

Argyll and Bute Council
Comhairle Earra Ghaidheal agus Bhoid

Customer Services
Executive Director: Douglas Hendry



Kilmory, Lochgilphead, PA31 8RT
Tel: 01546 602127 Fax: 01546 604444
DX 599700 LOCHGILPHEAD
e.mail –douglas.hendry@argyll-bute.gov.uk

16 September 2010

**RECONVENED MEETING OF ARGYLL AND BUTE LOCAL REVIEW BODY
22 SEPTEMBER 2010 AT 12.30PM IN THE COUNCIL CHAMBER, KILMORY,
LOCHGILPHEAD**

I refer to the above and enclose herewith further written submissions that were requested at the meeting of Argyll and Bute Local Review Body held on 16 August 2010.

Douglas Hendry
Executive Director - Customer Services

BUSINESS

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST (IF ANY)**
3. **CONSIDER NOTICE OF REVIEW REQUEST: LAND TO SOUTHWEST OF
COTTAGE 3, BALLOCHYLE FARM PA23 8RD**
 - (f) **Further written submission received from the Planning Section
(Pages 1 - 4)**
 - (g) **Applicant response to further written submission from the Planning
Section (Pages 5 - 14)**
 - (h) **Information received from Interested Parties in response to further
written submissions (Pages 15 - 20)**

ARGYLL AND BUTE LOCAL REVIEW BODY

Councillor Daniel Kelly
Councillor David Kinniburgh

Councillor Neil McKay

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Development and Infrastructure Services

Director: Sandy Mactaggart

Milton House, Milton Avenue, Dunoon, PA23 7DU
Tel: (01369) 708606 or 708607; Fax: (01369) 708609

Date: 30th August 2010

Our Ref: 09/01308/PP
Your Ref: 10/0005/LRB
Case Officer: Brian Close;
Direct Line: (01369) 708604

Local Review Body
c/o Committee Services
Argyll and Bute Council
Kilmory
Lochgilphead
Argyll PA31 8RT

Dear Sir/Madam,

**TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2008;
REFUSAL OF PLANNING PERMISSION REF. 09/01308/PP FOR THE ERECTION OF A DWELLINGHOUSE, FORMATION OF CAR PARKING, INSTALLATION OF SEPTIC TANK AND CREATION OF PRIVATE WATER SUPPLY AT LAND SOUTH WEST OF COTTAGE 3 BALLOCHYLE FARM, SANDBANK, DUNOON, ARGYLL PA23 8RD.**

With reference to the Notice and request for further information issued 18th August 2010, I enclose further information in respect of section (8).

I can also confirm that copies have also been sent to all relevant parties as specified in The Schedule attached to Form AB5.

I trust that this information is in order but please do not hesitate to contact the department at the number above should you require any further information.

Yours faithfully

A handwritten signature in black ink, appearing to read 'BAC'.

Planning Officer,
Development Management
Bute and Cowal

Enc.



REQUEST FOR FURTHER INFORMATION BY WRITTEN SUBMISSIONS

Following the Members Site Inspection on Monday 16th August 2010 the following comments are offered in respect of potential planning conditions. Please note that advisory notes are attached to some of the conditions below in respect of land outwith the application site or relating to new information submitted.

Suggested Planning 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 8th August 2009 and the drawing reference numbers: 1:2500 Location Map 0704_DPP_01 RevA, 1:200 Existing Site Plan 0704/DPP/004 RevA, 1:200 Proposed Site Plan 0704/DPP/005 200 RevB, Proposed foul, storm drainage and potable water plan 0704/DPP/006 RevA, 1:100 Proposed Plans 0704/DPP/008 RevA, 1:100 Proposed Roof Plan 0704/DPP/008-R1 RevA, 1:100 Proposed Elevations 0704/DPP/009 RevA, 1:100 Proposed Elevations and Section 0704/DPP/010 RevA, 1:100 Existing and Proposed Site Sections 0704/DPP/012 RevA, 1:100 Existing and Proposed Site Sections 0704/DPP/014 RevA. unless the prior written approval of the planning authority is obtained 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.*

[Note : The submitted 'Revised Ownership Boundary' drawing ref. 0704/LR/01 by the applicant as part of the Local Review Body submission differs significantly from the location map ref. 0704_DPP_01 Rev A originally submitted on 8th September 2009. The key areas of concern are that the width of the actual development site (shown in red on original plans) is now smaller and that a strip of land between the original blue line boundary and the north bank of the Little Eachaig River is now included within the site boundary. This strip of land has been queried by another party who suggest that the applicant does not own this piece of ground. This is considered to be a civil matter between affected parties but would only constitute a material consideration should this piece of ground be required for any works associated with the proposal where a Section 75 Agreement may be necessary to secure land for the proposed works (refer to Surface Drainage below). Furthermore, the applicant has indicated that a mature line of Beech trees to the west of the application site provide screening and a setting for the proposed dwellinghouse. It is stated by another party that these trees are outwith the applicant's ownership.

