



Argyll and Bute Council
Comhairle Earra-Ghàidheal Agus Bhòid

Executive Director: Douglas Hendry

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Tel: 01546 602127 Fax: 01546 604435
DX 599700 LOCHGILPHEAD
19 May 2020

NOTICE OF MEETING

A meeting of the **ARGYLL AND BUTE LOCAL REVIEW BODY** will be held via **SKYPE** on **TUESDAY, 26 MAY 2020 at 10:00 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: SITE FOR THE ERECTION OF A DWELLINGHOUSE, PLOT 2, LAND EAST OF ARDTEATLE COTTAGE DALMALLY (REF: 20/0006/LRB)**
 - (a) Notice of Review and Supporting Documentation (Pages 3 - 16)
 - (b) Comments from Interested Parties (Pages 17 - 36)
 - (c) Comments from Applicant (Pages 37 - 40)

Argyll and Bute Local Review Body

Councillor Lorna Douglas
Councillor Jean Moffat

Councillor David Kinniburgh (Chair)

Contact: Adele Price-Williams - Senior Committee Assistant - 01546 604480

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Proposal Details

Proposal Name	100154065
Proposal Description	Erection of new dwelling.
Address	
Local Authority	Argyll and Bute Council
Application Online Reference	100154065-010

Application Status

Form	complete
Main Details	complete
Checklist	complete
Declaration	complete
Supporting Documentation	complete
Email Notification	complete

Attachment Details

Notice of Review	System	A4
Notice of Review Statement	Attached	A4
Observations on Planning Application	Attached	A4
Notice_of_Review-2.pdf	Attached	A0
Application_Summary.pdf	Attached	A0
Notice of Review-010.xml	Attached	A0

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NOTICE OF REVIEW STATEMENT

Saturday, 7 March 2020 - Revision 0
J165 Ardteatle

Introduction

The purpose of this document is to describe why condition 4 attached to planning in principal application 19/01924/PPP should be changed. The relevant planning condition is quoted here.

Pursuant to Condition 1 – no development shall commence until plans and particulars of the means of vehicular access and parking/turning arrangements to serve the development have been submitted to and approved by the Planning Authority. Such details shall incorporate:

- i) Formation of the access at the junction with the public road in accordance with Operational Services Drawing No SD08/004a with visibility splays measuring 2.4 metres to point X by 75 metres to point Y from the centre line of the junction;*
- ii) A written scheme of improvement works to the existing public road including surfacing with bitumen macadam to a depth of 100mm for a minimum length of 350m and the provision of two passing places*
- iii) A system of surface water drainage is required to prevent water from passing onto the public road. Any existing roadside ditch will be required to be culverted to the satisfaction of the Roads Engineer.*
- iv) The provision of parking and turning in accordance with the requirements of Policy LDP 11 of the Argyll and Bute Local Development Plan.*

Prior to work starting on site, the visibility splays shall be cleared of all obstructions such that nothing shall disrupt visibility from a point 1.05 metres above the junction at point X to a point 0.6 metres above the public road carriageway at point Y. The final wearing surface on the access shall be completed prior to the development first being brought into use and the visibility splays shall be maintained clear of all obstructions thereafter.

The approved parking and turning layout shall be implemented in full 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 interests of road safety to ensure that the proposed development is

served by a safe means of vehicular access and has an appropriate parking and turning area in accordance with the provisions of Policy LDP 11 and Supplementary Guidance SG LDP TRAN 4 and SG LDP TRAN 6 of the adopted Argyll and Bute Local Development Plan.

The condition is not specific as to whether it is a written statement or the actual works that are required. The following correspondence with the planner clarifies this, my email sent 3/3/20:

Dear Lesley,

Hope you are well.

I've been asked by my client to submit a notice of review for Condition 4 attached to planning application 19/01924/PPP, specifically because of the following statement:

"A written scheme of improvement works to the existing public road including surfacing with bitumen macadam to a depth of 100mm for a minimum length of 350m and the provision of two passing places"

But before I do this, could you clarify if this obliges my client to actually carry out the works, or merely to provide a written statement describing the works. If the latter, could you confirm if the form of the written statement is at our discretion?

The deadline for submitting the notice of review is the 8th of March, so it would be great if you could get back to me in the next day or so on this as it would be cause a lot of unnecessary admin if I had to submit the review and it later turns out not to be necessary,

Kind Regards,

Will

Lesley Cuthbertson's reply of 4/3/20:

Good morning Will,

I can advise that Condition 4 requires the submission of a written scheme of specific improvement works and also requires the works to be implemented prior to the development first being brought into use.

Feel free to give me a call on 01631 567954 should you require any further clarification.

