaded that the arguments made by the applicant justify a departure from the adopted LDP in this case. To summarise:

- The development is contrary to Policy LDP DM 1 and SH LDP HOU 1 of the adopted and approved Local Development Plan.
- Planning permission 10/01597/PP expired almost 6 years ago and was based on a different local plan and therefore no significant weight should be afforded to this non-extant planning history.
- Planning permission 10/01597/PP was allowed to lapse unimplemented for a period of approximately six years. It was not renewed and neither was any attempt made by anyone to renew it.
- None of the planning conditions for 10/01599/PP have been discharged nor has any evidence been submitted which would demonstrate that a lawful commencement of development has taken place which would provide a stronger material consideration in the determination of the current planning application.

In light of the above it is recommended that planning permission be refused.

(Q) Is the proposal consistent with the Development Plan: No

(R) Reasons why Planning Permission or Planning Permission in Principle should be refused:

1. The site lies within the designated Countryside Zone wherein Policy LDP DM 1 of the Adopted Argyll and Bute Local Development Plan (LDP) 2015 gives encouragement to appropriate infill, rounding-off and redevelopment and changes of use of existing buildings. In exceptional cases development in the open countryside up to and including large scale may be supported on appropriate sites if this accords with an Area Capacity Evaluation (ACE). In this case the site does not present any opportunities for infill, rounding-off, redevelopment or change of use of existing buildings and no detailed and/or acceptable exceptional case argument has been demonstrated. Additionally, Supplementary Guidance SG LDP HOU 1 states that there is a presumption against small-scale housing development in the open /undeveloped areas of the Countryside Zone. The principle of development is therefore contrary to the settlement strategy of the LDP and cannot be supported. There are no material considerations of sufficient weight which demonstrate that the proposal should be determined otherwise in accordance with the development plan.
-

(S) Reasoned justification for a departure to the provisions of the Development Plan

N/A – the proposal is recommended for refusal.

(T) Need for notification to Scottish Ministers or Historic Scotland: No

Author of Report: Andrew Barrie **Date:** 11th November 2019

Reviewing Officer: Tim Williams **Date:** 13th November 2019

Fergus Murray
Head of Development and Economic Growth

REASONS FOR REFUSAL RELATIVE TO APPLICATION REF. NO. 19/01737/PP

1. The site lies within the designated Countryside Zone wherein Policy LDP DM 1 of the Adopted Argyll and Bute Local Development Plan (LDP) 2015 gives encouragement to appropriate infill, rounding-off and redevelopment and changes of use of existing buildings. In exceptional cases development in the open countryside up to and including large scale may be supported on appropriate sites if this accords with an Area Capacity Evaluation (ACE). In this case the site does not present any opportunities for infill, rounding-off, redevelopment or change of use of existing buildings and no detailed and/or acceptable exceptional case argument has been demonstrated. Additionally, Supplementary Guidance SG LDP HOU 1 states that there is a presumption against small-scale housing development in the open /undeveloped areas of the Countryside Zone. The principle of development is therefore contrary to the settlement strategy of the LDP and cannot be supported. There are no material considerations of sufficient weight which demonstrate that the proposal should be determined otherwise in accordance with the development plan.

APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **19/01737/PP**

- (A)** Has the application required an obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended).

No

- (B)** Has the application been the subject of any “non-material” amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing.

No

- (C)** The reason why planning permission has been refused.

See reasons for refusal outlined above.

CHECK SHEET FOR PREPARING AND ISSUING DECISION

Application Number	19/01737/PP
Decision Date	13.11.19
Issue Latest Date	
Decision	Refuse

Date signed by ATL

Don't Issue Decision	Tick if relevant	Action (tick)	Date sent
Notification to Scottish Ministers			
Notification to Historic Scotland			
Section 75 Agreement			
Revocation			

Issue Decision <input checked="" type="checkbox"/>		Tick	Standard Conditions/Notes to include				
Tick	Dev/Decision Type	Time Scale*	Initiation	Completion	Display Notice		
			Only use if PP/AMSC & Granted				
	Local – Sch.3 – Delegated						
<input checked="" type="checkbox"/>	Local – Delegated						

*standard time condition not required if application retrospective.

Include with Decision Notice	
Notification of Initiation Form	
Notification of Completion Form	
Roads Schedule/standard drawing	
Customer Satisfaction Survey	<input checked="" type="checkbox"/>
Pre-commencement conditions sheet	

Notify of Decision	
Roads	
Ongoing Monitoring – priorities:	

Total residential units FP3 (uniform)			
Houses		Sheltered	
Flats		Affordable	



Central Validation Team at Argyll and Bute Council 1A Manse Brae Lochgilphead PA31 8RD Tel: 01546 605518 Email: planning.hq@argyll-bute.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100176866-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Type of Application

What is this application for? Please select one of the following: *

- Application for planning permission (including changes of use and surface mineral working).
- Application for planning permission in principle.
- Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- Application for Approval of Matters specified in conditions.

Description of Proposal

Please describe the proposal including any change of use: * (Max 500 characters)

Erection of new dwellinghouse, outbuilding, installation of septic tank and private water supply

Is this a temporary permission? *

Yes No

If a change of use is to be included in the proposal has it already taken place?
(Answer 'No' if there is no change of use.) *

Yes No

Has the work already been started and/or completed? *

No Yes – Started Yes - Completed

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	Organic Architects		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Bari	Building Name:	
Last Name: *	Reid	Building Number:	140
Telephone Number: *	01436670922	Address 1 (Street): *	West Princes Street
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Helensburgh
Fax Number:		Country: *	UK
		Postcode: *	G84 8BH
Email Address: *	bari@organicarchitects.co.uk		

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	Other	You must enter a Building Name or Number, or both: *	
Other Title:	Mr Phil and Mrs	Building Name:	penmore mill
First Name: *	Rae	Building Number:	
Last Name: *	Tiernan	Address 1 (Street): *	dervaig
Company/Organisation:		Address 2:	
Telephone Number: *		Town/City: *	Isle of Mull
Extension Number:		Country: *	United Kingdom
Mobile Number:		Postcode: *	PA75 6QS
Fax Number:			
Email Address: *			

Site Address Details

Planning Authority:

Argyll and Bute Council

Full postal address of the site (including postcode where available):

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Northing

752752

Easting

140745

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

Yes No

Site Area

Please state the site area:

0.84

Please state the measurement type used:

Hectares (ha) Square Metres (sq.m)

Existing Use

Please describe the current or most recent use: * (Max 500 characters)

vacant land

Access and Parking

Are you proposing a new altered vehicle access to or from a public road? *

Yes No

If Yes please describe and show on your drawings the position of any existing. Altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any change to public paths, public rights of way or affecting any public right of access? * Yes No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application Site?

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? *

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).

Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? * Yes No

Are you proposing to connect to the public drainage network (eg. to an existing sewer)? *

Yes – connecting to public drainage network

No – proposing to make private drainage arrangements

Not Applicable – only arrangements for water supply required

As you have indicated that you are proposing to make private drainage arrangements, please provide further details.

What private arrangements are you proposing? *

New/Altered septic tank.

Treatment/Additional treatment (relates to package sewage treatment plants, or passive sewage treatment such as a reed bed).

Other private drainage arrangement (such as chemical toilets or composting toilets).

What private arrangements are you proposing for the New/Altered septic tank? *

Discharge to land via soakaway.

Discharge to watercourse(s) (including partial soakaway).

Discharge to coastal waters.

Please explain your private drainage arrangements briefly here and show more details on your plans and supporting information: *

Septic tank with partial soakaway with outflow to watercourse

Do your proposals make provision for sustainable drainage of surface water?? * Yes No
(e.g. SUDS arrangements) *

Note:-

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? *

- Yes
 No, using a private water supply
 No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

Assessment of Flood Risk

Is the site within an area of known risk of flooding? *

Yes No Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? *

Yes No Don't Know

Trees

Are there any trees on or adjacent to the application site? *

Yes No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? *

Yes No

If Yes or No, please provide further details: * (Max 500 characters)

Waste Storage within attached Garage

Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? *

Yes No

How many units do you propose in total? *

1

Please provide full details of the number and types of units on the plans. Additional information may be provided in a supporting statement.

All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? *

Yes No

Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013) *

Yes No Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? * Yes No

Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? * Yes No

Is any of the land part of an agricultural holding? * Yes No

Do you have any agricultural tenants? * Yes No

Are you able to identify and give appropriate notice to ALL the other owners? * Yes No

Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate B

Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

I hereby certify that

(1) - No person other than myself/the applicant was an owner [Note 4] of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application;

or –

(1) - I have/The Applicant has served notice on every person other than myself/the applicant who, at the beginning of the period of 21 days ending with the date of the accompanying application was owner [Note 4] of any part of the land to which the application relates.

Name:

Address:

Date of Service of Notice: *

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding;

or –

(2) - The land or part of the land to which the application relates constitutes or forms part of an agricultural holding and I have/the applicant has served notice on every person other than myself/himself who, at the beginning of the period of 21 days ending with the date of the accompanying application was an agricultural tenant. These persons are:

Name:

Address:

Date of Service of Notice: *

Signed: Bari Reid

On behalf of: Mr Phil and Mrs Rae Tiernan

Date: 15/08/2019

Please tick here to certify this Certificate. *

Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? *

Yes No Not applicable to this application

b) If this is an application for planning permission or planning permission in principal where there is a crown interest in the land, have you provided a statement to that effect? *

Yes No Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? *

Yes No Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? *

Yes No Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? *

Yes No Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? *

Yes No Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

- Site Layout Plan or Block plan.
- Elevations.
- Floor plans.
- Cross sections.
- Roof plan.
- Master Plan/Framework Plan.
- Landscape plan.
- Photographs and/or photomontages.
- Other.

If Other, please specify: * (Max 500 characters)

Provide copies of the following documents if applicable:

- | | |
|--|--|
| A copy of an Environmental Statement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Design Statement or Design and Access Statement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Flood Risk Assessment. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Drainage/SUDS layout. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Transport Assessment or Travel Plan | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Contaminated Land Assessment. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Habitat Survey. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Processing Agreement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |

Other Statements (please specify). (Max 500 characters)

Declare – For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Ms Andrea Wise

Declaration Date: 15/08/2019

Payment Details

Pay Direct

Created: 15/08/2019 11:00

MacLean, Laura

From: MacLean, Laura
Sent: 16 August 2019 15:32
To: 'bari'
Subject: RE: Invalid Letter for application 19/01737/PP

There are two black lines between the openings in the sitting room and bathroom which look like they are indicating openings, however I do accept that they are different from the other openings.

I will remove this point from the invalid schedule.

Kind regards

Laura

-----Original Message-----

From: bari [mailto:bari@organicarchitects.co.uk]
Sent: 16 August 2019 15:10
To: MacLean, Laura <Laura.MacLean@argyll-bute.gov.uk>
Subject: RE: Invalid Letter for application 19/01737/PP

Hi Laura,

They literally can't be different, the floor plan is just a slice through the model - I've attached a screengrab from the model showing where the cut is so you can see the openings are correct.