3. The finished floor level of the proposed dwellinghouse shall be no less than 13.60 metres A.O.D. Revised cross section drawings shall be submitted for the written approval of the Planning Authority prior to the commencement of any other works.

Reason: *In the interest of flood prevention.*

4. No works shall commence until the footprint of the proposed dwellinghouse has been accurately pegged-out on site and made available for inspection.

Reason: *To ensure that the proposed dwellinghouse is in the exact location as the approved plans.*

[Note: Following the footprint of the proposed dwellinghouse being pegged out by the applicant and his agent, Council officers revisited the site on Thursday 19th August where the pegs were still in situ. An accurate measurement was taken and serious discrepancies were found regarding the size and positioning of

the proposed dwellinghouse. The length of the dwellinghouse on the plans is 25 metres. The position of the pegs (assuming in the correct position to begin with) was measured at 21.5 metres i.e. 4.5 metres shorter of what is proposed. The width of the dwellinghouse varies suggesting that the long rectangular footprint of the building is not in the correct position and would appear to be much nearer the fence line (where the Members were gathered) than suggested on the day of the site inspection.

Furthermore, refused 1:200 Proposed Site Plan drawing ref. 0704/DPP/005/200 RevB indicates the front elevation of the proposed building set back 3 metres from the unsurfaced track. The pegs on site indicate that the setback distance from the track is closer to 1 metre which would not allow sufficient space for the proposed projecting porch (as shown on the drawing above) to be located. This would also suggest that the proposed dwellinghouse was not only shown as shorter in length by 4.5 metres but should have been at least a further 2 metres in width taking it closer to the field and 'floodplain' zone. In terms of design and the setting out of the building above, it should be noted that the proposed dwellinghouse would be almost as long (25.4 metres compared to the southern elevation of the existing Ballochyle Steading building adjacent (27 metres) that has been converted into 2 dwellings.]

5. No land engineering works shall be carried out within the field to infill the depression as indicated in drawing no. 0704/DR/03 unless compensatory flood storage is provided. Details shall be submitted to the Planning Authority confirming all ground works to the field prior to the commencement of any other works.

Reason: *In the interest of flood prevention and development within the functional floodplain.*

6. 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.*

[Note : Private Water Supply - It is proposed to sink a borehole from a point close to the Little Eachaig River but shown within the red and blue line boundaries as depicted on original and refused 1:200 Proposed Site Plan drawing ref. 0704/DPP/005/200 RevB. Provided no works associated with achieving the private water supply from the river, then there would be no requirement for a Section 75 Agreement and the suspensive condition recommended by Public Protection in their original response dated 12th November 2009 (or similar) could be imposed. Further comments were received from Public Protection (dated 5th July 2010) as part of further information requested for the Local Review Body. The main issues in the creation of a new private water supply is the quality of the extracted water which so far does not appear to have been sampled from any test bore but directly from the river, and the quantity both in terms of the proposed dwellinghouse and any existing dwellinghouse and their private water supplies.]

7. A parking area for two vehicles, together with a turning area shall be provided prior to the first occupation of the dwellinghouse and shall thereafter be retained in perpetuity

for such a dedicated purpose, unless the prior consent for variation is obtained in writing from the planning authority.

Reason: *In the interests of road safety to allow vehicle(s) to leave the site in forward gear.*

8. Prior to any construction works on site, full details shall be submitted for the prior written approval of the Planning Authority of a drainage scheme that shall incorporate the basic principles of Sustainable Urban Drainage Systems identified in 'Planning Advice Note 61' which shall provide details of a totally separate drainage system with the surface water discharging to a suitable outlet. The drainage system shall include: measures to slow down run-off; methods of treatments and its release into the system; existing and proposed drainage of the site; full details of headwall design including sections; consideration given to the installation of flap valves at river outfalls; which shall all be designed in accordance with CIRIA C697; unless prior written consent for variation is obtained in writing from the Planning Authority. The scheme, as may be approved shall be implemented commensurate with this development at a timescale as may be agreed in writing with the Planning Authority.

