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Argyll and Bute Council **Comhairle Earra-Ghàidheal Agus Bhòid**

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SUPPLEMENTARY PACK 1

ARGYLL AND BUTE LOCAL REVIEW BODY - BY MICROSOFT TEAMS on THURSDAY, 28 MARCH 2024 at 10:00 AM

I enclose herewith an updated **item 3(b) (COMMENTS FROM INTERESTED PARTIES)**. Due to the recent adoption of the Local Development Plan 2 (LDP2), please note that the information contained within the update supersedes the information previously provided in the Agenda Pack issued on 21 March 2024.

Douglas Hendry
Executive Director

UPDATED INFORMATION

3. CONSIDER NOTICE OF REVIEW REQUEST: LAND TO THE NORTH OF BALLYHAUGH OUTDOOR CENTRE, ISLE OF COLL, PA78 6TB (REF: 23/0009/LRB)

(b) Comments from Interested Parties (Pages 3 - 8)

Argyll and Bute Local Review Body

Councillor Kieron Green (Chair)
Councillor Peter Wallace

Councillor Mark Irvine

Contact: Lynsey Innis, Senior Committee Assistant Tel: 01546 604338

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**REVISED RESPONSE TO SUBMISSION OF
FURTHER INFORMATION**

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

23/0009/LRB

**REFUSAL OF PLANNING PERMISSION IN
PRINCIPLE FOR SITE FOR THE ERECTION OF
DWELLINGHOUSE TO BE USED IN ASSOCIATION
WITH FARMING BUSINESS – PLANNING
APPLICATION REFERENCE 22/02078/PPP**

**LAND NORTH OF BALLYHOUGH OUTDOOR
CENTRE, ISLE OF COLL**

COMMENT ON SUBMISSION OF FURTHER INFORMATION

The appellant has submitted further information in the form of photographs and wind speed data for the application site in an attempt to provide professionally qualified evidence that all other suitable alternative sites for the development proposed within planning application reference 22/02078/PPP have been considered and discounted.

LDP2 POLICY CONSIDERATIONS

Before commenting on the further information submitted, officers must bring the following matter to the attention of the LRB panel:

The decision to refuse planning permission for the development the subject of this review was made under the provisions of the then extant Local Development Plan, the National Planning Framework 4, and all other material planning considerations.

Since the original decision was made a new Local Development Plan, LDP2, has very recently been adopted. Having received legal guidance on the scope of the local review process as amended following case law and the letter from Scotland's Chief Planner dated 29th July 2011, it is accepted that Members should apply the 'De Novo' approach to the determination of local review appeals.

It is therefore appropriate that the original decision be reconsidered under the relevant provisions of the newly adopted LDP2.

In this regard Members are advised that the original decision to refuse planning permission made appropriate reference to the key planning policies in LDP2 and officers can see no reason to modify their original reasons for refusal except, perhaps, for the deletion of the now superseded LDP(1) policy references. In this regard, the original reasons for refusal stated:

1. The proposed development on this greenfield site conflicts with National Planning Policy NPF4 Policy 9.

NPF4 Policy 9 (b) states that proposals on greenfield sites will not be supported unless the site has been allocated for development or the proposal is explicitly supported in the LDP.

In this case, the development proposed within this application for planning permission in principle would constitute the introduction of a significant built form onto an open and exposed site designated as 'Countryside Zone' within the adopted Argyll and Bute Local Development Plan 2015, and as 'Countryside Area' within the proposed Argyll and Bute Local Development Plan 2.

The proposed development site has no development allocation in either the current or the proposed LDP.

Adopted LDP Policies LDP STRAT 1 and LDP DM 1 give encouragement within the 'Countryside Zone' to small scale development on appropriate infill, rounding-off, redevelopment or change of use of existing buildings. In 'exceptional cases', development in the open countryside up to and including large scale may occasionally be supported on appropriate sites, provided that the applicant has demonstrated a clear locational/operational requirement for the development and one which cannot be accommodated within the reasonable local vicinity of the proposed development on a more suitable site within the settlement zone or in the less-sensitive countryside zone (the 'Rural Opportunity Areas'). The site does not present an opportunity for infill, rounding-off or redevelopment. The 'exceptional case' presented does not suitably

demonstrate a specific locational requirement for the proposed development, or evidence that any existing activity would be jeopardised without the proposed development. Not does the 'exceptional case' sufficiently demonstrate that the development could not be sited within reasonable local vicinity of the proposed development sited on a more suitable site.