Bari Reid
Associate

Organic Architects Ltd, 140 West Princes Street, Helensburgh, G84 8BH
Tel 01436 670922

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-----Original Message-----

From: MacLean, Laura <Laura.MacLean@argyll-bute.gov.uk>
Sent: 16 August 2019 15:02
To: 'bari' <bari@organicarchitects.co.uk>
Subject: RE: Invalid Letter for application 19/01737/PP

Hi Bari

The windows would appear to be different sizes/positions between the elevation and floor plan on the first floor plan.

Kind Regards

Laura

-----Original Message-----

From: bari [mailto:bari@organicarchitects.co.uk]

Sent: 16 August 2019 14:59

To: centralvalidationteam <centralvalidationteam@argyll-bute.gov.uk>; MacLean, Laura <Laura.MacLean@argyll-bute.gov.uk>

Subject: RE: Invalid Letter for application 19/01737/PP

Hi Laura,

Can you please advise where you see a difference in the plan/elevation of the house? The drawings are all taken from the 3d model so there can't be a difference between them but it might just be an issue with the way they are displayed.

Kind Regards

Bari Reid
Associate

Organic Architects Ltd, 140 West Princes Street, Helensburgh, G84 8BH Tel 01436 670922

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-----Original Message-----

From: centralvalidationteam@argyll-bute.gov.uk <centralvalidationteam@argyll-bute.gov.uk>

Sent: 16 August 2019 14:54

To: bari@organicarchitects.co.uk

Subject: Invalid Letter for application 19/01737/PP

Dear Sir/Madam

We write to advise you that your recent planning application with Argyll and Bute Council is currently invalid.

Please attend to the points raised in the attached letter at the earliest opportunity.

Regards

Central Validation Team
Development and Economic Growth

Argyll and Bute Council

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Cameron, Zara

From: bari <bari@organicarchitects.co.uk>
Sent: 21 August 2019 10:29
To: MacLean, Laura; centralvalidationteam
Subject: 19/01737/PP - Validation Points
Attachments: 605 Planning (V1)-L003 Additional Information.pdf

Good Morning,

Please find attached additional information requested on the above application:

- 1) *Please provide a floor plan of the workshop/pool house produced to a scale of either 1:50 or 1:100. Please also confirm this is for domestic use. Please note, if commercial an additional planning fee will be required.*
On Attached Drawing L003

- 2) *The first floor plan and the north elevation appear to be inconsistent in relation to openings.*
Discussed with Verifier and confirmed nothing required

- 3) *Unfortunately the location plan received contains insufficient detail to accurately identify the location of the proposed development and as such we would request that you provide a copy of a supplemental location plan produced to a scale of 1:10,000 on a minimum of an A4 page size with the location of the proposal clearly identified in red along with relevant road names/numbers shown and an indication of the nearest settlements to the proposed application site. Any other land in the same ownership of the applicant(s), if any within a 30 metre radius of the application site identified, should be outlined in blue.*
On Attached Drawing L003

- 4) *No Planning Fee or Advertisement Fee has been received. Please forward the sum of £401 (Planning Fee); and £191 (Advertisement Fee) which are the required fees for the proposed development.*
Paid Direct by Applicant.

We trust that receipt of this information will allow the application to be validated,

Kind Regards

Bari Reid
Associate



ORGANIC
ARCHITECTS

Organic Architects Ltd, 140 West Princes Street, Helensburgh, G84 8BH
Tel 01436 670922

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Cameron, Zara

From: bari <bari@organicarchitects.co.uk>
Sent: 21 August 2019 16:29
To: centralvalidationteam
Subject: RE: Invalid Letter for application 19/01737/PP

Hello ,

I can confirm that the use of the Workshop and Pool house is associated with the house and domestic use only.

Bari Reid
Associate

Organic Architects Ltd, 140 West Princes Street, Helensburgh, G84 8BH
Tel 01436 670922

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-----Original Message-----

From: centralvalidationteam@argyll-bute.gov.uk <centralvalidationteam@argyll-bute.gov.uk>
Sent: 21 August 2019 16:22
To: bari@organicarchitects.co.uk
Subject: Invalid Letter for application 19/01737/PP

Dear Sir/Madam

We write to advise you that your recent planning application with Argyll and Bute Council is currently invalid.

Please attend to the points raised in the attached letter at the earliest opportunity.

Regards

Central Validation Team
Development and Economic Growth

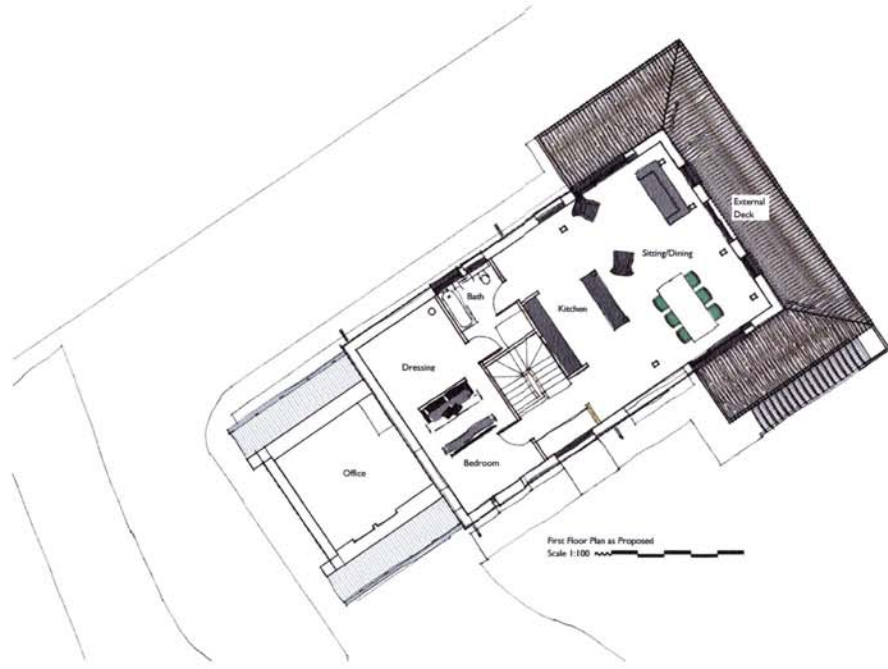
Argyll and Bute Council

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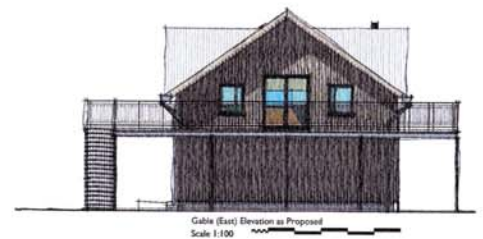
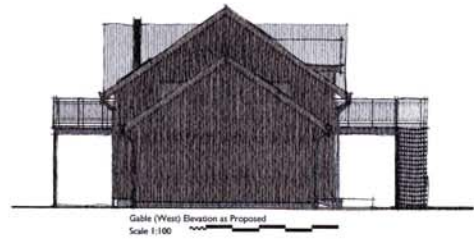
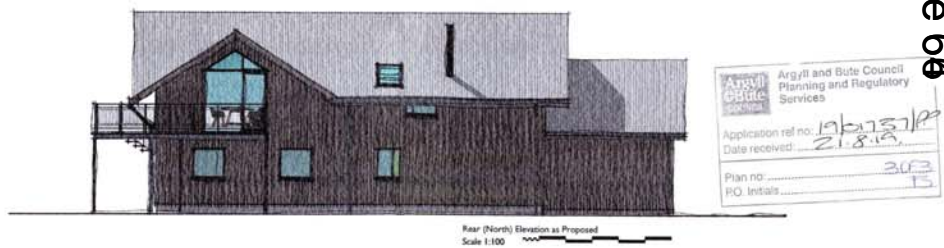
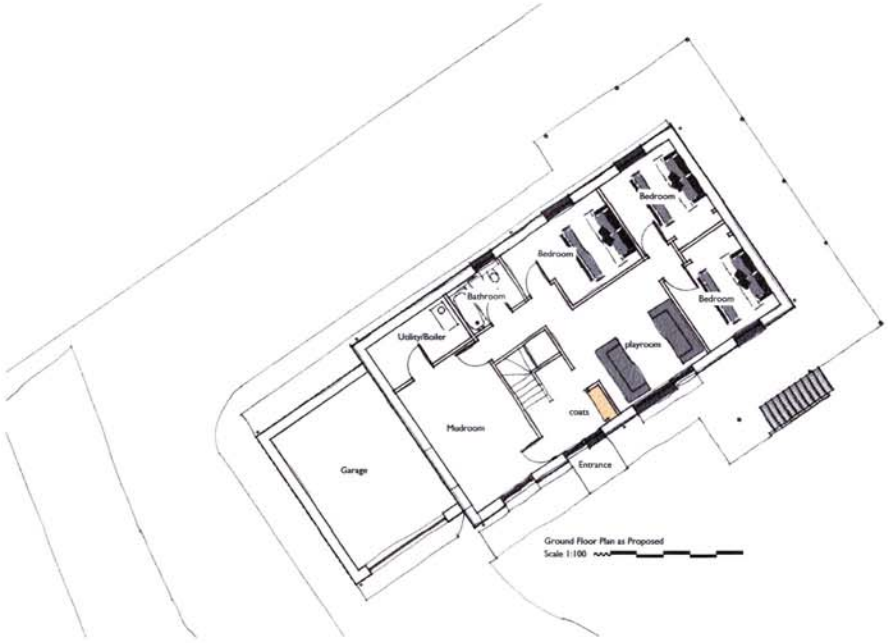
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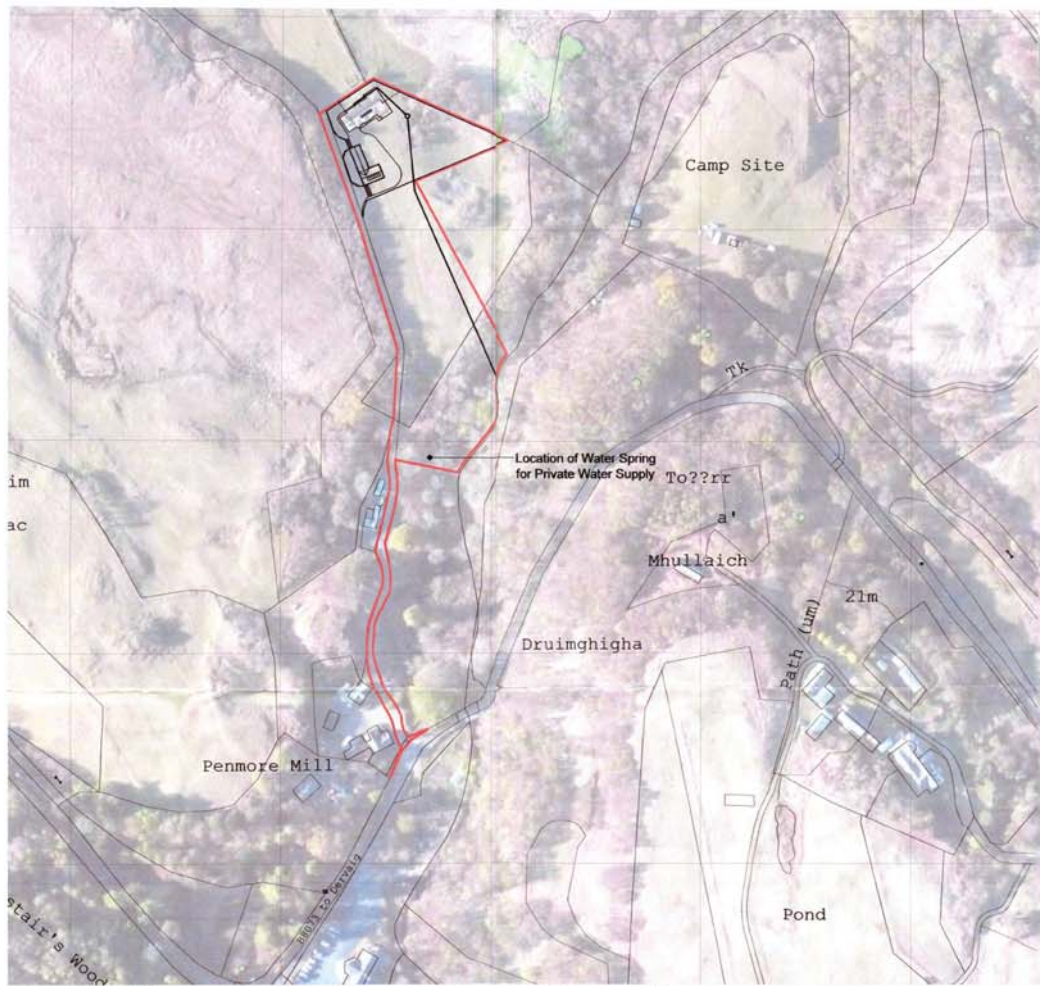
- Finishes Schedule:
1. Corrugated Metal Roof (Mill finish aluminium)
 2. Rough Sawn Timber Cladding (Larch)
 3. Aluminium Timber Windows (Black)
 4. VJed Rooflines
 5. Cement render base course
 6. Galvanised Rainwater Goods