Reason: *In order to provide for a sustainable drainage scheme for the development.*

[Note: At the time of determination, it was considered that there were insufficient details regarding the treatment of surface water drainage and due to concerns of the impact on the functional floodplain of the Little Eachaig River. At that time, an indicative surface water drainage system was proposed with twin SuDS soakaways shown leading from the dwellinghouse into the adjacent field and floodplain.

The recently submitted revised system indicates a much grander scheme with two large soakaway systems draining to two exit points on the north bank of the Little Eachaig River where it is proposed to construct two stone headwalls at the riverbank. No details have been submitted at this stage confirming the design of the stone headwalls at the river bank. It is noted that the headwalls appear very close to the gabion wall structure on the north bank of the river and the siting and design of the headwalls close to these retaining structures would require to be confirmed fully. An appropriate condition is recommended (provided the applicant owns the strip of land between the original site boundary and the north bank of the Little Eachaig River (or a Section 75 would be necessary unless an alternative SuDS scheme is proposed).

9. No building or engineering works shall commence until a detailed scheme of all boundary treatments for the entire application site has been submitted to and approved in writing by the Planning Authority. The scheme as may be approved shall be implemented prior to the occupancy of the dwellinghouse.

Reason: *In order to protect the visual amenity of the surrounding area.*

10. No development work shall commence on site until full details regarding the proposed foul drainage system(s) have been submitted to and agreed in writing with the Planning Authority.

Reason: *To allow the Planning Authority to consider these aspects in detail.*

[Note: At the time of determination of this application, it was considered that there were insufficient details regarding the treatment of foul drainage where indicative details had been submitted with no supporting information. It is acknowledged that this aspect could be addressed by a condition where it is now proposed to install a larger Klargester Bio-disc system to serve both the proposed dwellinghouse and the existing properties within Ballochyle Farmsteading.]

11. Prior to the commencement of any construction works, samples of all external finishes shall be submitted for the written approval of the Planning Authority.

Reason: *In the interest of visual amenity and to help integrate the proposal within its surroundings.*

lineararchitecture

Level 1-1, 37 Kersland Street, Glasgow, G12 8BP

3rd September 2010

**Corporate Services
Kilmory
Lochgilphead
Argyll
PA31 8RT**

**RE: Planning Review 10/0005/LRB – Lands SW of Ballochyle Farm,
Sandbank, PA23 8RD**

Dear Sirs

Please find enclosed documentation in response to the draft planning conditions as issued by Mr Brian Close on 30/08/2010. These documents address queries Mr Close has regarding titles and discrepancies regarding survey data in Mr Close's commentary.

Land Ownership:

Please find enclosed documentation from both the Keeper (Land Registry Scotland) and Mr & Mrs Boyd's solicitors confirming that they currently have clear title to the riverbank. Any queries raised by other parties are purely vexatious hearsay, not backed up by any official documentation and should be disregarded in light of this official confirmation. Therefore a Section 75 of any sort is not required. This relates to suggested conditions 2, 6 and 8. Please also note that the enclosed title plan from the keeper relates specifically to lands in a recent disposition. My clients own and can prove that they own, all of the lands contained within drawing 0704/LR/01. All issues relating to title are, as highlighted by the planning officer civil matters but the subject of the ownership of the river bank seems to be driving a potential Section 75 and this is plainly not required.

Dimensional Discrepancies:

The notes below Condition 4 are curious to say the least and the Planning Officer's tale of revisiting the site to check the dimensions is extremely unusual. The submitted site plan 0704_DPP_01 Rev A has been compiled using a certified, digital topographical survey, prepared by an RICS surveyor using state-of-the-art equipment and is therefore of millimetric precision. This document should be the sole source of reference to the positioning of the dwelling on the site and not rough measurements taken on site by non qualified persons, not using certified or accurate surveying equipment. Mr Boyd and I pegged out the site as a rough indication of the location and

dimensions of the dwelling to assist the LRB in visualizing the outline of the property. We informed the planning officer and the LRB of the fact that while we were confident of the pegged outline's accuracy all specific questions would have to be referred to the proposed site plan drawing. We have no way to verify if the pegs were subsequently moved or their position altered; likewise we have no way of verifying the planning officer's measurements as we were not present when the "re-measuring" took place. This entire issue is of no relevance whatsoever to either the suggested condition or the proposal as a whole.