With regard to the proposed Local Development Plan 2, the application site is located within an area designated as 'Countryside Area' where there is a presumption in favour of sustainable development where this is of an appropriate scale, design, siting and use for its countryside location. The indicative scale and design of the proposed dwelling would be incongruous with the design, character and appearance of the built development that characterises the Isle of Coll. The siting of such a large scale dwelling in this sensitive and exposed location would be unsustainable in terms of protecting the expansive landscapes which characterise this area of mid Coll. The siting, design and scale of the development would appear as insensitive and intrusive in this location, and the proposed development of this site would not therefore adhere to the requirements of the proposed Local Development Plan 2 Policy 02.

There is therefore no support for the proposed development in this location within either the adopted or proposed LDP and the development is therefore contrary to

NPF4 Policy 9 as underpinned by LDP Policies LDP STRAT 1 and LDP DM 1 and LDP2 Policy 02.

2. Notwithstanding Reason 1 above, it is considered that the proposed development would introduce an inappropriate form of built development that would have an unacceptable and materially harmful impact upon the character and quality of the wider landscape.

The proposed dwelling would appear as unduly prominent at the site, unsympathetic to the surrounding expansive open landscape. The development would have a significant impact upon the setting and the surrounding landscape. The indicative design of the proposed dwelling would lack local character and in this regard would appear as suburban and inappropriate to the rural location. The inappropriate design indicates that there has been insufficient regard to the character and appearance of the immediate and wider surroundings of the application site.

The proposed development is therefore considered to be in conflict with NPF4 Policy 14 as underpinned by Local Development Plan Policy 9, supplementary guidance SG LDP ENV 14, and Policies 05, 08, 09 and 10 of the proposed Local Development Plan 2.

It is recommended that the local review body, in adopting the *de novo* approach to their consideration of this appeal may wish to consider the following amended refusal reasons as prepared by officers having reassessed the entire development using the information currently available to them and applying the appropriate weighting to the new LDP2:

1. The proposed development on this greenfield site conflicts with National Planning Policy NPF4 Policy 9.

NPF4 Policy 9 (b) states that proposals on greenfield sites will not be supported unless the site has been allocated for development or the proposal is explicitly supported in the LDP.

In this case, the development proposed within this application for planning permission in principle would constitute the introduction of a significant built form onto an open and exposed site designated as 'Countryside Area' within the adopted Argyll and Bute Local Development Plan 2.

The proposed development site has no development allocation in LDP2.

In terms of the adopted LDP2 the site is defined as 'Outwith Settlement Areas' within an area identified as 'Countryside Area' (CA) where Policy 02 of LDP2 gives a presumption in favour of sustainable development but only where it is of an appropriate scale, design, siting and use for its countryside location, as set out in the relevant sustainable siting and design policies contained within LDP2.

Policy 02 further states that certain development will be supported, generally without the need for detailed environmental assessments, with these comprising, infill, redevelopment opportunities of clusters; or previously developed sites.

The indicative scale and design of the proposed dwelling would be incongruous with the design, character and appearance of the built development that characterises the Isle of Coll. The siting of such a large scale dwelling in this sensitive and exposed location would be unsustainable in terms of protecting the expansive landscapes which characterise this area of mid Coll. The siting, design and scale of the development would appear as insensitive and intrusive in this location, and the proposed development of this site would not therefore adhere to the requirements of Local Development Plan 2 Policy 02.

The development is therefore contrary to NPF4 Policy 9 as underpinned by LDP2 Policy 02.

2. Notwithstanding Reason 1 above, it is considered that the proposed development would introduce an inappropriate form of built development that would have an unacceptable and materially harmful impact upon the character and quality of the wider landscape.

The proposed dwelling would appear as unduly prominent at the site, unsympathetic to the surrounding expansive open landscape. The development would have a significant impact upon the setting and the surrounding landscape. The indicative design of the proposed dwelling would lack local character and in this regard would appear as suburban and inappropriate to the rural location. The inappropriate design indicates that there has been insufficient regard to the character and appearance of the immediate and wider surroundings of the application site.

The proposed development is therefore considered to be in conflict with NPF4 Policy 14 as underpinned by Policies 05, 08, 09 and 10 of Local Development Plan 2.

COMMENTS RELATING TO THE NEW INFORMATION SUBMITTED BY THE APPELLANT

The primary impacts of the adoption of LDP2 on the *de novo* consideration of the development the subject of this review are that notion of 'Rural Opportunity Areas' within the wider countryside have been abandoned and the previous exception to settlement strategy policy in the old Policy DM1 – that of an 'exceptional case' based on an operational and/or locational need – has been removed. Instead, LDP2 Policy 02, 'Outwith Settlement Areas', seeks to promote a more flexible approach to development in areas identified as countryside area with

Part A of Policy 02 giving a presumption in favour of sustainable development but only where it is of an appropriate scale, design, siting and use for its countryside location, as detailed in the relevant sustainable siting and design policies contained within LDP2, or else an acceptable scale and form of development comprising, infill, redevelopment opportunities of clusters; or previously developed sites. It has been demonstrated above that, in the opinion of officers, the proposed development would not accord with either element of LDP2 Policy 02.