Regards

Lesley Cuthbertson

Planning Officer

Argyll and Bute Council

Grounds

The grounds for review of the aforementioned condition are:

1. The council is legally required to maintain the highway regardless of whether this development proceeds.
 - 1.1. The Roads Scotland Act (1984) Section 1, paragraph 1 states: *'Subject to subsection (10) below, a local roads authority shall manage and maintain all such roads in their area as are for the time being entered in a list (in this Act referred to as their "list of public roads") prepared and kept by them under this section; and for the purposes of such management and maintenance (and without prejudice to this subsection's generality) they shall, subject to the provisions of this Act, have power to reconstruct, alter, widen, improve or renew any such road or to determine the means by which the public right of passage over it, or over any part of it, may be exercised.'*
 - 1.2. The proposed resurfacing works are to the UC63 Old monument Road, which is a road on the statutory list of roads for Argyll and Bute local authority as described in the act.
 - 1.3. The paragraph from the Roads Scotland Act clearly states that maintenance of the roads listed in this statutory document is a legal duty of the local authority.
 - 1.4. The photographs attached to the planning condition and statements made by third parties to the application clearly demonstrate that the road is in a poor state of repair and is an imminent risk of injury and damage to road users and their property. Given the legal requirements of the Roads Scotland Act, outlined above, it is clear that any injury or damage to third parties arising from their use of the public highway would be the council's liability regardless of whether the land that is the subject of the application is developed or not.
 - 1.5. Therefore, it is incumbent on the Local Authority, Argyll and Bute Council to maintain the public highway and resurfacing works and road safety improvements should be carried out regardless of whether my client proceeds with the development or not.
 - 1.6. Planning circular 4/1998 outlines a number of tests to see if a condition is reasonable. Among these are requirements that a condition be 'necessary and relevant to the development to be permitted'. Because of points 1.4 and 1.5 above this requirement is not relevant to this development as it is necessary for these works to be carried out regardless of whether the development proceeds.
 - 1.7. Therefore, it is not my client's duty to carry out the resurfacing works and this requirement should be removed from this condition. Further, it is the council's duty to assess the need for road maintenance and passing places so as to ensure road safety. If the road is currently unsafe, the council should remedy the problem.
2. A previous application for 2 properties on this land was granted without this requirement.
 - 2.1. There has been no relevant change in planning policy since the previous approval 15/02784/PPP was granted,
 - 2.2. Previous permission, 15/02784/PPP, was granted for two plots side by side. The roads consultation for this permission is attached and makes no mention of improvement works.
 - 2.3. Given the fact that the previous permission was granted with no mention of these improvements, and the policy has not changed, it is the council's own opinion that this development does not require the infrastructure to be upgraded.
 - 2.4. Further, it must also be noted that one house is less impactful on road safety than the previously approved two plots.
 - 2.5. Therefore there are no grounds for a different and far more onerous decision to be reached in this instance.
 - 2.6. Therefore the requirement to resurface the road and provide 2 additional passing places should be removed.

3. Planning obligations should not be used to resolve existing deficiencies in infrastructure.
 - 3.1. Planning circular 3/2012 para 20 states : *'Planning obligations must be related in scale and kind to the proposed development. Developers may, for example, reasonably be expected to pay for, or otherwise contribute towards the provision of, infrastructure which would not have been necessary but for the development. In assessing such contributions planning authorities may take into account the cumulative impact of a number of proposed developments, and use obligations to share costs proportionately. An effect of such infrastructure investment may be to confer some wider community benefit but contributions should always be proportionate to the scale of the proposed development. Attempts to extract excessive contributions towards the costs of infrastructure or to obtain extraneous benefits are unacceptable.'*
 - 3.2. Para 21 states: *'Planning obligations should not be used to resolve existing deficiencies in infrastructure provision or to secure contributions to the achievement of wider planning objectives which are not strictly necessary to allow permission to be granted for the particular development. Situations may arise where an infrastructure problem exists prior to the submission of an application for planning permission. Where the need to improve, upgrade or replace that infrastructure does not arise directly from the proposed development then planning authorities should not seek to address this through a planning obligation. It is inappropriate to grant planning permission for a development which would demonstrably exacerbate a situation which was clearly already unsatisfactory.'*
 - 3.3. The Scottish government planning policy above states that the planning system should not be used to resolve existing deficiencies in infrastructure which are not specific or necessary for the development to go ahead. Arguments made in 1. above demonstrate that the council should repair the road and make it safe regardless of whether this development proceeds, not because of it. Arguments made in 2. above demonstrate that it is the council's own assessment that this infrastructure is not necessary.
 - 3.4. Therefore the requirements to resurface and add two additional passing places should be removed.
4. Planning conditions should be reasonable. The cost of implementing this condition places an unreasonable burden on the developer.
 - 4.1. At an approximate cost of £40 per m² of resurfacing work the cost of the repairs to the public highway would be in the region of £60,000. Each additional passing place would add a further £15,000.
 - 4.2. A typical 3 bed house with an area of 120 m² constructed to a standard specification will cost in the region of £200,000 to build.
 - 4.3. Therefore these requirements increase the cost to build the house by approximately 150%
 - 4.4. Therefore these requirements are clearly unreasonably excessive for a single dwelling house.
 - 4.5. Therefore the condition fails to meet the tests for a reasonable planning condition as set out in the relevant planning circulars.
 - 4.6. Therefore the requirements to resurface and add two additional passing places should be removed.