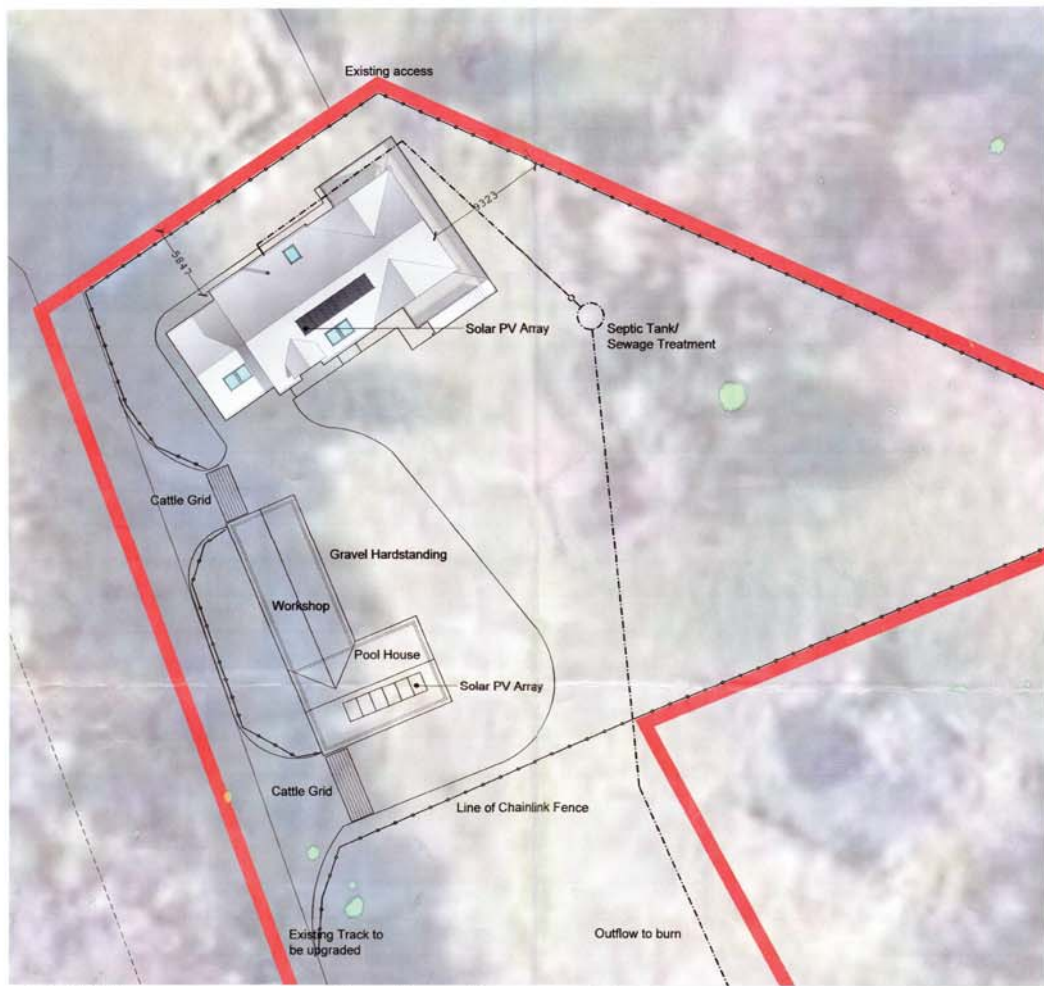
ARGYLL AND BUTE COUNCIL
RECEIVED BY PLANNING AUTHORITY
Reference Application No: 17/01312
17/01312

New House at Penmore
Rae and Phil Tiernan
Ground and First Floor Plan
and Elevations as proposed
As noted @A1
09/08/2019
Drawing: 605 (L) 002

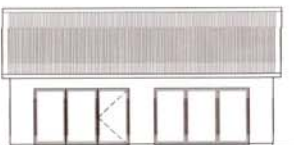




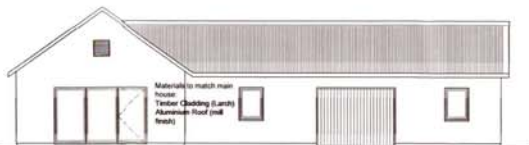
Location Plan
Scale 1:1250 # A1



Site Plan
Scale 1:200 # A1



Pool House/Workshop South Elevation
Scale 1:100 # A1



Pool House/Workshop East Elevation
Scale 1:100 # A1



Pool House/Workshop North Elevation
Scale 1:100 # A1



Pool House/Workshop West Elevation
Scale 1:100 # A1

ARGYLL AND BUTE COUNCIL
PLANNING AND REGULATORY SERVICES
Application ref no: 19/0131/P
Date received: 21.5.19
Plan no: 2019
PC Initials: 15

Argyll and Bute Council
Planning and Regulatory Services
Application ref no: 19/0131/P
Date received: 21.5.19
Plan no: 2019
PC Initials: 15

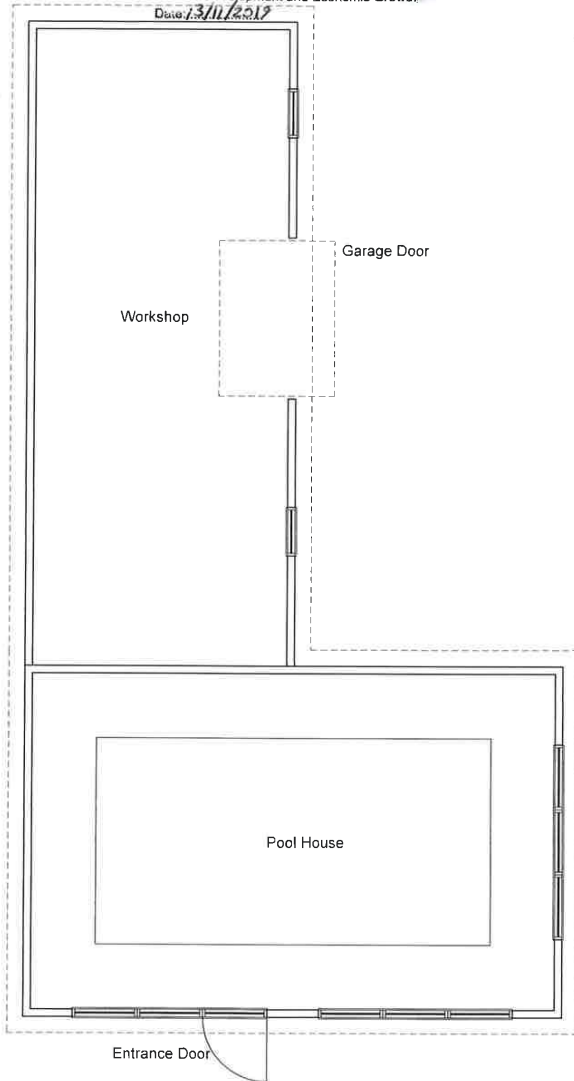
Planning	as noted
Organic Architects Ltd	# A1
Rae and Phil Tierman	
New House, Penmore	
Site and Location Plan as Proposed	605(L)001