It is curious to note that the planning officer states that he took "accurate measurement" then proceeds to inform us that $21.5 + 4.5$ equals 25! Also the planning officer should be well aware that the specified drawing (0704/DPP/005/200 Rev B) does not in fact show an "un surfaced track" but in fact shows a resurfaced and kerbed access road. This was discussed with the planning officer during the application process. This means that the planning officer was measuring from a datum point that in fact does not yet exist. All of this reinforces the fact that the proposed site plan and topographic data are the only reliable source for positioning information and this is the data that was used by Transtech when compiling their Flood Risk Assessment.

We are equally mystified by the comparisons in length between an existing two storey courtyard dwelling and the mostly single storey proposed dwelling. The planning officer has had this design on his desk for 12 months – surely he is not only now considering its dimensions?

As has been stated by an independent hydrographical surveyor as well as the council's own flood alleviation officer Ian Gilfillan, the proposed dwelling as per the proposed site plan 0704_DPP_01 Rev A is located outside the functional floodplain and no amount of re-measuring and re-evaluating an indicative site pegging out will alter this fact. Quite why the planning officer is even attempting to deduce something to the contrary from his own compromised and plainly inaccurate on-site measurements is totally beyond my explanation.

Suggested Planning Conditions:

We have no objections in principle to the suggested conditions; however we would like to make a few comments on a number of the conditions as we feel that there are too many conditions essentially saying exactly the same thing. We would be keen to avoid subsequent procedural burdens both on our clients and indeed on the planning department.

Condition 3:

This Finished Floor Level (FFL) is clearly specified in the drawings listed in Condition 2; therefore it seems an unnecessary procedural burden on both the applicant and the planning officer to produce further drawings that confirm the same.

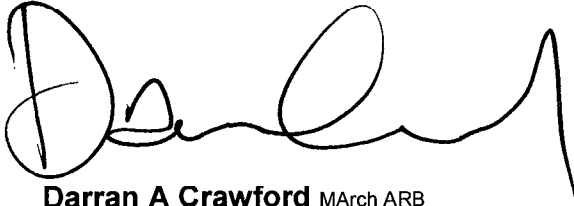
Condition 4:

As with condition 3 the client will already be compelled to build the dwelling as per the proposed site plan – as specified in condition 2. A condition of this nature will be difficult to enforce, will require a planning officer to visit the site and thus potentially hinder the program of any development and will again be a procedural burden.

In summary we are broadly happy with the conditions however we remain concerned at the suggestion of an unwarranted Section 75 and we also remain concerned at unsubstantiated claims of land ownership and inaccurate surveying seriously compromising this review.

I would appreciate an acknowledgement of receipt of these documents and I will also be sending hard copies to the LRB.

regards

A handwritten signature in black ink, appearing to read 'Darran A Crawford', with a stylized, sweeping flourish at the end.

Darran A Crawford MArch ARB
Architect

for linearchitecture

mob: 07786131764
tel: 0141 334 8024

DALLAS McMILLAN

SOLICITORS AND ESTATE AGENTS

Thanks Ffiona

Thanks for clarifying

There is no evidence that Mr Welstead's client owns the riverbank. Yes she has tried to make a claim on part of this title and a note of that will be recorded on your land certificate (when it is finally issued) but the letter from the Registers of Scotland dated 28 October 2009 clearly sets out the position

The sentence which says "Let me assure you that your client has a fully indemnified title (other than the natural water boundary note) and is entitled to rely upon it" should put any doubt to rest. It is unfortunate that your land certificate has not as yet been issued

I will also scan & email an earlier letter from the Keeper from 18 Sept 2009 which makes clear that while ARG4241 (which I have assumed is Mrs Moffat's title) has an exclusion of indemnity for the land she has claimed, your title will not show such an exclusion of indemnity as you possess legal title to it

I have also attached a copy of the plan showing the extent of what you acquired ie the areas coloured red and yellow...

I hope this assists

Kind regards

Anne Hunter

Associate
Dallas McMillan
Solicitors

First Floor
Regent Court
70 West Regent Street
GLASGOW G2 2QZ
Direct tel : 0141 333 6756
Office Tel: 0141 333 6750
Fax: 0141 333 6777

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Messrs Dallas McMillan
Solicitors
DX GW 30
Glasgow

Hanover House
24 Douglas Street
GLASGOW
G2 7NQ

DX 501752 , GLASGOW 9

Telephone: 0141 306 1536

Fax: 0141 306 1507

E mail: Pat.Maguire@ros.gov.uk

Your Ref: AH/BOYD08/1

Our Ref: PLM

Date: 28th Oct. 2009

Dear Ms Hunter,

Title Number: ARG12490
Subjects: at Ballochyle, Sandbank, Dunoon
Proprietor/Applicant: F E Boyd



I refer to your letter of 14th October 2009.