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Operational Services
Oban, Lorn and the Isles Area

OBSERVATIONS ON PLANNING APPLICATION

Our Ref: 15/02784/PPP
Contact: Brian Rattray
Tel: 01546 604682

Planning Application No: 15/02784/PPP Dated: 30th October 2015

Received:

Applicant: Mr and Mrs Rory MacLean

Proposed Development: Site for the erection of dwellinghouse.

Location: Plot 2, Land East of Ardteatle Cottage, Dalmally PA33 1AT

Type of consent: Planning Permission in Principle

Ref. No(s) of Drg(s) submitted: Series of plans

RECOMMENDATION: No objections subject to conditions

Proposals Acceptable	Y/N
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1. General

(a) General Impact of development	Y
(b) Safety Audit Required	N
(c) Traffic Impact Analysis Required	N
(d) Drainage Impact/Flooding Assessment Required	N
(e) Sustainable Drainage System (SUDS) Provision	N

2. Existing Roads

(a) Type of connection (Road Junction/Footway Crossing)	
(b) Location(s) of Connection(s)	
(b) Sight-lines 75m x 2.4m	
(d) Pedestrian Provision	

Proposals Acceptable	Y/N
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3. New Roads n/a

(a) Widths	
(b) Pedestrian Provision	
(c) Layout (Horizontal/Vertical alignment)	
(d) Turning Facilities (Circles/Hammerheads)	
(e) Junction Details (Locations/radii/sightlines)	
(f) Provision for P.U. Services	

Proposals Acceptable	Y/N
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4. Servicing and Car Parking

(a) Drainage	
(b) Car parking Provision	
(c) Layout of Parking bays/Garages	
(d) Servicing Arrangements/Driveways	

5. Signing n/a

(a) Location	
(b) Illumination	

Item Ref.	COMMENTS
1	The proposal is situated off the UC63 Old Monument Hill Road within a rural 60mph speed restriction.
2c	Visibility splays 75m x 2.4m to be provided, cleared and maintained

Item Ref.	CONDITIONS/ REASONS
2a	Access at the junction of the public road to be constructed in accordance with Operational Services Drg No SD08/004a. top surface to match existing public road
2c	Visibility splays 75m x 2.4m to be provided, cleared and maintained. No walls, fences, hedges etc greater than 1.05m in height will be permitted within 2.4m of the public road.
4a	A system of surface water drainage is required to prevent surface water from flowing onto the public road. Any existing roadside ditch to be culverted to the satisfaction of Roads.
4c	Parking and turning commensurate within the size of the dwellings.

Notes for intimation to Applicant

(i) Construction Consent (S21)*	Not Required
(ii) Road Bond (S17)*	Not Required
(iii) Road openings Permit (S56)*	Required

*Relevant Section of the Roads (Scotland) Act 1984

Signed: Brian Rattray
Technical Officer

Date: 30/10/2015

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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 100154065-010

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:	<input type="text" value="Thorne Wyness Architects"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="William"/>	Building Name:	<input type="text"/>
Last Name: *	<input type="text" value="Thorne"/>	Building Number:	<input type="text" value="23"/>
Telephone Number: *	<input type="text" value="01688302746"/>	Address 1 (Street): *	<input type="text" value="Main St"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="Tobermory"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="Isle of Mull"/>
		Postcode: *	<input type="text" value="PA75 6NU"/>
Email Address: *	<input type="text" value="will@thornewyness.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="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="XXXX"/>
First Name: *	<input type="text" value="Daniel"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text" value="Taylor"/>	Address 1 (Street): *	<input type="text" value="XXXXX"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="XXXXX"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="XXXXXX"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="XXX"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="XXXXX"/>		

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

Formation of a house plot, improvement of existing access, installation of private water supply and installation of private draining system.

Northing	<input type="text" value="725729"/>	Easting	<input type="text" value="213607"/>
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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)

Formation of house plot, improvement of existing access, installation of private water supply and installation of private drainage system.

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.