ARGYLL AND BUTE COUNCIL

REFUSED by PLANNING AUTHORITY

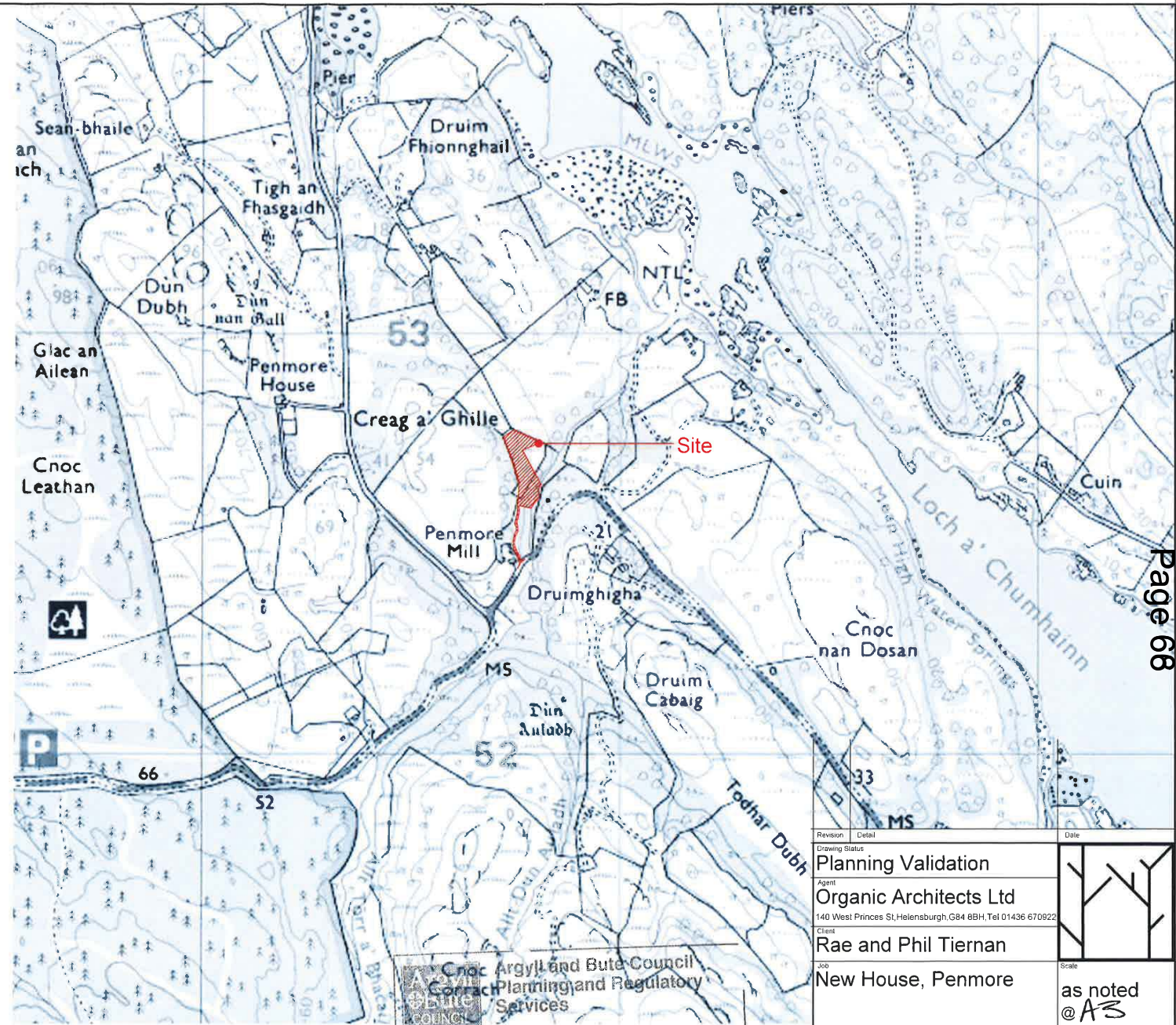
Relative to Application No. 19/01737/AP

Head of Development and Economic Growth
Date: 13/11/2017



Pool House/Workshop South Elevation
Scale 1:100 @ A3

Location Plan
Scale 1:10,000 @ A3



Argyll and Bute Council
Contract Planning and Regulatory Services

Application ref no: 19/01737/AP
Date received: 21.8.17
Plan No: 1003
P.O. Initials: FB

Revision	Detail	Date
	Planning Validation	
Agent Organic Architects Ltd 140 West Princes St, Helensburgh, G84 6BH, Tel 01436 670922		
Client Rae and Phil Tiernan		
Job New House, Penmore		
Scale as noted @ A3		
Drawing Additional Information		
Drawing Number 605(L)003		

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Municipal Buildings Albany Street Oban PA34 4AW

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(SCOTLAND) REGULATIONS 2013**

REFUSUAL OF PLANNING PERMISSION

REFERENCE NUMBER: 19/01737/PP

**Mr Phil and Mrs Rae Tiernan
Organic Architects
140 West Princes Street
Helensburgh
UK
G84 8BH**

I refer to your application dated 16th August 2019 for planning permission in respect of the following development:

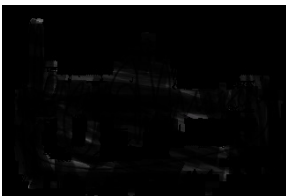
Erection of dwellinghouse, outbuilding and installation of septic tank

AT:

Land North Of Penmore Mill Penmore Dervaig Isle Of Mull Argyll And Bute

Argyll and Bute Council in exercise of their powers under the above mentioned Act and Regulations hereby refuse planning permission for the above development for the **reasons(s) contained in the attached appendix.**

Dated: 13 November 2019



Fergus Murray
Head of Development and Economic Growth

REASONS FOR REFUSAL RELATIVE TO APPLICATION NUMBER: 19/01737/PP

1.

The site lies within the designated Countryside Zone wherein Policy LDP DM 1 of the Adopted Argyll and Bute Local Development Plan (LDP) 2015 gives encouragement to appropriate infill, rounding-off and redevelopment and changes of use of existing buildings. In exceptional cases development in the open countryside up to and including large scale may be supported on appropriate sites if this accords with an Area Capacity Evaluation (ACE). In this case the site does not present any opportunities for infill, rounding-off, redevelopment or change of use of existing buildings and no detailed and/or acceptable exceptional case argument has been demonstrated. Additionally, Supplementary Guidance SG LDP HOU 1 states that there is a presumption against small-scale housing development in the open /undeveloped areas of the Countryside Zone. The principle of development is therefore contrary to the settlement strategy of the LDP and cannot be supported. There are no material considerations of sufficient weight which demonstrate that the proposal should be determined otherwise in accordance with the development plan.

NOTES TO APPLICANT (1) RELATIVE TO APPLICATION NUMBER 19/01737/PP

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended) within three months from the date of this notice. A Notice of Review request must be submitted on an official form which can be obtained by contacting The Local Review Body, Committee Services, Argyll and Bute Council, Kilmory, Lochgilphead, PA31 8RT or by email to localreviewprocess@argyll-bute.gov.uk

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state, and it cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the landowner's interest in the land, in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997 (as amended).

APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **19/01737/PP**

(A) Has the application required an obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended).

No

(B) Has the application been the subject of any “non-material” amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing.

No

(C) The reason why planning permission has been refused.

See reasons for refusal outlined above.

STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

20/0001/LRB

**REFUSAL OF PLANNING PERMISSION FOR
ERECTION OF DWELLINGHOUSE, OUTBUILDING
AND INSTALLATION OF SEPTIC TANK**

**LAND NORTH OF PENMORE MILL
PENMORE
DERVAIG
ISLE OF MULL
ARGYLL AND BUTE**

20/01/20

STATEMENT OF CASE

The Planning Authority is Argyll and Bute Council ('the Council'). The appellant is Mr and Mrs Phil and Rae Tiernan ("the appellant").

Planning permission 19/01737/PP for the erection of dwellinghouse at Land North of Penmore Mill, Penmore, Dervaig, Isle of Mull, Argyll and Bute (the appeal site") was refused by the Planning Service under delegated powers on 19/11/19.

The planning application has been appealed and is subject of referral to a Local Review Body.

DESCRIPTION OF SITE

The site is located within the countryside on a generally level piece of grazing land within a visually broken landscape setting with a number of trees along the boundaries.

STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED

Section 25 of the Town and Country Planning (Scotland) Act 1997 provides that where, in making any determination under the Planning Act, regard is to be had to the development plan, and all other material planning considerations and the determination shall be made in accordance with the plan unless material considerations indicate otherwise. This is the test for this application.

STATEMENT OF CASE

Argyll and Bute Council considers the determining issues in relation to the case are as follows:

- *Whether the site history is of sufficient material weight to outweigh the settlement strategy contained within the Local Development Plan (LDP).*

The Report of Handling (Appendix 1) sets out the Council's full assessment of the application in terms of Development Plan policy and other material considerations.

REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING

It is not considered that any additional information is required in light of the appellant's submission. The issues raised were assessed in the Report of Handling which is contained in Appendix 1. As such it is considered that Members have all the information they need to determine the case. Given the above and that the proposal has no complex or challenging issues, and has not been the subject of any significant public representation, it is not considered that a Hearing is required.

COMMENT ON APPELLANT'S SUBMISSION

The following comments are made in relation to their submission.

- The appellants state that the planning history of an application site is a material consideration to be afforded significant weight when a planning application is being assessed and determined. In this instance they consider that the planning history of the review site, which consists of two previous approvals for the same development as is now being proposed, has been ignored by Officers.

Comment: *Whilst the appellant is correct that application site history is a material consideration, the weighting to be afforded to that history is determined on a number of factors, such as the development plan in force at the time of the decision, whether not any attempt was made to renew or implement the permission and the passage of time since and previous permission(s) expired. In this case, the planning authority does not consider that substantial weighting should be afforded to the site history for the reasons as detailed within the report of handling. The previous planning permissions appear to have been granted in error (discussed below), a different LDP is now in force, no attempt was made by the appellant to renew the detailed planning permission 10/01597/PP within its lifetime, nor is there any persuasive evidence that this permission was implemented. In addition, there has been a significant passage of time since that permission expired.*

The appellant also states that the site history has been ignored by officers, which is quite simply untrue, which is evident upon reading the report of handling.

- The appellants state that they were advised by planning officers to apply for outline planning permission on the current site, contrary to the policies within the LDP in force at that time. Planning applications were submitted under 08/00438/OUT which was granted on the 23rd June 2008 and 10/01597/PP which was granted on the 24th December 2010. The appellants advise that the original decision to grant planning permission by the Council must have been wrong as the site was never within a Rural Opportunity Area (ROA). The appellants assert that the 2010 permission was also granted on the basis that it was consistent with the adopted local plan in 2010 and therefore the site should now also be consistent with policy as the policy position between the 2009 plan and the 2015 plan is essentially the same.

Comment: *At the time of granting planning permission 08/00438/OUT, planning policy was at a transitional period between the Mull, Coll and Tiree Local Plan 1st Review & Alteration & Monitoring Report (adopted 9th June 1988) and the Argyll and Bute Modified Finalised Draft Local Plan. It would appear that planning permission was granted in error as the site would not have been within the ROA and it would have been contrary to the Argyll and Bute Modified Finalised Draft Local Plan. The subsequent planning application 10/01597/PP would also appear to have been granted in error as the site was not within the ROA as per the Adopted Argyll and Bute Local Development Plan 2009.*

None of the officers involved in either of the previous planning approvals granted on this site remain employed by the Council. Both planning files have been carefully examined and no overriding explanation for these decisions can be found. Notwithstanding this, the planning authority are not persuaded that these decisions (which are approximately a decade old) should be afforded substantial material weight in the consideration of the current application. Officers are unable and unwilling to accede to the appellants' request that they compound this presumed error by 'knowingly' ignoring the provisions of the adopted Local Development Plan.

