

**MINUTES of MEETING of ARGYLL AND BUTE LOCAL REVIEW BODY held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD on WEDNESDAY, 19 FEBRUARY 2020**

**Present:** Councillor David Kinniburgh (Chair)

Councillor George Freeman

Councillor Jean Moffat

**Attending:** Iain Jackson, Governance, Risk and Safety Manager (Adviser)  
Fiona McCallum, Committee Services Officer (Minutes)

**1. APOLOGIES FOR ABSENCE**

There were no apologies for absence.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3. CONSIDER NOTICE OF REVIEW REQUEST: LAND NORTH OF PENMORE MILL, PENMORE, DERVAIG, ISLE OF MULL**

The Chair welcomed everyone to the meeting and advised that his first task would be to establish if the Members of the Local Review Body (LRB) felt that they had sufficient information before them to come to a decision on the Review.

Councillor Moffat said that she found it disturbing that the only thing she could take from this was the unfairness of it. She commented that an unfair decision was made and that the decision had been partially acted upon by the claimant with money spent putting in a track etc for the property, and for him then to be told that the decision made should not have been made. She advised that she found this difficult to live with and said that she could not see a building being an onerous burden on the land.

Councillor Freeman referred to comments about a rural opportunity area and said that it was his understanding there was no rural opportunity area although there has been a suggestion that there could be in the future. He advised that given the planning history he was certainly sympathetic but open to persuasion either way.

Councillor Kinniburgh also advised of his sympathy for this case. He said that he thought the decisions made in the past perhaps should not have been made in respect of the planning permission in principle being granted in 2008 and then planning permission being granted in 2010. He referred to the Applicant's argument that a meaningful start had been made with the construction of the track and pointed out that this track was already in place before the application in 2010 was submitted as the picture of the track was submitted with the application. He commented that Planning have addressed this in their submission and have provided pictures to show that the track was now overgrown again. He advised that with this knowledge he was minded to support the conclusion reached by the Planning Officer that the proposal did not fit with the Local Development Plan. He advised that it was his understanding that because the LDP2 had some way to go this could not be a material planning consideration at this stage.

Councillor Freeman advised that it was his understanding that the LDP2 could only be considered material once the consultation stage was concluded and that only then those policies not objected to could be given weight.

Councillor Kinniburgh referred to comments made by Planning that the proposal could only be considered against the current LDP at the moment and that it might be possible to grant in the future depending on the outcome of LDP2 and said that this put further elements of doubt on him. He said that he found it very difficult to come to a balanced judgement on this case because of these factors.

Councillor Freeman referred to the decision made in 2010 that the proposal was consistent with the adopted Local Development Plan at that time.

Councillor Kinniburgh advised that it appeared to him that the Applicant had abandoned the project. He said that he thought if he had wanted to continue with it he would have renewed his permission back in 2013. He acknowledged that the Applicant had been abroad for personal reasons and that it may have slipped his mind. He commented that there did not seem to have been any contact made to renew and that a new application has been submitted with the assumption that it would be granted because it had been before.

Councillor Moffat said that the Applicant did not appear to have known that the proposal did not conform with the LDP before.

Councillor Freeman pointed out that the Applicant was told in the decision notice that it did comply with the LDP. He commented that the Applicant, as a lay person, would not have had any reason to doubt this was not the case. Councillor Freeman said that it was his understanding that works had commenced.

Councillor Kinniburgh advised that this point was in dispute. He said that the access track was formed before the 2010 application was submitted and that it had been referred to in photographs submitted with the application.

Councillor Kinniburgh reiterated that the Applicant appeared to have abandoned building on the site as he never renewed the planning permission and now 6 years down the line he was claiming a track was put in. He pointed out that the track was now so over grown it could not be seen in the photographs provided by Planning. He advised that he had great difficulty with this case but thought that it should be considered against the policies in the current Local Development Plan. He added that he was uncomfortable that both parties have acknowledged that it could be granted in the future under the new LDP2.

Councillor Moffat commented that if the Applicant had been out of the country he may not have realised the permission had expired. She advised that she found it difficult that he was previously told the proposal complied with the policies of the LDP and was now being told it had in fact been contrary to the LDP.

Mr Jackson advised that the LRB needed to consider this case against the current 2015 Local Development Plan. He pointed out that the previous application for planning permission had been considered against the 2009 Plan and the planning permission in principle was considered against a Plan previous to the 2009 Plan.

Councillor Freeman advised that the LRB could consider this case against the current LDP and take a decision to approve as a minor departure to that Plan.

Mr Jackson advised that the LRB would need to provide justification for departing from the Plan and would need to find a competent Motion to approve. He suggested that the LRB may wish to seek further information.

Councillor Kinniburgh advised that the LRB could place more emphasis and weight on the previous permissions than what Planning were putting on them.

Councillor Freeman advised that he believed that the history of the site was relevant.

Councillor Moffat said that she could see the site being able to accommodate a house without causing major damage to the landscape.

Mr Jackson stressed that the LRB would have to justify why they were putting more weight on the previous permissions. He pointed out that Planning have stated that they were granted erroneously and that the proposal needed to be considered against the current Local Development Plan.

Councillor Moffat referred to the Applicant suffering financial loss because of these erroneous decisions. She said the decisions were not made correctly but they were still made.

Councillor Freeman advised that he thought the two applications granted in the past carried weight and pointed out that there had been no objections to the applications at the time.

Councillor Kinniburgh sought and received confirmation from Councillors Freeman and Moffat they did not wish to seek further information.

Councillor Freeman advised that on balance, given the history behind this case, he was in favour of granting this application and that he may seek advice if required on preparing a competent Motion.

Mr Jackson suggested that the LRB may wish to ask Planning for up to date conditions and reasons to attach to any consent if the LRB were minded to approve as the previous conditions were based on the policies of previous Development Plans.

## **Decision**

The Argyll and Bute LRB agreed to:

1. request the Planning Officer to provide appropriate conditions and reasons to attach to any consent if the LRB were minded to approve this application; and
2. adjourn the meeting and reconvene once all interested parties have had the opportunity of commenting on the further information requested.

(Reference: Notice of Review and comments from Interested Parties, submitted)