

MINUTES of MEETING of ARGYLL AND BUTE LOCAL REVIEW BODY held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD on WEDNESDAY, 18 MARCH 2020

Present: Councillor David Kinniburgh (Chair)

Councillor Sandy Taylor

Councillor Richard Trail

Attending: Iain Jackson, Governance and Risk Manager (Advisor)
Lynsey Innis, Senior Committee Assistant (Minutes)

1. APOLOGIES FOR ABSENCE

There were no apologies for absence intimated.

2. DECLARATIONS OF INTEREST (IF ANY)

There were no declarations of interest intimated.

3. CONSIDER NOTICE OF REVIEW REQUEST: PLOT 1, LAND EAST OF CALA NA SITHE, OBAN (20/0002/LRB)

The Chair welcomed everyone to the meeting and introductions were made. He explained that no person present would be entitled to speak other than the Members of the Local Review Body (LRB) and Mr Jackson who would provide procedural advice if required.

He 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 Trail said that he felt that the information provided was contradictory. The information from the Planning authority was advising that LDP 2 should not be afforded any significant weight in the determination of the review, however the case law provided by the applicant's agent seemed to suggest that weight could be given to the a forthcoming change to the LDP. He advised that he felt that clarity should be provided on this matter and also that he would benefit from a site visit.

Councillor Taylor agreed with the points made by Councillor Trail and also agreed that he felt a site visit was necessary to set the context of the landscape. He advised that he was concerned that if the Local Review Body determined to uphold the appeal on the basis of the flexibility of LDP 2, there may be a consequential case made for subsequent development beyond that being considered today.

The Chair, Councillor Kinniburgh agreed that clarity would be helpful as he was finding it difficult to relate the case law provided to the issue before the Local Review Body, as it appeared that the Local Review Body considering the case had overturned the decision of the Planning authority but had failed to provide reasons as to why they had applied a different Policy.

Councillor Taylor suggested that further information be sought from the Planning authority, as under the current LDP he did not feel he could approve, however under LDP 2 he felt this could be approved but expressed concern that this wouldn't leave the Council in a good light.

Councillor Kinniburgh advised that it would be interesting to hear from Planners, but that it was a matter for Members to determine how much weight they placed on LDP 2 and advised that he did not feel that the LDP 2 was at a stage in the process that it could bear any relevance to this application.

Councillor Trail referred to page 89 of the pack and the "de novo" approach to considering local reviews and suggested that if LDP 2 was considered the settled view of the Council then it may be appropriate to give it due consideration.

Councillor Kinniburgh stated that his interpretation of the "de novo" approach was that although we had to look at the application from the beginning, we had to do so using the adopted LDP rather than looking at the application against LDP2 which is unadopted, and the issue with the LDP2 in this instance was how much weight the Local Review Body afforded to it which in his opinion was not a great deal, given the stage of LDP2 in the Development Plan Scheme (DPS) process.

Councillor Taylor advised that as there was no further appeal following this process he felt that the issues raised require to be considered, and this included the possible application of LDP 2 and the Planning case law provided in support of the review.

Mr Jackson advised that it would be appropriate for the LRB to request model conditions and reasons from the Planning department when requesting further information at this stage.

Councillor Kinniburgh disputed that the Planning authority would be in a position to provide model conditions and reasons at this stage as the Policy that would permit this had not yet been implemented.

Councillors Trail and Taylor were both supportive of requesting this information and an accompanied site inspection.

Decision

The Argyll and Bute Local Review Body agreed to:

1. request from the Planning authority their comments on the case law that has been submitted by the applicant's agent in support of the application and also their opinion on whether LDP 2 is considered to be the settled view of the Council;
2. hold an accompanied site inspection to view the development site in the context of the surrounding area and to invite interested parties to attend;
3. request from the Planning authority appropriate conditions and reasons to attach to any consent in the event that they were minded to approve this application; and
4. adjourn the meeting and reconvene at the conclusion of the site inspection.

(Reference: Notice of Review and supporting documents and comments from interested parties and Applicant, submitted)

4. CONSIDER NOTICE OF REVIEW REQUEST: PLOT 2, LAND EAST OF CALA NA SITHE, OBAN (20/0003/LRB)

The Chair welcomed everyone to the meeting and introductions were made. He explained that no person present would be entitled to speak other than the Members of the Local Review Body (LRB) and Mr Jackson who would provide procedural advice if required.

He 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 Trail said that he felt that the information provided was contradictory. The information from the Planning authority was advising that LDP 2 should not be afforded any significant weight in the determination of the review, however the case law provided by the applicant's agent seemed to suggest that weight could be given to the a forthcoming change to the LDP. He advised that he felt that clarity should be provided on this matter and also that he would benefit from a site visit.

Councillor Taylor agreed with the points made by Councillor Trail and also agreed that he felt a site visit was necessary to set the context of the landscape. He advised that he was concerned that if the Local Review Body determined to uphold the appeal on the basis of the flexibility of LDP 2, there may be a consequential case made for subsequent development beyond that being considered today.

The Chair, Councillor Kinniburgh agreed that clarity would be helpful as he was finding it difficult to relate the case law provided to the issue before the Local Review Body, as it appeared that the Local Review Body considering the case had overturned the decision of the Planning authority but had failed to provide reasons as to why they had applied a different Policy.

Councillor Taylor suggested that further information be sought from the Planning authority, as under the current LDP he did not feel he could approve, however under LDP 2 he felt this could be approved but expressed concern that this wouldn't leave the Council in a good light.

Councillor Kinniburgh advised that it would be interesting to hear from Planners, but that it was a matter for Members to determine how much weight they placed on LDP 2 and advised that he did not feel that the LDP 2 was at a stage in the process that it could bear any relevance to this application.

Councillor Trail referred to page 223 of the pack and the "de novo" approach to considering local reviews and suggested that if LDP 2 was considered the settled view of the Council then it may be appropriate to give it due consideration.

Councillor Kinniburgh stated that his interpretation of the "de novo" approach was that although we had to look at the application from the beginning, we had to do so using the adopted LDP rather than looking at the application against LDP2 which is

unadopted, and the issue with the LDP2 in this instance was how much weight the Local Review Body afforded to it which in his opinion was not a great deal, given the stage of LDP2 in the Development Plan Scheme (DPS) process.

Councillor Taylor advised that as there was no further appeal following this process he felt that the issues raised require to be considered, and this included the possible application of LDP 2 and the Planning case law provided in support of the review.

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