Condition 4 attached to the planning application requires unreasonably expensive works to the public highway to make it safe, which the council is legally required to carry out by the Roads (Scotland) Act, regardless of whether the development proceeds. Further the application to which the condition has been attached, is a renewal of part of a previous application for 2 plots to which no such condition was attached, there has been no change in policy that would justify this condition.

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)

I have provided a breakdown of the cost of carrying out the works to demonstrate that the cost is unreasonable.

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)

Detailed Statement. Copy of post decision email correspondence with planner to clarify intent of condition.

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application. 19/01924/PPP

What date was the application submitted to the planning authority? * 12/09/2019

What date was the decision issued by the planning authority? * 09/12/2019

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

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 William Thorne

Declaration Date: 08/03/2020

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Sonja de Rijk & Steve Shields
Ardteatle Cottage
Dalmally

REVIEW OF PLANNING APPLICATION REFERENCE 19/01924/PP

We note the contents of the Notice to review the conditions to the Planning Permission granted for a property development at Ardteatle and would like to raise numerous points in relation to this review.

STATEMENT FOR SEEKING REVIEW

On reading the applicants grounds for seeking a review we note that there are many material errors as well as a lack of understanding of the issues of developing the land at Ardteatle and the impact that has on access to our property and the need to upgrade the road in question to accommodate this development.

To this end we outline our objections to the requested review below.

1. HIGHWAY CONDITIONS.

We are fully aware that it is not a priority road as we are currently the only occupants of a residential property that uses this road and as such the road is in general suitable for one property use only. The road is exceptionally steep, winding and narrow without a single passing place or ability to turn or move onto verges and as such if a further development is built it is the developer's responsibility to upgrade the road to accommodate the increased use and traffic. Indeed, when Lesley Cuthbertson did a site visit to the proposed development site she required access to our property to extricate her vehicle. Again I would emphasise the road in its current condition could not take any extra traffic and has to be upgraded otherwise we will not be able to access our home due to its ever deteriorating state and the absence of any passing places.

In summary we would point out that Ardteatle cottage is 200 years old and this road has served this one property for many years. The current infrastructure is designed for this one property and is not fit, safe or capable of taking the traffic from additional development. To that end it is the developer's responsibility to ensure that the road is upgraded to accommodate their development, the increased traffic and the need for permanent access to our property.

2. PREVIOUS APPLICATIONS.

The original application in 2015 was made when both Ardteatle Cottage and Ardteatle Land were owned by one and the same Mr Rory McLean. The applicant therefore had a vested interest not to object to the lack of access to Ardteatle cottage and as such no objections were raised.

Ardteatle cottage was vacant for a considerable period of time prior to our purchase in 2017 as home and therefore access was not an issue in previous applications. It should also be noted that previous applications referred to a non-existent water supply.

This current permission is not a renewal of previous applications as original application from 2015 expired and the second application, made by this applicant was withdrawn due to issues with the water supply. Due to the timescale between applications and change of circumstances re Ardteatle Cottage, previous applications should have no bearing on these conditions and as such is a completely separate planning application. The conditions applying to this new planning application were put in place due to the fact that the road is considered unsuitable due to its condition and lack of passing places to accommodate any additional traffic. Any development without these conditions applied would prevent us from accessing our home on a free basis and the existing road which is only just fit for the current purpose of servicing one property would deteriorate rapidly.

The applicant has failed to note that the current infrastructure will only support the existing property of Ardteatle cottage and this was not raised as a point in previous applications as the previous owner of the cottage was the applicant and therefore had no desire to object against their own application.

It should also be noted that the current applicant has commenced groundbreaking works prior to permission being granted and regardless of subsequent conditions attached this disregard for planning has left us exceptionally worried that the applicant will have the same level of disregard to us in respect of accessing our home.

3. PLANNING OBLIGATIONS USED TO RESOLVE EXISTING DEFICIENCIES

In response to this we would quote the applicants own document which in section 3.1 quotes "Planning objections must be related in scale and kind to the proposed development. Developers may, for example, reasonably be expected to pay for, or otherwise contribute towards the provision of, infrastructure which would not have been necessary but for the development."

Regardless of the current state of the road the applicant is missing the point that the current infrastructure is only fit for access to one property alone. The infrastructure requires improvement **because of this development**. With an additional property we will have limited access to our home 24/7 and with the addition of other traffic the road will become a danger and at times inaccessible to us and any other road users. We cannot stress enough that due to the steepness, narrowness and curves in the road leading to our home that more than one vehicle using the road will prevent access and could cause danger and to that end upgrading the road surface with passing places is essential.

4. UNREASONABLE BURDENS

Using the applicants own figures demonstrates that their calculations of the additional costs are completely incorrect.

They estimate that the budgeted construction cost of the proposed development is £200,000.