I can assure you that there will be no exclusion of indemnity on your client's Title Sheet other than the normal Natural Water Boundary note. There will however, be a note explaining that another party has laid claim to part of your clients subjects (the Keeper having excluded indemnity on the other party's Title Sheet). The note will be in the following form; - "Margaret Whyte Moffat also has title to the area tinted.... on the Title Plan by Disposition registered in the Land Register on 28th June 2002." This does not amount to an exclusion on your clients Title Sheet, rather it is simply a warning for your client that an attempt has been made by a third party to lay claim to part of her title and she should therefore ensure that the operation of prescription does not affect her title. Let me assure you that your client has a fully indemnified Title (other than the natural water boundary note) and is entitled to rely upon it.

I hope this clarifies matters for you but feel free to contact me should you wish.

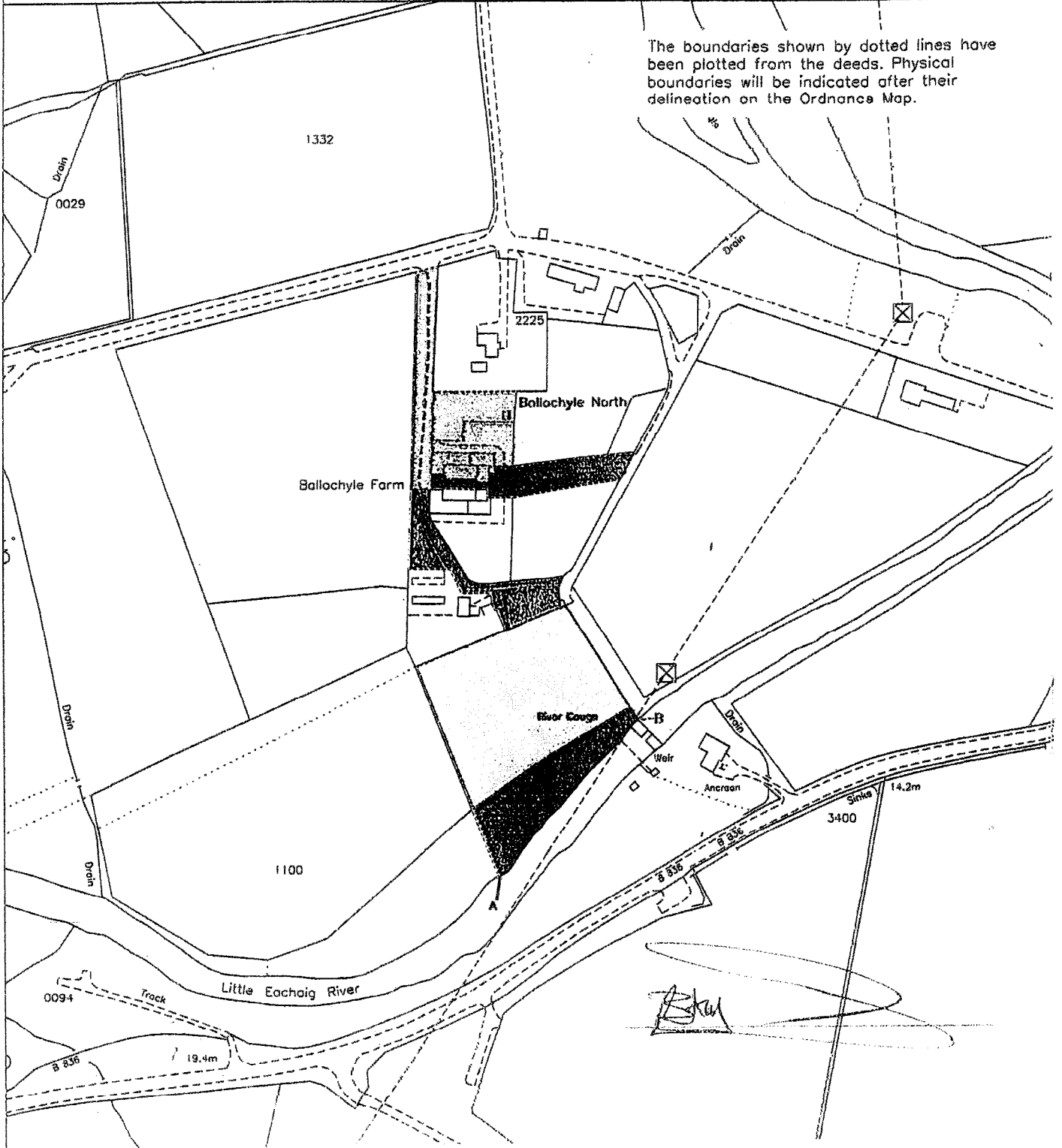
Yours faithfully

PAT MAGUIRE
for Keeper of the Registers of Scotland

 LAND REGISTER OF SCOTLAND	Officer's ID / Date	TITLE NUMBER
	4841 7/4/2005	ARG5736
 ORDNANCE SURVEY NATIONAL GRID REFERENCE	Scale	
	1/2500	
NS1481 NS1482 NS18SW	Survey Scale	
	1/2500	

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The boundaries shown by dotted lines have been plotted from the deeds. Physical boundaries will be indicated after their delineation on the Ordnance Map.





Reply to Glasgow office
 Telephone: 0141 306 1663
 DX 501749 GLASGOW 9/LP 70 GLASGOW 5
 Date: 18 September, 2009

FAO: Anne Hunter
 Dallas McMillan
 Solicitors
 DX GW 30
 GLASGOW

Our Ref: ARG12490/TP/OV
 Your Ref: AH/BOYD008/2/JLD

Dear Sir,

Title Number: ARG12490
 Applicants: FFIONA EILEEN BOYD COTTAGE 3, BALLOCHYLE ESTATE, DUNOON, PA23 8RD.
 Subjects: FIELDS AT BALLOCHYLE, SANDBANK, DUNOON.
 Parent Title Number: ARG5736

I thank you for your letter (and enclosure therewith) of 15th. inst. relating to the above subjects, and apologise for my delay in responding thereto.

In light of your comments, I have sought further clarification from the Senior Legal Advisor who authorised the exclusion of indemnity in respect of Title ARG4241 over the area tinted blue on Ordnance Map extract marked 'Print A' enclosed with my letter to you of 4th. inst., and I regret that it appears that I have given you incorrect information in this regard.