- The appellants state that the access track for the proposed site was formed in June 2012. They submit a photograph which purports to illustrate this as well

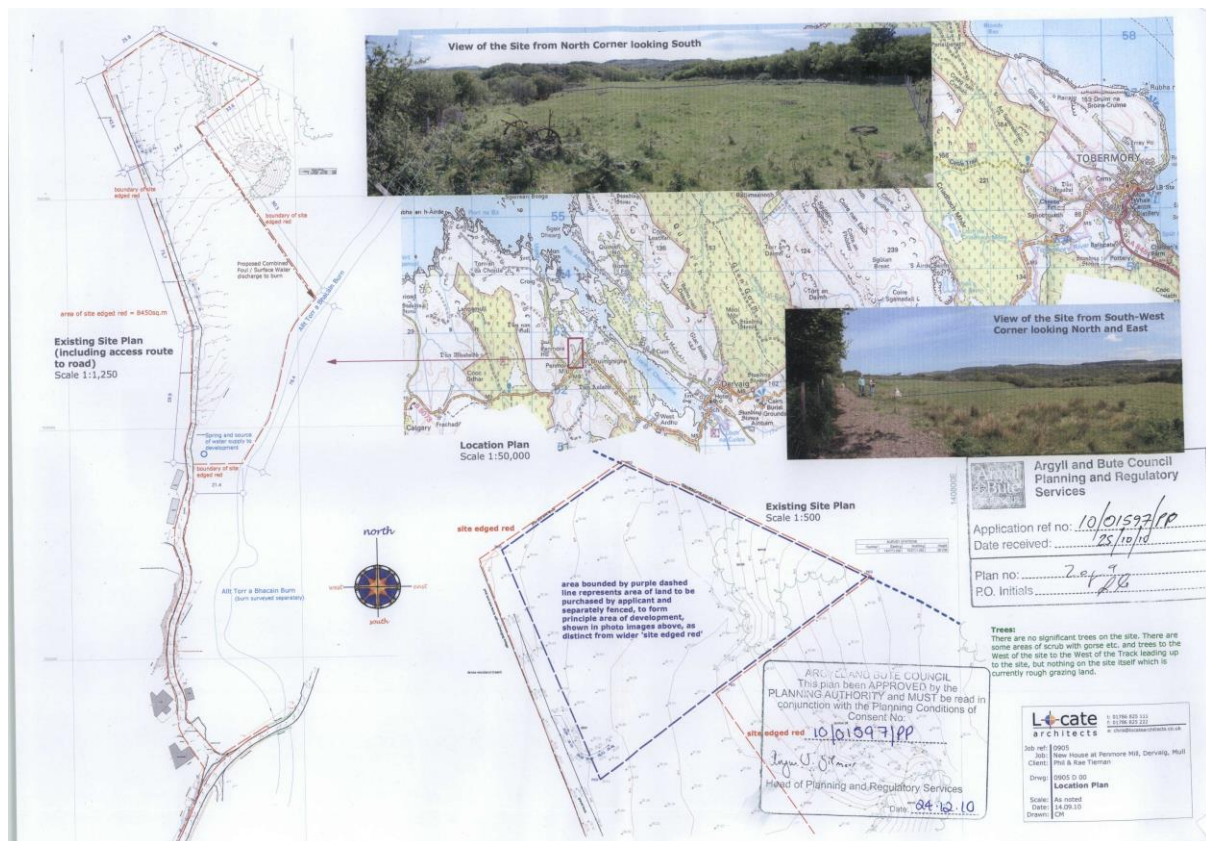
as the base for an adjacent shed. They assert that the development was therefore commenced under planning permission 10/01597/PP.

Comment: The Planning Authority do not accept the validity of this claim. It is noted that exactly the same photograph was also submitted as part of the applicant's submission for planning application 10/01597/PP (as evidenced below). This photograph was therefore taken before the 2010 planning permission was submitted and subsequently approved. The path referred to as 'evidence' that the 2010 planning permission was implemented was actually in situ before that planning application was even submitted. There is, therefore, no evidence of sufficient weight which has been presented to the planning authority which would demonstrate on the balance of probabilities that any development has taken place to implement that planning permission. A site visit carried out by the planning officer on the 30th September 2019 also failed to note any material evidence of development being carried out in relation to this site. The path as illustrated on the photographs is used to access separate fields and has now become overgrown. Please see the images below:

A Copy of Drawing '2 of 9' Approved As Part of Planning Permission 10/01597/PP

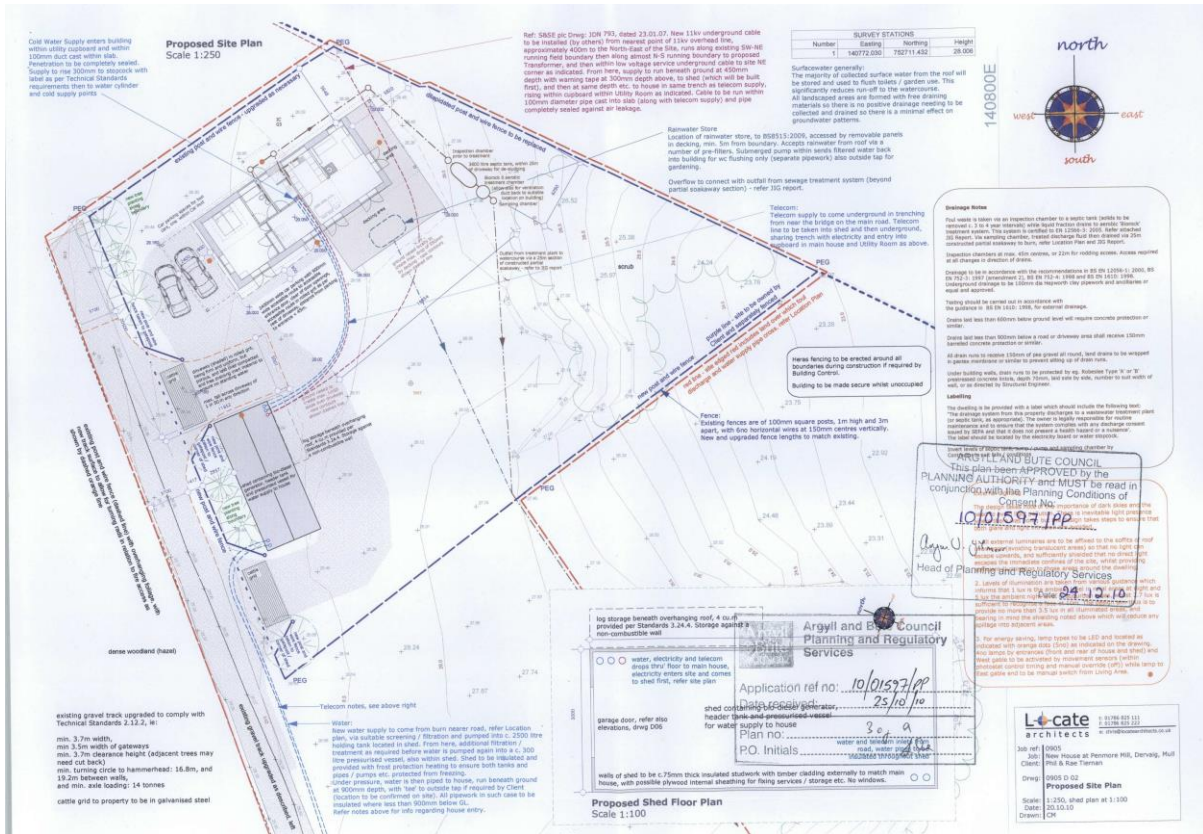
It can be seen that the lower of the two photographs embedded into this drawing submitted in support of planning application 10/01597/PP is exactly the same as 'Photograph 1' submitted within Paragraph 5.11 of the appellant's review statement and claiming to show works dating from June 2012.

With respect, this claim is fanciful.

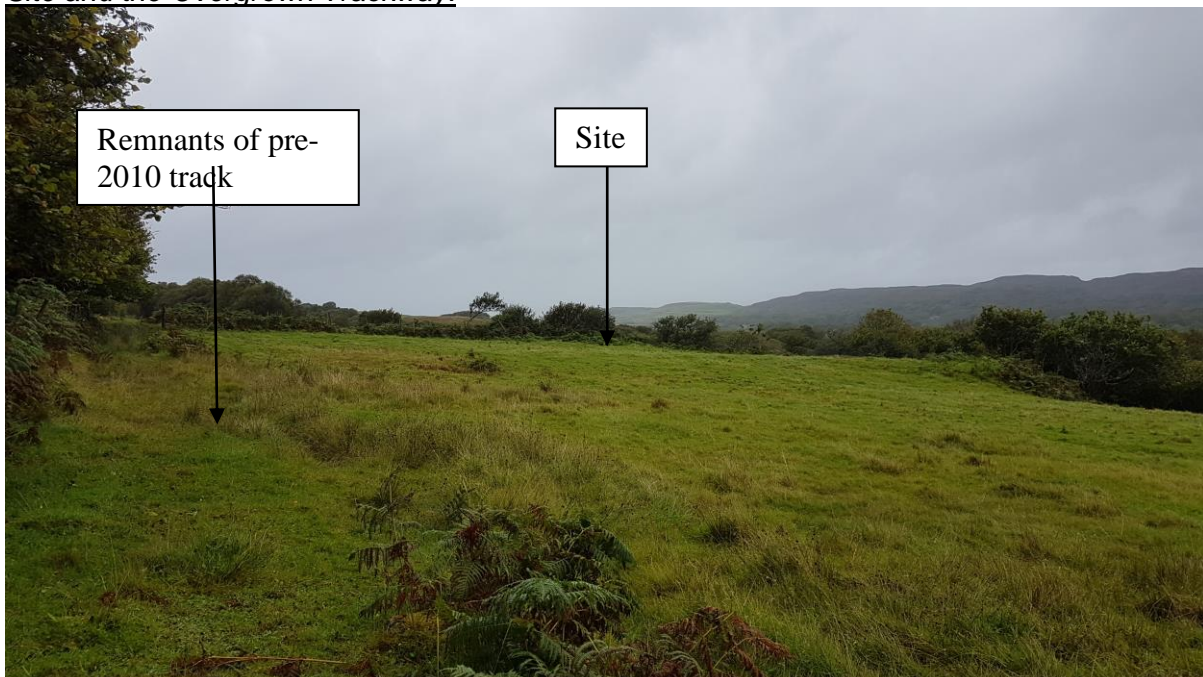


A Copy of Drawing '3 of 9' Approved As Part of Planning Permission 10/01597/PP

Whilst difficult to read on an image of this size, the annotation to this drawing contained at its bottom, left hand corner reads, "Existing gravel track upgraded to comply with...etc". This further demonstrates that the access track was in existence at the time of the submission of the 2010 application for planning permission and was not, therefore, constructed afterwards as claimed.



Recent Photographs (Taken 30th September 2019) Showing the Undeveloped Nature of the Site and the Overgrown Trackway.





- The appellants state that in September 2017, the applicant telephoned the Planning Office in order to discuss the possibility of amending the design of the previously approved dwelling. It is claimed that he was advised verbally that as a previous planning permission had been granted this “should not be a problem”.

Comment: *There is no detail of the context of this alleged conversation and no record of it having taken place.*

- The appellants state that to dismiss two unambiguous Reports of Handling by saying that “the argument as to whether or not officers now long retired from the employment of Argyll and Bute Council correctly applied the appropriate assessment of the previous applications is considered to carry little material weight in respect of the assessment of this current planning application” is fundamentally unreasonable.

Based upon the previous grants of planning permission for the erection of a dwellinghouse on the review site, under what is essentially the same policy context as is currently in force, the applicants had a justifiable expectation that a further grant of planning permission for the erection of a new dwelling on the site would be forthcoming.