This major change in the adopted Local Development Plan between the original decision and the review currently before Members actually renders the additional site selection information requested by Members at the First Calling largely irrelevant.

Nevertheless, for the sake of clarity, officer comments on the submission have been included below:

The information submitted during the planning application process indicated that the agricultural holding covers an area of approximately 91 hectares. This agricultural holding, under the ownership of the appellant, includes a number of much less sensitive areas ('Rural Opportunity Areas' under the old LDP) where the landscape impact of the development proposed would be significantly less harmful than the site the subject of this review. The applicant was, on numerous occasions, advised that there are other potential sites within the wider agricultural holding which would avoid the more sensitive landscape. This included the then designated 'Rural Opportunity Areas', which were sited approximately 40 metres to the south of the proposed development site and approximately 400 metres to the northeast of the proposed development site. The applicant, under the policy provisions of the LDP in force at that time, was invited to appraise these sites, and responded by discounting all of the land within the then 'Rural Opportunity Areas' for the reason that the 'area would not be suitable for construction due to its exposure to harsh northerly and easterly winter winds'.

The further information submitted by the appellant includes data on the wind speed, direction and distribution for the application site, covering the time period of the last three years. The submitted information, whilst not supported by any assisting commentary, appears to show that the prevailing winds predominantly come from the south and southwest. It is noted that the site for the proposed development is located approximately 350 metres from the coastline and would therefore be exposed to wind from the south and west as there are no intervening landform features sited between the coastline and the proposed development site. It is further noted that an area of land (previously 'Rural Opportunity Area' (COL003)) sited approximately 400 metres to the northeast of the proposed development site, of which approximately 7.4 hectares are sited within the agricultural landholding under the ownership of the appellant, would be sheltered by the intervening rising land which is sited between the 'Rural Opportunity Area' and the coastline. Therefore, the conclusion of officers, having studied the submitted supplementary information, is that the development site the subject of the LRB is actually more exposed to prevailing winds than other sites within the ownership of the appellant and that the evidence submitted, whilst intending to offer strength to the appellant's case, actually supports the refusal of planning permission instead.

The further information submitted by the appellant also includes photographs of an alternative 'area considered for development' and an image of a hole dug for soil sampling. (This alternative site is located within one of the former 'Rural Opportunity Areas'). No further supporting information has been provided in terms of soil analysis or geotechnical data. The image provided of the 'area considered for development' in the then extant Local Development Plan (1) is not corroborated with any supporting information showing the location on a map or providing any information on ground conditions. It is noted that this particular of ground (previously 'Rural Opportunity Area' (COL004)), within the wider agricultural landholding and

under the ownership of the appellant, amounts to approximately 7 hectares. Whilst some areas of the land within this part of the landholding may well be unfavourable in terms of ground conditions, the submitted information has not assessed all areas within the landholding (previously a 'Rural Opportunity Area') and appears only to show those areas which may be unfavourable. This lack of professionally qualified data serves only to support the assessment of the Planning Authority that there has not been a sufficiently robust site options appraisal. It is also apparent that the appellant has failed to appraise the ground conditions of the then 'Rural Opportunity Area' which is sited approximately 400 metres to the northeast of the proposed development site.

The information submitted has failed to appraise the selection of viable sites for the proposed development to a sufficient standard. The submitted information does not unambiguously identify key principles and planning policies to inform the site selection process and does not test any such criteria against the land within the wider agricultural holding such that it is not possible to establish areas of viable potential development sites and areas which must be excluded as unsuitable. The appellant has failed to present supporting information, in the form of professionally qualified evidence and quantitative evaluation, to robustly appraise viable sites for the proposed development such that it is not possible to discount other more suitable sites for development which are in close vicinity of the application site and are within the ownership of the appellant.

Therefore, in the context of LDP2, whilst there may be a need for an agricultural worker's dwelling within the wider landholding, the appellant has not demonstrated that the currently proposed site is the only available option to them. The proposed development on this site is considered unacceptable when assessed against key settlement strategy Policy 02 of LDP2 in terms of its harmful landscape impact; considered contrary to the design and placemaking principles within LDP2 Policy 05; contrary to the sustainable siting requirements in LDP2 Policy 08; of an indicative design contrary to the sustainable design and general design requirements of LDP2 Policies 09 and 10.