Whilst it is true that indemnity is excluded in respect of Title ARG4241 over the said area, indemnity will **not be excluded in respect of your client's Title over this area, as she possesses legal title to it** (via Parent Title ARG5736). If your client remains in possession of (ie occupies) the area concerned for the prescriptive period, her ownership thereof cannot be disputed by another party. However, this situation requires to be reflected in your client's Land Certificate, and the following note will be added to the Proprietorship Section thereof accordingly:-

'Margaret Whyte Moffat also has title to the area tinted on the Title Plan by Disposition registered in the Land Register on 28th. June 2002'.

For your information, I enclose a printout of the Proprietorship Section for the Land Certificate for Title ARG4241, on which a note referring to the aforementioned exclusion of indemnity in respect of that Title is

shown highlighted in blue.

As you note, there is an exclusion of indemnity over Parent Title ARG5736 in respect of the Natural Water Boundary between points arrowed and lettered 'A' and 'B' in blue on the Title Plan therefore, and this will naturally be carried over to your client's subjects.

I hope that this satisfactorily clarifies the matter for you, and apologise for any confusion or inconvenience the incorrect advice I gave you in this regard in my said letter to you of 4th. inst. may have caused. If you are satisfied with this, no further action need be taken by you in relation to this application, and I now look forward to hearing further from you with regard to points (i) and (iii) raised in my said lastmentioned letter to you.

Yours faithfully

OWEN VALENTINE
for Keeper of the Registers of Scotland

Kelly, Hazel

From: Close, Brian
Sent: 06 September 2010 11:31
To: 'AD Crawford'
Cc: Kelly, Hazel; localreviewprocess
Subject: RE: Planning Review 10/0005/LRB

Darran,

My apologies and thanks for spotting the typo. The difference should be 3.5 metres and not 4.5 metres as stated in my report. We measured the distance between the long pegs in situ as 21.5 metres, the plan depicted 25 metres. No further comments to add.

Regards

Brian Close
Planning Officer
Development & Infrastructure Services,
Argyll & Bute Council.

T: 01369 708604
E: brian.close@argyll-bute.gov.uk
W: <http://www.argyll-bute.gov.uk>

From: AD Crawford [<mailto:dc@linearchitecture.net>]
Sent: 03 September 2010 10:21
To: localreviewprocess; Kelly, Hazel
Cc: 'James Boyd'; ffiona.boyd@googlemail.com; Close, Brian
Subject: Planning Review 10/0005/LRB

RE: Planning Review 10/0005/LRB

Please find enclosed documentation in response to the draft planning conditions as issued by Mr Brian Close on 30/08/2010. These documents address queries Mr Close has regarding titles and discrepancies regarding survey data in Mr Close's commentary.