Comment: *The planning authority has not dismissed the site history. It is not considered that the site history offers sufficient material weight to outweigh the adopted development plan. Simply, it appears that the two previous applications should not have been granted in the first place. The planning authority accepts that they were granted, however they have since expired. The appellants have made no attempt to satisfy the planning conditions attached to the previous permission, to implement it or renew it within the lifetime of the 2010 permission. There has been a significant passage of time since the previous permission expired on the 24th December 2013. Planning policy is fluid and ever-changing. It would have been incautious for the appellants to presume that a subsequent planning permission*

would be forthcoming, particularly as the appellant's statement acknowledges that the two previous decisions appeared to be erroneous.

- The appellants state that Proposed Local Development Plan 2 (LDP2) has now been published and is currently being consulted upon. As such it is a material consideration, albeit with limited weight at this early stage of its progress towards adoption. LDP2 adopts a more flexible approach to sustainable development in non-environmentally protected countryside.

Comment: *Whilst the Proposed LDP2 is a material consideration, no significant weighting can be afforded to it as it may be subject to change following the consultation period and subsequent examination by Scottish Ministers. The decision must therefore rest on the adopted Argyll and Bute Local Development Plan 2015.*

- The appellants state that it is strongly considered that the planning history of the site is a significant material consideration sufficient to indicate that the current application should have been able to have been approved as a minor departure from the provisions of Policy LDP DM 1 of the adopted Local Development Plan. This is essentially what happened in 2008, and again in 2010, given that the review site never has been with a Rural Opportunity Area.

Comment: *The planning authority does not consider that the site history is a material consideration of significant weight to outweigh the determination of the current planning application otherwise in accordance with the adopted local development plan. The appellants appear to be assuming that the two previous planning applications were approved as a minor departure however this is not stated in either of the planning officer reports and therefore cannot be confirmed. As previously stated, these applications appear to have been approved in error contrary to the development plan in force at the time.*

- The appellants state that whilst possibly not relevant to the planning assessment to be made, the applicants are currently living in temporary accommodation along with their three young children, who attend the local primary and high schools. Mr Tiernan's business is growing, and is in huge demand, and Mrs Tiernan is employed as an 'additional support needs person' and also as a school bus driver at a local primary school. All that they now want is for their planning permission to be granted again, so that they can complete the project that they began back in 2007.

Comment: *The appellants are correct, this has no material relevance to this local review. No exceptional case was presented to the planning authority under planning application 19/01737/PP. Whilst officers are sympathetic to the recent claimed housing needs of the appellants, it is not considered that this would represent an 'exceptional case' of sufficient weight to set aside the refusal of this planning application in this case.*

It is possible that 'LDP 2', once it can be afforded substantial material weight, might afford the appellants the opportunity to revisit their proposed development upon this site and for officers to consider it in a more positive light – officers have expressed that view to the appellants and are keen to find a sustainable 'solution'. However, the current application (and subsequent review) is wholly premature to the provisions of LDP 2 at this stage.

CONCLUSION

Section 25 of the Town and Country Planning Act 1997 (as amended) requires that all decisions be made in accordance with the development plan unless material considerations indicate otherwise.

The fundamental question which must be asked and answered is, is the site history of sufficient weight to justify departing from the settlement strategy contained within Policy LDP DM 1 of the adopted Argyll and Bute Local Development Plan 2015? It is the professional opinion of officers that it is not for the following reasons:

- Planning permission 10/01597/PP was granted in error and it expired approximately 6 years ago under the Argyll and Bute Local Development Plan 2009 which has now been superseded by the adopted Argyll and Bute Local Development Plan 2015.
- Planning permission 10/01597/PP was allowed to lapse unimplemented for a period of approximately six years. It was not renewed and neither was any attempt made by anyone to renew it.
- None of the planning conditions for 10/01599/PP have been discharged nor has any persuasive evidence been submitted which would demonstrate that a lawful commencement of development has taken place which would provide a stronger material consideration.

Taking account of the above, it is respectfully requested that the application for review be dismissed.

APPENDIX 1 – REPORT OF HANDLING

**Argyll and Bute Council
Development & Infrastructure Services**

Delegated or Committee Planning Application Report and Report of Handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 19/01737/PP
Planning Hierarchy: Local
Applicant: Mr Phil and Mrs Rae Tiernan
Proposal: Erection of dwellinghouse, outbuilding and installation of septic tank
Site Address: Land North of Penmore Mill, Penmore, Dervaig, Isle of Mull, Argyll and Bute

DECISION ROUTE

Section 43 (A) of the Town and Country Planning (Scotland) Act 1997 (as amended)

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of dwellinghouse
- Construction of vehicular access
- Installation of sewage treatment plant
- Installation of private water supply

(ii) Other specified operations

- N/A
-

(B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission be refused for the reasons appended to this report.

(C) CONSULTATIONS:

Environmental Health

No response at time of report and no request for an extension of time

Area Roads

No objection subject to conditions. Report dated 13th September 2019

Scottish Natural Heritage

No formal comments offered as the application falls below the threshold for consultation. E-mail dated 22nd August 2019

Woodlands Trust

No objection following receipt of further information from applicant. E-mail dated 26th September 2019

(D) HISTORY:

08/00438/OUT

Site for erection of dwellinghouse. Granted 23rd June 2008.

10/01597/PP

Erection of dwellinghouse and shed. Granted 24th December 2010

(E) PUBLICITY:

The proposal has been advertised in terms of Regulation 20 procedures, closing date 26th September 2019.

(F) REPRESENTATIONS:

No representations have been received during the determination of the planning application.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- | | | |
|-------|--|----|
| (i) | Environmental Statement: | No |
| (ii) | An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: | No |
| (iii) | A design or design/access statement: | No |
| (iv) | A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc: | No |

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: No

(I) **Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:** No

(J) **Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application**

(i) **List of all Development Plan Policy considerations taken into account in assessment of the application.**

Policy

LDP STRAT 1 – Sustainable Development
LDP DM 1 – Development within the Development Management Zones
LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment
LDP 8 – Supporting the Strength of Our Communities
LDP 9 – Development Setting, Layout and Design
LDP 10 – Maximising our Resources and Reducing Our Consumption
LDP 11 – Improving our Connectivity and Infrastructure

Supplementary Guidance

SG LDP ENV 1 - Development Impact on Habitats, Species and our Biodiversity
SG LDP ENV 14 – Landscape
SG LDP ENV 20 - Development Impact on Sites of Archaeological Importance
SG LDP HOU 1 – General Housing Development including Affordable Housing Provision
SG LDP SERV 1 – Private Sewage Treatment Plants and Wastewater (i.e. drainage) Systems
SG LDP SERV 2 – Incorporation of Natural Features/Sustainable Drainage Systems (SuDS)
SG LDP TRAN 4 – New & Existing Public Roads and Private Access Regimes
SG LDP TRAN 6 – Vehicle Parking Provision
Sustainable Siting & Design Principles

(ii) **List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 4/2009.**

Scottish Planning Policy 2014
PAN 72 – Housing in the Countryside
Consultation responses

(K) **Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:** No

(L) **Has the application been the subject of statutory pre-application consultation (PAC):** No

(M) **Has a sustainability check list been submitted:** No

(N) **Does the Council have an interest in the site:** No

(O) **Requirement for a hearing:** No

(P) **Assessment and summary of determining issues and material considerations**

Planning permission is sought for the erection of a dwellinghouse on Land North of Penmore Mill, Penmore, Dervaig, Isle of Mull.

The site lies within the designated Countryside Zone wherein Policy LDP DM 1 of the adopted Argyll and Bute Local Development Plan (LDP) 2015 supports up to small scale sustainable forms of development on appropriate infill, rounding-off and redevelopment sites and changes of use of existing buildings. In exceptional cases development in the open countryside up to and including large scale may be supported on appropriate sites if this accords with an Area Capacity Evaluation (ACE). In this case the site is not infill, rounding-off, redevelopment or a change of use of an existing building and no exceptional case has been made. The proposal is therefore contrary to Policy LDP DM 1 of the LDP.

Policy LDP 3 assesses applications for their impact on the natural, human and built environment with Policy LDP 9 seeking developers to produce and execute a high standard of appropriate design and to ensure that development is sited and positioned so as to pay regard to the context within which it is located.

Policy LDP 8 supports new sustainable development proposals that seek to strengthen communities. Supplementary Guidance SG LDP HOU 1 gives general support to new housing provided there is no unacceptable environmental, servicing or access impact.

Policy LDP 11 supports all development proposals that seek to maintain and improve internal and external connectivity by ensuring that suitable infrastructure is delivered to serve new developments. Supplementary Guidance SG LDP TRAN 4 and SG LDP TRAN 6 expand on this policy seeking to ensure that developments are served by a safe means of vehicular access and have an adequate on-site parking and turning area.

There is some historic and long-expired planning history to this site and the applicant has submitted supporting information which requires further assessment.

Planning permission has previously been granted for the erection of a dwellinghouse on this site. Planning permission 08/00438/OUT for the site for the erection of a dwellinghouse was granted on the 23rd June 2008. The planning officer's report states that, in his assessment at that time, the site is within a Rural Opportunity Area *"where it is considered that there is capacity to absorb*

single developments set in isolation, where these maintain the sporadic nature of the settlement pattern. The current scheme complies with the location requirements of the housing and environmental policies set out in the Modified Finalised Draft Local Plan.”

The planning officer's report therefore assesses that the development would be in compliance with both the adopted plan as well as the emerging draft plan at that time. This permission expired on the 23rd June 2011.

A detailed planning permission 10/01597/PP was granted for the erection of a dwellinghouse and outbuilding on the 24th December 2010. The planning officer's report states that, in his assessment at that time, the site is consistent with adopted local plan policy but it does not make any reference to which development management zone the site was located. At that time, it is evident that the site was not within a ROA and it would have been contrary to the settlement strategy contained within the adopted plan. However, it may well be that detailed planning permission was granted due to the extant outline planning permission 08/00438/OUT as a material planning consideration as the report states that *“The site has the benefit of Outline Planning Permission (ref 08/00438/OUT) for the erection of a dwellinghouse which was granted on the 23rd of June 2010. Therefore the principle of development for a single house is established at the site.”* (Note that the report incorrectly states that the outline planning permission was granted on the 23rd June 2010 when it was in actual fact the 23rd June 2008). Planning permission 10/01597/PP expired on the 24th December 2013.

There is, therefore, a significant ambiguity over the assessment of these previous applications and whether or not planning policy was applied correctly at that time.

Notwithstanding this, however, the argument as to whether or not officers now long retired from the employment of Argyll and Bute Council correctly applied the appropriate assessment of the previous applications is considered to carry little material weight in respect of the assessment of this current planning application.

There has been a significant passage of time since planning permission 10/01597/PP was granted and a new LDP has been adopted. The applicant has not applied to renew the previous permission, which expired nearly six years ago, nor has any attempt been made by the applicant to discharge any of the planning conditions attached to that earlier permission. The applicant has advised that in 2012 they formed an access track from 'rotten rock' which they claim was dug from a borrow pit adjacent to the site. The applicant has also claimed that in July 2012 the base for a shed within the site was laid, again from 'rotten rock'. Photographs have been submitted which purports to illustrate this. The applicants argue therefore, that a lawful commencement of works has taken place. However, the same photograph of the alleged access track was included with the planning application drawings for 10/01597/PP which was submitted on 17th September 2010 and granted on the 24th December 2010. The application location plan illustrates this track and is annotated as "gravel track" and the proposed site plan also illustrates it and is annotated as "existing gravel track upgraded as described, left". Therefore, the claimed access track cannot have been implemented after the date of the 2010 planning permission.