They state that the proposed cost of upgrading the road to accommodate this development is £60,000 with a further £30,000 for two passing places adding £90,000 to the development costs. This does not equate to 150% increase but 45%.

The developer has not included the £150,000 purchase price of the land (which we understand has still not been completed) so by the developers own calculations this is an increase of 26% over the proposed development cost of £350,000 and not the 150% of £200k as claimed by the developer.

Any developer should have taken into consideration that the current infrastructure is not fit for more than the existing property of Ardteatle Cottage and budgeted accordingly. It is perfectly reasonable for the developer to pick up the costs to improve the infrastructure needed to accommodate their development and the failure to do this is a failing on the part of the developer and therefore the current conditions are in no way excessive and should have been anticipated in the development costs.

1. SUMMARY

- The applicant has incorrectly stated that the application under review is just a renewal of previously lapsed application however due to material differences regarding water supply, road condition, increased traffic, access to Ardteatle cottage and boundaries this is not the case and should be reviewed as a new planning application disregarding previous applications.
- The applicant has completely missed the point that the current infrastructure is suitable for one property only and that the proposed development without these conditions will severely limit access to our home and cause the road to further deteriorate. The applicant also fails to understand that the only reason for the conditions being imposed is to accommodate their development and as such it is their responsibility to ensure these conditions are met. The proposed development without conditions will also render the road as a potential risk of injury and damage to ourselves and our property.
- The applicant has also massively overstated the percentage increase to his costs. These costs should have been factored into the development plans and failure to do so is an oversight by the developer. It would seem remiss that the taxpayer has to pick up the cost of these improvements purely because the developer failed to factor them into their plans.
- The applicant has ignored planning conditions and carried out works prior to obtaining planning permission and also ignoring current conditions.

We again wish to stress that the current infrastructure is only suitable for one residence and that access to our home in a safe manner is of paramount importance. If these conditions were to be revoked, we would expect the local council to present a plan to upgrade the road to accommodate the new development and to improve the road, with passing places and drainage, prior to the development going ahead.

We would strongly suggest the reviewing officers make a site visit and attempt to pass oncoming vehicles on the stretch of road leading to our home. To review this without a site visit and our views taken into consideration would be remiss

Regards

Sonja de Rijk & Steve Shields

STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

SITE FOR THE ERECTION OF A DWELLINGHOUSE 19/01924/PP

**PLOT 2, LAND EAST OF ARDTEATLE COTTAGE,
DALMALLY**

02.04.2020

STATEMENT OF CASE

The Planning Authority is Argyll and Bute Council ('the Council'). The appellant is Mr Steve Shields ("the appellant").

Planning permission in principle ref 19/01924/PPP was granted on the 19th of December 2019 for the site for the erection of a dwellinghouse at Plot 2, Land East of Ardteatle Cottage, Dalmally. This grant of planning permission in principle was granted subject to a number of planning conditions.

Condition 4 part (ii) of planning permission in principle ref 19/01924/PPP has been appealed and is subject of referral to a Local Review Body.

DESCRIPTION OF SITE

The LRB refers to the site as Plot 2 Land East of Ardteatle Cottage, Dalmally.

The site of the proposed development is within a designated Rural Opportunity Area within which Local Development Plan (LDP) policies LDP STRAT 1 and LDP DM 1 would encourage appropriate forms of up to small scale residential development on appropriate sites. These main policy considerations are underpinned by the supplementary guidance contained within SG LDP ENV 14 and SG LDP HOU 1 which offers further support to appropriate scales of residential development where such development would have no significant adverse impact upon the character of the landscape and where there is no unacceptable environmental, servicing or access impact.

The application site sits approximately 0.9 kilometres to the west and around 85 metres below the level of the Duncan Ban Monument. The monument sits on a prominent knoll and benefits from distant views towards Loch Awe. A significant section of forestry has recently been cleared and the foreground view has been interrupted for the time being. The application site benefits from a band of native woodland to the east and west. It has previously been considered that a single storey dwelling house and possibly one and a half storey will sit below the rolling ridge mentioned above. Whilst the site is elevated it is well contained within a vast upland landscape and is well contained. Micro planning of the house position to achieve the best possible fit with the landscape can be controlled by condition and assessed in detail at a later date as part of an application for planning permission or for matters specified by condition. It is nevertheless considered that the site could be improved by introducing further native tree planting along the north eastern side of the site. This would not only enhance the area and setting of the buildings but ensure the longevity of native tree cover within a broader area characterised by forestry plantations.

The Area Roads Engineer was consulted and had raised no objections subject to the inclusion of planning conditions to secure the following: an access upgrade to the existing public road for a distance of approximately 350 metres to include resurfacing, the installation of two new passing places plus improvements to roadside drainage, plus the provision of adequate visibility splays and parking and turning. The proposal will therefore accord with the provisions of policy LDP 11 and SG LDP TRAN 4 SG

LDP TRAN 5 and SG LDP TRAN 6 of the Local Development Plan which requires all development proposals to have an appropriate standard of access and parking.