Land Ownership:

Please find enclosed documentation from both the Keeper (Land Registry Scotland) and Mr & Mrs Boyd's solicitors confirming that they currently have clear title to the riverbank. Any queries raised by other parties are purely vexatious hearsay, not backed up by any official documentation and should be disregarded in light of this official confirmation. Therefore a Section 75 of any sort is not required. This relates to suggested conditions 2, 6 and 8. Please also note that the enclosed title plan from the keeper relates specifically to lands in a recent disposition. My clients own and can prove that they own, all of the lands contained within drawing 0704/LR/01. All issues relating to title are, as highlighted by the planning officer civil matters but the subject of the ownership of the river bank seems to be driving a potential Section 75 and this is plainly not required.

Dimensional Discrepancies:

The notes below Condition 4 are curious to say the least and the Planning Officer's tale of revisiting the site to check the dimensions is extremely unusual. The

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BALLOCHYLE

BY DUNOON

ARGYLL

PA23 8RD

Local Review Body

Review reference number: **10/0005/LRB**Planning Application Reference: **09/01308/PP****Additional comments to planning conditions****11th Sept 2010**

To whom it may concern,

Please find comments and concerns to some of the conditions applied to the planning application in question.

2 – Ownership Boundary

The ownership boundary is questionable in the applicants own submissions. If you refer to page 27, plan A3 you will note varying outline boundaries to pages 147 A1 & 149 A3. As noted in the conditions if this is the only source to drainage the boundaries do need to be clarified. The mature line of Beech trees noted on page 134 to provide screening for the proposed dwelling house are within my boundary.

3&4 - Footprint & Landfill

As noted by the planning department the applicant had incorrectly pegged out the footprint of the proposed application, misguiding the councillors & flood expert on their site visit. The true footprint of the application will bring the boundary of the house into the flood plain. It would also seem apparent that the majority of the true footprint would need to be raised in order to bring the site up to the recommended floor level of 13.6mtrs. (For reference please find a copy of correspondence from SEPA.)

6 – Private Water Supply

The water supply is a concern at the forefront for all water users on the estate. There is currently no available water for an additional property on the existing water supply, this can't be relied on as a 'back up' source should the applicant's proposal of a bore hole not be passed. How can a planning application be approved without prior confirmation of a water supply?

7 – Parking

On the point of parking I would like to know how the additional 2 cars propose on getting to the dwelling house. The road into the estate is a private road, shared by 2 parties. I do not believe that either party have been contacted in order to request a servitude right for 2 additional cars in connection with a new build. Presumably this would need to be sanctioned prior to planning approval?

Thank you in advance for considering my comments to the conditions outlined,

Yours sincerely,



Kirsteen Manuel

Cc: Ffiona Boyd, Ross McLaughlin, Senior Roads Engineer, Area Roads Manager, Area Environmental Health Manager, David Fadpipe, Scottish Environmental Protection Agency, Tom Pierson



Our Ref: MBB/DS
Your Ref: Letter 24.04.06

If telephoning ask for:
Marc Becker

27 April 2006

Mrs Kirsteen Manuel
Ballochyle
By Dannon
ARGYLL
PA23 8RD

Dear Mrs Manuel

FLOOD RISK – FIELD ADJACENT TO LITTLE EACHAIG RIVER

I refer to your letter dated the 24 April 2006 regarding flood risk at the above location (214369 682163).

I can confirm SEPA hold indicative flood risk maps which indicate that the area is at risk of flooding from the '100 year' flood (the event with a 1% risk of occurrence in any one year). However, I understand you have evidence that the site has flooded in recent years, and SEPA also hold records of flooding of the area during the late 90's. This information, in conjunction with data from our gauging station (just upstream of the field), would lead me to suggest that the field is likely to flood as frequently as perhaps once every five years on average.

In relation to your query as to the possibility of the site being used for development purposes, SEPA would advise that the field is in an area at very high flood risk, and development at this location (other than for the few exceptions provided for in Scottish Planning Policy Guidelines 7 (SPP7) – Planning and Flooding) would likely be contrary to SPP7. Therefore, if SEPA were consulted on residential development at this location, we would likely object to any such proposal.

The advice contained in this letter is supplied to you by SEPA under the Environmental Information Regulations 1992 in response to your request of information under these regulations. This information is the information relating to your request held by SEPA as at the date hereof under section 25(1) of the Environment Act 1995.