Similarly, whilst undated photographs have been submitted purporting to show the alleged works in connection with a 'shed base', there is very little evidence of any significant engineering or building works surviving on the site.

There is therefore, in the considered opinion of the planning authority, no persuasive evidence that any material operation has taken place to implement the earlier planning permission as required by Section 27 of the Town and Country Planning (Scotland) Act 1997 (as amended).

The applicant's Agent also suggests that, in his opinion, the intended 'Local Development Plan 2' now represents the 'settled view' of the Council and weighting should be afforded to it in the decision making process. However, Proposed Local Development Plan 2 remains at an early stage. It has not yet been published and therefore no material weighting can be afforded to it at this time.

Having regard to the adopted LDP, the proposed development is contrary to Policy LDP DM 1 and the planning authority are not persuaded that the arguments made by the applicant justify a departure from the adopted LDP in this case. To summarise:

- The development is contrary to Policy LDP DM 1 and SH LDP HOU 1 of the adopted and approved Local Development Plan.
- Planning permission 10/01597/PP expired almost 6 years ago and was based on a different local plan and therefore no significant weight should be afforded to this non-extant planning history.
- Planning permission 10/01597/PP was allowed to lapse unimplemented for a period of approximately six years. It was not renewed and neither was any attempt made by anyone to renew it.
- None of the planning conditions for 10/01599/PP have been discharged nor has any evidence been submitted which would demonstrate that a lawful commencement of development has taken place which would provide a stronger material consideration in the determination of the current planning application.

In light of the above it is recommended that planning permission be refused.

(Q) Is the proposal consistent with the Development Plan: No

(R) Reasons why Planning Permission or Planning Permission in Principle should be refused:

1. The site lies within the designated Countryside Zone wherein Policy LDP DM 1 of the Adopted Argyll and Bute Local Development Plan (LDP) 2015 gives encouragement to appropriate infill, rounding-off and redevelopment and changes of use of existing buildings. In exceptional cases development in the open countryside up to and including large scale may be supported on appropriate sites if this accords with an Area Capacity Evaluation (ACE). In this case the site does not present any opportunities for infill, rounding-off, redevelopment or change of use of existing buildings and no detailed and/or acceptable exceptional case argument has been demonstrated. Additionally, Supplementary Guidance SG LDP

HOU 1 states that there is a presumption against small-scale housing development in the open /undeveloped areas of the Countryside Zone. The principle of development is therefore contrary to the settlement strategy of the LDP and cannot be supported. There are no material considerations of sufficient weight which demonstrate that the proposal should be determined otherwise in accordance with the development plan.

(S) Reasoned justification for a departure to the provisions of the Development Plan

N/A – the proposal is recommended for refusal.

(T) Need for notification to Scottish Ministers or Historic Scotland: No

Author of Report: Andrew Barrie **Date:** 11th November 2019

Reviewing Officer: Tim Williams **Date:** 13th November 2019

Fergus Murray
Head of Development and Economic Growth

REASONS FOR REFUSAL RELATIVE TO APPLICATION REF. NO. 19/01737/PP

1. The site lies within the designated Countryside Zone wherein Policy LDP DM 1 of the Adopted Argyll and Bute Local Development Plan (LDP) 2015 gives encouragement to appropriate infill, rounding-off and redevelopment and changes of use of existing buildings. In exceptional cases development in the open countryside up to and including large scale may be supported on appropriate sites if this accords with an Area Capacity Evaluation (ACE). In this case the site does not present any opportunities for infill, rounding-off, redevelopment or change of use of existing buildings and no detailed and/or acceptable exceptional case argument has been demonstrated. Additionally, Supplementary Guidance SG LDP HOU 1 states that there is a presumption against small-scale housing development in the open /undeveloped areas of the Countryside Zone. The principle of development is therefore contrary to the settlement strategy of the LDP and cannot be supported. There are no material considerations of sufficient weight which demonstrate that the proposal should be determined otherwise in accordance with the development plan.

APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **19/01737/PP**

- (A)** Has the application required an obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended).

No

- (B)** Has the application been the subject of any “non-material” amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing.

No

- (C)** The reason why planning permission has been refused.

See reasons for refusal outlined above.

CHECK SHEET FOR PREPARING AND ISSUING DECISION

Application Number	19/01737/PP
Decision Date	13.11.19
Issue Latest Date	
Decision	Refuse

Date signed by ATL

Don't Issue Decision	Tick if relevant	Action (tick)	Date sent
Notification to Scottish Ministers			
Notification to Historic Scotland			
Section 75 Agreement			
Revocation			

Issue Decision ✓		<i>Tick</i>	Standard Conditions/Notes to include				
Tic k	Dev/Decision Type	Time Scale*	Initiation	Completion	Display Notice		
			Only use if PP/AMSC & Granted				
	Local – Sch.3 – Delegated						
✓	Local – Delegated						

*standard time condition not required if application retrospective.

Include with Decision Notice	
Notification of Initiation Form	
Notification of Completion Form	
Roads Schedule/standard drawing	
Customer Satisfaction Survey	✓

Notify of Decision	
Roads	
Ongoing Monitoring – priorities:	

Pre-commencement conditions sheet	
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Total residential units FP3 (uniform)			
Houses		Sheltered	
Flats		Affordable	

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Camp Site

Druim Breac

Tòrr a'

Mhullaigh

Druimghigha

Penmore Mill

Am Birlinn

Pond

Weir

0 10 20 40 Meters

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Location Plan Relative to LRB: 20/0001/LRB



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6 February 2020

Fiona McCallum
Committee Services Officer
Legal & Regulatory Support
Argyll and Bute Council
Kilmory
Lochgilphead
Argyll
PA31 8RT

Ref MHP: 2019_0105

Dear Fiona

NOTICE OF REVIEW REFERENCE 20/0001/LRB (PLANNING REF: 19/01737/PP - LAND NORTH OF PENMORE MILL, PENMORE, DERVAIG, ISLE OF MULL

Further to your e-mail of 24 January 2020 in respect of the above I can respond as follows.

In the first instance the fact that it has been fully acknowledged that two previous planning permissions to erect a dwelling on the review site were “granted in error” is welcomed. Officers have said in their response to the application for review:

“Comment: At the time of granting planning permission 08/00438/OUT, planning policy was at a transitional period between the Mull, Coll and Tiree Local Plan 1st Review & Alteration & Monitoring Report (adopted 9th June 1988) and the Argyll and Bute Modified Finalised Draft Local Plan. It would appear that planning permission was granted in error as the site would not have been within the ROA and it would have been contrary to the Argyll and Bute Modified Finalised Draft Local Plan. The subsequent planning application 10/01597/PP would also appear to have been granted in error as the site was not with the ROA as per the Adopted Argyll and Bute Local Development Plan 2009.”

In order to seek to dismiss the importance of these two erroneous decisions officers have however then said that “none of the officers involved in either of the previous planning approvals granted on this site remain employed by the Council”. This is not true. Whilst the officer who dealt with application reference 08/00438/OUT (Ewen Stewart) is no longer employed by the Council, the officer who dealt with application reference 10/01597/PP (Lesley Cuthbertson) is still an employee of the Council.

MH Planning Associates

63 West Princes Street, Helensburgh, G84 8BN **Tel:** 01436 674777 **Mob:** 07816 907203
Web: www.mhplanning.co.uk **Email:** info@mhplanning.co.uk

Furthermore, these were not the decisions of individual officers, these were the decisions of Argyll and Bute Council, issued on behalf of the Council by the former Head of Planning and Regulatory Services, Mr Angus Gilmour.

Planning permission reference 10/01597/PP was granted on 24 December 2010. Following this, in April 2012, an application for a Building Warrant was submitted. This was approved in November 2012 (LPA reference 12/00453/ERD). Some months prior to this preparatory works commenced on site. In June 2012 the access track was formed, and in July 2012 the base for the shed was laid.

Unfortunately, in late 2012, the applicants had to return to New Zealand to care for Mr Tiernan's mother. The development of the site at Penmore was therefore put 'on hold' until they were able to return to Scotland.

Below is a summary of costs that have been invested in the site by the applicants following the original grant(s) of planning permission:

Planning Application	£469.00
Site Survey	£768.00
Site Investigation Report	£747.50
Architect Fees	£10,000.00
Structural Engineering	£3,230.88
Drainage Report	£542.29
SAP Calculation Report	£267.60
Building Warrant Application	£650.00 approx
TOTAL	£16,675.27

All of this has been invested in the review site on the basis of what officers are now admitting were fundamental errors that were made by the Council in 2008, and again in 2010.

Officers, in seeking to defend the recent refusal of planning permission, have merely said with respect to this:

“Notwithstanding this, the planning authority are not persuaded that these decisions (which are approximately a decade old) should be afforded substantial material weight in the consideration of the current application.”

This is considered by the applicants to be both unacceptable and unreasonable. As has previously been explained, the review site, although this was never within the Rural Opportunity Area, was one which was specifically promoted by the Council's appointed planning officer in 2008. It now transpires that the officer in question promoted this site in error. On the basis of this acknowledged error the applicants have nevertheless spent over £16,000 in order to implement the planning permission that the Council had previously granted.

Whilst it is accepted that every planning application must be determined on its individual merits, having regard to the provisions of the development plan and other material considerations, it is also vitally important for the credibility of the planning process that decision makers are consistent in their approach. It is also a well-established legal principle that previous planning decisions are capable of being a significant material consideration, meaning that they need to be taken fully into account by those determining subsequent applications for planning permission (see attached document "The Importance of Consistency in Planning Decisions").

The reasoning behind this was explained by Mann LJ in the case of North Wiltshire District Council v Secretary of State for the Environment (1993) 65 P & CR 137 when he said:

"One important reason why previous decisions are capable of being material is that like cases should be decided in a like manner so that there is consistency in the appellate process. Consistency is self-evidently important to both developers and development control authorities. But it is also important for the purpose of securing public confidence in the operation of the development control system".

At present the applicants understandably have little confidence in the planning system. The fact that they have had to seek this review in respect of a site where planning permission for the erection of a dwelling has been granted twice, and a building warrant once, they find extremely difficult to understand, or to explain to other people in the local community. The application and review process have furthermore placed a huge amount of stress on Mr Tiernan's personal relationships with his wife, family and friends. As set out above, the financial implications of now having been refused planning permission are also significant.

How much weight should be attached to a relevant material planning consideration, such as the planning history of a site, is wholly within the gift of the decision maker, in this instance the members of the Council's Local Review Body. It is therefore sincerely hoped that enough weight will be able to be attached to the planning history of this particular site, given the acknowledgement of the errors that the Council made in 2008 and 2010, and that on this basis a further planning permission for the erection of a dwellinghouse, outbuilding and installation of septic tank on the site will be able to be approved.