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 material considerations asserted by the appellant are sufficient to warrant the removal of condition 4 part (ii) of planning permission ref 19/01924/PPP which was attached on request of the Roads Engineer in the interests of road safety and in accordance with SG LDP TRAN 4, SG LDP TRAN 5 and SG LDP TRAN 6 of the Argyll and Bute Local Development Plan Supplementary Guidance.

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 is small-scale, 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 appellant contends that part (ii) of condition 4 is onerous and unnecessary for the following reasons.

- The Council is legally required to maintain the highway regardless of whether the development proceeds.
- A previous application for two dwellinghouses on this land was granted without this requirement (15/02784/PPP).
- Planning obligations should not be used to resolve existing deficiencies in infrastructure,
- Planning conditions should be reasonable. The cost of the repairs to the public highway would be in the region of £60,000 with each additional passing place adding a further £15,000.

The appellant requests that part (ii) of condition 4 be removed.

Comment

The Area Roads Engineer was consulted and raised no objections subject to planning conditions with regard to the provision of:

Improvement works to the existing public road including surfacing with bitumen macadam to a depth of 100mm for a minimum length of 350m and the provision of two passing places

SG LDP TRAN 5 requires that where development proposals will significantly increase vehicular or pedestrian traffic on substandard private or public approach roads, then developments will be required to contribute proportionately to improvements to an agreed section of the public or private road network.

The Area Roads Engineer has assessed the proposed development against this policy and has deemed that the specific improvements as specified by part (iii) of condition 4 of planning permission ref 19/01924/PPP are wholly practical and proportionate to the nature and scale of development proposed

CONCLUSION

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

Taking all of the above into consideration, it is considered that the proposed development has been appropriately assessed against the provisions of SG LDP TRAN 5 as part of the Area Roads Engineers Assessment. The specific improvements as specified by condition part (ii) of condition 4 of planning permission ref 19/01924/PPP are wholly practical and proportionate to the nature and scale of development proposed.

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

APPENDIX 1

**Argyll and Bute Council
Development and Infrastructure**

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: 19/01924/PPP

Planning Hierarchy: Local Development

Applicant: Mr Daniel Taylor

Proposal: Site for the erection of dwellinghouse

Site Address: Plot 2 Land East of Ardteatle Cottage, Dalmally

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

- Site for erection of a dwellinghouse
 - Formation of vehicular access
 - Installation of septic tank
 - Provision of private water supply
-

(B) RECOMMENDATION:

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

(C) HISTORY:

19/00334/PPP

Site for the erection of a dwellinghouse, withdrawn 28.05.2019.

15/02784/PPP

Site for the erection of a dwellinghouse (plot 2), granted 22.12.2018.

15/02789/PPP

Site for the erection of a dwellinghouse (plot 1), granted 22.12.2019.

(D) CONSULTATIONS:

Area Roads Engineer

No objections, conditions, 05.12.2019.

Environmental Health

No objections, condition, 25.10.2019

WOSAS

No objections, condition, 18.10.2019.

Historic Environment Scotland

No objections, 25.10.2019

Biodiversity Officer

No objections subject to condition, 30.10.2019

The above represents a summary of the issues raised. Full details of the consultation responses are available on the Council's Public Access System by clicking on the following link <http://www.argyll-bute.gov.uk/content/planning/publicaccess>.

(E) PUBLICITY:

The proposal has been advertised in terms of Regulation 20, closing date 14.11.2019.

(F) REPRESENTATIONS:

Representations have been submitted by 3 individuals objecting to the proposed development. Representations will be submitted by the following individuals:

Alison Sinclair, 226 Springfield Road, Linlithgow, EH49 7LQ, (e-mail 01.11.2019)

Steve Shields, Ardteatle Cottage, Dalmally, PA33 1AT, (letter 30.10.2019)

Sonja de Rijk, Ardteatle Cottage, Dalmally, PA33 1AT, (letter 30.10.2019)

The issues raised can be summarised as follows:

- Road is of a poor standard. The proposed access, in its current form, would cause serious access issues for us in and out of our permanent dwelling place.

- Road is narrow and steep with no passing places.
- Concerns with regards to structural integrity of road bridge.

Comment: The Area Roads Engineer has been consulted and has raised no objections subject to the inclusion of planning conditions to secure the following: an access upgrade to the existing public road for a distance of approximately 350 metres to include resurfacing, the installation of two new passing places plus improvements to roadside drainage, plus the provision of adequate visibility splays and parking and turning. The proposal will therefore accord with the provisions of policy LDP 11 and SG LDP TRAN 4 and SG LDP TRAN 6 of the Local Development Plan which requires all development proposals to have an appropriate standard of access and parking.