I trust this information is of use, and should you require any further advice or clarification please get back in touch with me.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'M Becker', is written over a light-colored background.

Marc Becker
Senior Hydrologist (Flood Risk)

Kelly, Hazel

From: Philip Bolam [pbolam@gmail.com]
Sent: 11 September 2010 15:28
To: Kelly, Hazel
Cc: torytours@hotmail.com
Subject: Planning Application

Attention Charles Reppke:
Head of Governance and Law:
Local Review Body Ref: 10/005/LRB

Planning Application Reference: 09/01308/PP

Land at Southwest of Cottage Number 3, Ballochyle Farm, PA23 8RD

Dear Mr. Reppke,

Cottage Number 3, Ballochyle Farm.

The owners have moved and the cottage is up for sale with Remax, Dunoon at a price of £330,000, which perhaps suggests the planning application is for a speculative development.

Yours sincerely,

Mrs. Kirsteen Manuel.

Argyll & Bute Council
Development & Infrastructure Services
Milton House
Milton Avenue
Dunoon
Argyll
PA23 7DU

1 Ballochyle Estate
Sandbank
Dunoon
Argyll
PA23 8RD

Tel/Fax: 01369 701 173

Date: 14th September 2010

Dear Sirs

Refusal of Planning Permission Ref. 09/01308/PP for the Erection of a Dwellinghouse, Formation of Car Parking, Installation of Septic Tank and Creation of Private Water Supply at Land South West of Cottage 3 Ballochyle Farm, Sandbank, Dunoon, Argyll, PA23 8RD.

I refer to your letter of 30th August which included the Suggested Planning Conditions put forward by the local Planning Officer in relation to the Planning Application on Ballochyle Estate by Mrs Ffiona Boyd. As a resident of Ballochyle Estate and a neighbour of Mr and Mrs Boyd I have the following comments to make concerning the Conditions that were set out in your letter.

Suggested Planning Conditions

4. It is stated under this section that the proposed dwellinghouse would measure 25.4 metres long. It appears that what has been pegged out on the ground by the applicant is inaccurate and a building of 25.4 metres would project further out onto the Little Eachaig flood plain. To make the building safe from future flooding even more infill than was originally planned for would have to be used and I think that not only would that be inappropriate in this setting but a building of this length as a house for one family would also be out of keeping with the other dwellinghouses on the estate.

The position of the proposed dwellinghouse, as it has been pegged out by the applicant, brings it very close to the existing track, which is available for access for all Ballochyle Estate residents as stated in all our titles. If the position of the house is pushed further back from the road it is pushed closer to the floodplain which would then make it necessary to install more infill to support the house above the floodplain. A great deal of infill would have to be imported to create a raised site for such a long house and this would result in a very unnatural feature in what is a very rural setting.

If the house location is as pegged by the applicant then it would interfere with the access track. I am concerned that the access rights of estate residents would be compromised by the building of this house.

If planning permission is granted then when the site or the house are eventually sold future owners would not be happy with a situation where their house lies on one side of the track and their parking on the other and all estate residents have right of access through their curtilidge. In this respect the site is inappropriate.

With regard to the issue of a house being proposed for a site so close to a known floodplain I would like to make the following comment. I feel that the work carried out by SEPA in the Little Eachaig River during 2009 to stabilise the river banks, namely the installation of gabion walls close to where the weir was located, has had the effect of increasing the likelihood of flooding in the fields close to where the dwellinghouse is proposed. When the river burst its banks and flooded through the fields and caused extensive damage to what was Tilhill Forestry's office (now the SNH office) in October 1998 and again in 2002 there were no gabion walls at the weir site and the river was able to spread out over both banks at this point, rising dangerously close to the bungalow on the east side of the river. If the same flooding event occurred now the walls would contain the river at this point and have the effect of raising the river level upstream and increasing the likelihood of the river bursting its banks and flooding through the fields.

I hope that these points will be given due consideration when the application is being considered for approval.

Yours Sincerely



Tom Pierson

cc

Local Review Body, Argyll & Bute Council

Ffiona Boyd, C/O Line Architecture

Ross McLaughlin, Development & Infrastructure, Argyll & Bute Council

Senior Roads Engineer, Argyll & Bute Council

Area Roads Engineer, Argyll & Bute Council

Area Environmental Health Manager, Argyll & Bute Council

S N H, C/O David Fadpipe(Flood Risk), Planning Unit, East Kilbride

S N H, Planning Unit, Aberdeen

Kirsteen Manual, Ballochyle House

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