Yours sincerely

A black rectangular redaction box covering the signature of Michael Hyde.

Michael Hyde MRTPI
MH Planning Associates

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Argyll and Bute Council
Comhairle Earra-Ghàidheal Agus Bhòid

Executive Director: Douglas Hendry

*Kilmory, Lochgilphead, PA31 8RT
Tel: 01546 602127 Fax: 01546 604435
DX 599700 LOCHGILPHEAD*

18 May 2020

NOTICE OF MEETING

A meeting of the **ARGYLL AND BUTE LOCAL REVIEW BODY** will be held by **SKYPE** on **MONDAY, 25 MAY 2020 at 10:30 AM**, which you are requested to attend.

Douglas Hendry
Executive Director

BUSINESS

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST**
3. **CONSIDER NOTICE OF REVIEW REQUEST: LAND NORTH OF PENMORE MILL, PENMORE, DERVAIG, ISLE OF MULL (REF: 20/0001/LRB)**
 - (a) Further information received from Planning (Pages 3 - 8)
 - (b) Comments received from Applicant (Pages 9 - 10)

Argyll and Bute Local Review Body

Councillor George Freeman
Councillor Jean Moffat

Councillor David Kinniburgh (Chair)

Contact: Fiona McCallum Tel: 01546 604392

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McCallum, Fiona

From: Barrie, Andrew
Sent: 26 February 2020 15:26
To: McCallum, Fiona; Bain, Peter (Planning); Williams, Tim; envhealthwest; roadsconsoli; Jackson, James; 'mh@mhplanning.co.uk'; 'argyll_Outerhebrides@snh.gov.uk'; 'campaigning@woodlandtrust.org.uk'
Cc: localreviewprocess
Subject: RE: REQUEST FOR FURTHER WRITTEN INFORMATION - Notice of Review Reference 20/0001/LRB (Planning Ref: 19/01737/PP - Land North of Penmore Mill, Penmore, Dervaig, Isle of Mull [OFFICIAL]
Attachments: 1737 Conditions, AB 260220.docx

Good afternoon,

With reference to the recent request for additional information regarding the above, I attach a proposed list of draft planning conditions for consideration by the LRB panel.

It is respectfully noted however that should the LRB panel decide to reverse the decision of officers and grant planning permission for this development they may be required, in order to demonstrate a competent decision, to consider and appropriately iterate the 'exceptional case' based on a specific locational/operational need for the development as required by key planning policy LDP DM 1.

As no such 'exceptional case' argument has been advanced by the applicant and officers cannot, at the present time, know what is in the contemplation of the LRB panel, it is noted that the attached list of draft planning conditions may need to be augmented to add a planning condition (or conditions) to appropriately define and underpin any locational/operational 'exceptional case' relied upon to form the basis of any decision to grant planning permission.

Kind regards,

Andrew Barrie MRTPI

Planning Officer (Oban, Lorn and the Isles)
Development Management
Development and Economic Growth
Argyll and Bute Council

t: 01631 567960

e: andrew.barrie@argyll-bute.gov.uk

w: www.argyll-bute.gov.uk



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[Customer Satisfaction Questionnaire](#)

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CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 19/01737/PP

GENERAL

1. The proposed development shall be carried out in accordance with the details specified in the application form dated 15th August 2019 and the approved drawings numbered 1 of 3 to 3 of 3 and stamped approved by Argyll and Bute Council.

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

Standard Note: In terms of condition 1 above, the council can approve minor variations to the approved plans in terms of Section 64 of the Town and Country Planning (Scotland) Act 1997 although no variations should be undertaken without obtaining the prior written approval of the Planning Authority. If you wish to seek any minor variation of the application, an application for a non-material amendment (NMA) should be made in writing which should list all the proposed changes, enclosing a copy of a plan(s) detailing these changes together with a copy of the original approved plans. Any amendments deemed by the Council to be material, would require the submission of a further application for planning permission.

ROADS, ACCESS AND PARKING

2. Notwithstanding the provisions of Condition 1, a parking and turning area for three cars shall be constructed within the site and brought into use prior to the development first being occupied and shall thereafter be maintained clear of obstruction for the parking and manoeuvring of vehicles.

Reason: In the interest of road safety in accordance with Policy LDP 11 and Supplementary Guidance SG LDP TRAN 6 of the adopted Argyll and Bute Local Development Plan 2015.

3. Notwithstanding the provisions of Condition 1, no development shall commence on site or is hereby authorised until the vehicular access at the junction of the public road has been formed in accordance with the Council's Road Engineers Drawing Number SD 08/004a with visibility splays of 53m x 2.4m in each direction formed from the centre line of the proposed access. Prior to work starting on site these visibility splays shall be cleared of all obstructions above the level of the adjoining carriageway and thereafter maintained to the satisfaction of the Planning Authority.

The vehicular access granted consent shall be constructed to at least base course level prior to any work starting on the erection of the dwellinghouse which it is intended to serve and the final wearing surface of the road shall be applied prior to the first occupation of the dwellinghouse.

Reason: In the interests of road safety in accordance with Policy LDP DM 11 and Supplementary Guidance SG LDP TRAN 4 and SG LDP TRAN 6 of the adopted Argyll and Bute Local Development Plan 2015.

WATER AND DRAINAGE

4. Notwithstanding the provisions of Condition 1, the development shall incorporate a surface water drainage system which is consistent with the principles of Sustainable urban Drainage Systems (SuDS) compliant with the guidance set out in CIRIA's SuDS Manual C753. The requisite surface water drainage shall be operational prior to the development being brought into use and shall be maintained as such thereafter.

Reason: To ensure the provision of an adequate surface water drainage system and to prevent flooding in accordance with Policy LDP 10 and Supplementary Guidance SG LDP SERV 2 of the adopted Argyll and Bute Local Development Plan 2015.

5. No development shall commence until an appraisal to demonstrate the wholesomeness and sufficiency of the private water supply to serve the development shall be submitted to and approved in writing by the Planning Authority. This assessment shall be carried out by a qualified and competent person(s).

Such appraisal shall include a risk assessment having regard to the requirements of Part 3 of the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 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.

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 or nearby private water supplies in accordance with Policy LDP 11 and Supplementary Guidance SG LDP SERV 6 of the adopted Argyll and Bute Local Development Plan 2015.

EXTERNAL COLOUR

6. No development shall commence until written details of the colour of the proposed timber cladding has been submitted to and approved in writing by the Planning Authority. The development shall thereafter be completed using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.

Reason: In order to integrate the development into its surroundings in accordance with Policies LDP 3, LDP 9 and Supplementary Guidance SG LDP ENV 14 of the adopted Argyll and Bute Local Development Plan

2015.

LANDSCAPING AND BOUNDARY TREATMENTS

7. No development shall commence until a scheme of boundary treatment, surface treatment and landscaping has been submitted to and approved in writing by the Planning Authority. The scheme shall include details of:
- i) Location, design and materials of proposed walls, fences and gates;
 - ii) Surface treatment of proposed means of access and hardstanding areas;
 - iii) Any proposed re-contouring of the site by means of existing and proposed ground levels.
 - iv) Proposed hard and soft landscape works.

The development shall not be occupied until such time as the boundary treatment, surface treatment and any re-contouring works have been completed in accordance with the duly approved scheme.

All of the hard and soft landscaping works shall be carried out in accordance with the approved scheme during the first planting season following the commencement of the development, unless otherwise agreed in writing by the Planning Authority.

Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity in accordance with Policies LDP 3, LDP 9 and Supplementary Guidance SG LDP ENV 14 of the adopted Local Development Plan 2015.

USE

8. The pool house/workshop hereby granted shall be used for purposes incidental to the enjoyment of the dwellinghouse hereby approved and for no other purpose.

Reason: To define the permission on the basis of the Planning Authority's assessment of the use applied for.

NOTE TO APPLICANT

- **The length of the permission:** This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
- 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.

- A system of surface water drainage is required to prevent the flow of water onto the public road.
- Further advice on SuDS can be found in SEPA's Standing Advice for Small Scale Development – www.sepa.org.uk

From: [Mike Hyde](#)
To: [Barrie, Andrew](#); [McCallum, Fiona](#); [Bain, Peter \(Planning\)](#); [Williams, Tim](#); [envhealthwest](#); [roadsconsoli](#); [Jackson, James](#); [argyll.Outerhebrides@snh.gov.uk](#); [campaigning@woodlandtrust.org.uk](#)
Cc: [localreviewprocess](#)
Subject: RE: REQUEST FOR FURTHER WRITTEN INFORMATION - Notice of Review Reference 20/0001/LRB (Planning Ref: 19/01737/PP - Land North of Penmore Mill, Penmore, Dervaig, Isle of Mull [OFFICIAL])
Date: 02 March 2020 11:23:41
Attachments: [image001.png](#)
[image002.png](#)
[image007.png](#)
[image008.png](#)
[image009.png](#)
[image011.png](#)
Importance: High

Hello Fiona

With all due respect, I take exception to the additional comments made by the Planning Officer in his response, which go way beyond the "provision of appropriate conditions and reasons to attach to any consent if the LRB were minded to approve this application". The Planning Officer is clearly seeking to influence the outcome of the LRB, and this is considered to go beyond his remit. I would nevertheless respond to the Planning Officer's additional (and unsolicited) comments as follows.

Should the Local Review Body be minded to overturn the officer's decision, and grant planning permission for the erection of the new dwelling, there should be no requirement for the applicant to be able to demonstrate an "exceptional case" in order to comply with the requirements of Policy LDP DM 1. The applicant was not required to advance such a case in 2008, when planning permission 08/00438/OUT was granted, or in 2010 when 10/01597/PP was granted. The Planning Officer is fully aware that the applicant cannot demonstrate an "exceptional case", and to seek to introduce this as a relevant consideration at this stage of the 'appeal' process constitutes unreasonable behaviour.

The applicant is fully aware that the proposal does not comply with the requirements of Policy LDP DM 1; it similarly did not comply with policy in 2008, and again in 2010, when the previous permissions were granted. What is however being requested is, having regard to the provisions of Section 25 of the Town and County Planning (Scotland) Act 1997, that the LRB attach significant weight to the planning history of the site, and that this weight be sufficient to outweigh any conflict with the requirements of Policy LDP DM 1. The very relevant material consideration in this respect is that the Council have admitted to twice granting planning permission "in error" for the erection of the appeal dwelling, and that on the basis of these errors the applicant has expended a considerable amount of money on site investigation and drainage reports, architects and engineers fees, and the submission of a building warrant application. It was only due to personal circumstances that the permission granted in 2010 was not fully implemented.

Should these relevant material planning considerations be considered to outweigh the requirements of Policy LDP DM 1, it will clearly not then be necessary for the applicant to be able to demonstrate an "exceptional case" in order to comply with the policy. The weight to be attached to any material planning consideration is entirely within the gift of the decision maker, in this instance the Local Review Body.

Regards

Mike Hyde

Michael Hyde MRTPI
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t: 01436 674777
m: 07816 907203
New Office Address: 63 West Princes Street, Helensburgh, G84 8BN

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