(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
e.g. retail impact, transport impact, noise impact, flood risk,
drainage impact etc: | No |

(H) PLANNING OBLIGATIONS

- | | | |
|-----|--------------------------------------|-----------|
| (i) | Is a Section 75 obligation 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. |
|-----|---|

Argyll and Bute Local Development Plan, 2015

- 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 HOU 1 – General Housing Development
- SG LDP ENV 1 – Development Impact on Habitats, Species and Our Biodiversity (ie biological Diversity)
- SG LDP ENV 13 –Development Impact on Areas of Panoramic Quality (APQs)
- SG LDP ENV 14 – Landscape
- SG LDP ENV 20 – Development Impact on Sites of Archaeological Importance
- SG LDP SERV 1 – Private Sewage Treatment Plants and Wastewater (ie. Drainage) systems
- SG LDP SERV 6 – Private Water Supplies and Water Conservation
- SG LDP TRAN 4 – New and Existing, Public Roads and Private Access Regimes
- SG LDP TRAN 5 – Off-site Highway Improvements
- SG LDP TRAN 6 – Vehicle Parking Provision

- (i) **List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 3/2013.**

Argyll and Bute Sustainable Design Guidance, 2006
 Scottish Planning Policy (SPP), 2014
 Consultee Responses
 Argyll and Bute Proposed Local Development Plan 2 November 2019

(K)	Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:	No
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(L)	Has the application been the subject of statutory pre-application consultation (PAC):	No
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(M)	Has a sustainability check list been submitted:	No
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(N)	Does the Council have an interest in the site:	No
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(O) Requirement for a hearing: No

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

This is a proposal seeking planning permission in principle for the erection of a dwellinghouse at plot 2, Land East of Ardteatle Cottage, Dalmally. The site has previously benefitted from planning permission ref 15/02784/PPP which very recently expired on the 22nd of December 2018. This recent grant of planning permission is a material consideration which shall be afforded a significant amount of weight in the determination of this application.

The site of the proposed development is within a designated Rural Opportunity Area within which Local Development Plan (LDP) policies LDP STRAT 1 and LDP DM 1 would encourage appropriate forms of up to small scale residential development on appropriate sites. These main policy considerations are underpinned by the supplementary guidance contained within SG LDP ENV 14 and SG LDP HOU 1 which offers further support to appropriate scales of residential development where such development would have no significant adverse impact upon the character of the landscape and where there is no unacceptable environmental, servicing or access impact.

The application site sits approximately 0.9 kilometres to the west and around 85 metres below the level of the Duncan Ban Monument. The monument sits on a prominent knoll and benefits from distant views towards Loch Awe. A significant section of forestry has recently been cleared and the foreground view has been interrupted for the time being. The application site benefits from a band of native woodland to the east and west. It has previously been considered that a single storey dwelling house and possibly one and a half storey will sit below the rolling ridge mentioned above. Whilst the site is elevated it is well contained within a vast upland landscape and is well contained. Micro planning of the house position to achieve the best possible fit with the landscape can be controlled by condition and assessed in detail at a later date as part of an application for planning permission or for matters specified by condition. It is nevertheless considered that the site could be improved by introducing further native tree planting along the north eastern side of the site. This would not only enhance the area and setting of the buildings but ensure the longevity of native tree cover within a broader area characterised by forestry plantations.

It is considered that the siting of a dwellinghouse at the site would accord with the established settlement pattern and it is considered that the proposed development will have no adverse impact on the wider landscape setting of the area. The proposed development will therefore accord with the terms of Policy LDP DM 1 and SG LDP ENV and 14.

The site lies within a designated Area of Panoramic Quality (APQ). The proposed development will in no way have any significant adverse impact on the character of the landscape and will accord with the provision of SG LDP ENV 13.

As the application is for planning permission in principle only no details of the proposed dwellinghouse have been submitted. A detailed design condition will be attached to

the permission to ensure that the proposed dwellinghouse will fit well within the landscape.

Historic Environment Scotland have been consulted and have raised no objections to the proposed development.

West of Scotland Archaeological Services have been consulted and have raised no objections to the proposed development subject to a condition requiring the provision of an archaeological watching brief. The proposed development will therefore comply with SG LDP ENV 20.

The Biodiversity Officer has been consulted and has raised no objections to the proposed development. The Biodiversity Officer has advised that further information in relation to the adjacent Semi-Natural Woodland and methods employed to protect it during construction will be required to be submitted as part of any further detailed planning applications or matters as specified by conditions applications. The Biodiversity Officer has also advised that an up to date phase 1 walk over survey will be required by a planning condition.

The Area Roads Engineer has been consulted and has raised no objections subject to the inclusion of planning conditions to secure the following: an access upgrade to the existing public road for a distance of approximately 350 metres to include resurfacing, the installation of two new passing places plus improvements to roadside drainage, plus the provision of adequate visibility splays and parking and turning. The proposal will therefore accord with the provisions of policy LDP 11 and SG LDP TRAN 4, SG LDP TRAN 5 and SG LDP TRAN 6 of the Local Development Plan which requires all development proposals to have an appropriate standard of access and parking.

The required improvements to the existing unclassified public road are relatively extensive but are considered to be necessary to justify further development utilising this access regime. The required access improvements will address the concerns raised by local residents and the developer is aware of the Roads Engineers requirements.

The proposed development will be served by a septic tank with a soakaway. This raises no planning issues and will be regulated by Building Standards and SEPA as part of their legislative requirements. The proposed development will be served by a private water supply. Environmental Health have been consulted and have raised no objections to the proposed development subject to a condition with regards to the provision of a water appraisal prior to the commencement of development. The proposed development will therefore accord with the provisions of both SG LDP SERV 1 and SG LDP SERV 6.

The proposed development will have no materially adverse impact upon the historic environment including (but not necessarily limited to) the historic/architectural/cultural value and/or setting or other specified qualities of any listed building, any scheduled ancient monument, any garden and designed landscape, any conservation area or any special built environment area. Neither will the proposed development result in any material harm to the natural environment including (but not necessarily limited to) the special environmental/habitat/geological or other specified qualities of any site of special scientific interest, any special protection area, any 'Ramsar' site, any national or local nature reserve, any designated area of wild land, any marine consultation area, any area of semi-natural ancient woodland, any carbon and peatland area or any tree preservation order.

The development has been assessed against all of the above potential constraints and designations and has been determined to raise no issues or concerns except for any specifically referred to within this summary assessment and it is recommended that a further planning permission in principle be granted subject to the conditions appended to this report.

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

—
(R) Reasons why planning permission in principle should be granted

The site is considered to represent a suitable opportunity for the proposed development without causing any detrimental impact on the wider area and there are no infrastructural constraints which would preclude the development of the site.

The proposal accords with Policies LDP STRAT 1, LDP DM 1, LDP 3, LDP 8, LDP 9, LDP 10, LDP 11 and Supplementary Guidance SG 2, SG LDP ENV 1, SG LDP ENV 13, SG LDP ENV 14, SG LDP ENV 20, SG LDP HOU 1, SG LDP SERV 1, SG LDP ENV 20, SG LDP TRAN 4, SG LDP TRAN 5, SG LDP TRAN 6 of the adopted 'Argyll and Bute Local Development Plan' 2015 and there are no other material considerations which would warrant anything other than the application being determined in accordance with the provisions of the development plan.

—
(S) Reasoned justification for a departure to the provisions of the Development Plan
N/A

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

—
Author of Report: Lesley Cuthbertson Date: 09.12.2019

Reviewing Officer: Tim Williams Date: 09.12.2019

Fergus Murray
Head of Development and Economic Growth

CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 19/01924/PPP

1. Plans and particulars of the matters specified in conditions 3, 4, 5 and 6 below shall be submitted by way of application(s) for Approval of Matters Specified in accordance with the timescales and other limitations in Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended. Thereafter the development shall be completed wholly in accordance with the approved details.

Reason: To accord with Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended.

2. The development shall be implemented in accordance with the details specified on the application form dated 11th of September 2019, supporting information and, the approved drawing numbered 1-1.

Reason: To accord with Regulation 28 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008.

Note to Applicant:

- In order to comply with Sections 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. Failure to comply with this requirement constitutes a breach of planning control under Section 123(1) of the Act.

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.

3. Pursuant to Condition 1 – no development shall commence until plans and particulars of the site layout, design and external finishes of the development have been submitted to and approved by the Planning Authority. These details shall incorporate:
 - i) A statement addressing the Action Checklist for developing design contained within the Argyll and Bute Sustainable Design Guide 2006;
 - ii) Local vernacular design;
 - iii) Maximum of one and a half storey in design;
 - iv) Rectangular footprint with traditional gable ends;
 - v) Symmetrically pitched roof angled between 35 and 42 degrees finished

in natural slate or good quality artificial slate;

- vi) External walls finished in natural stone or wet dash render or natural timber cladding, or a mixture of these;
- vii) Details of finished ground floor levels relative to an identifiable fixed datum located outwith the application site;
- viii) Window openings with a vertical emphasis;
- ix) Traditional "peaked" roof porches shall be encouraged.

Reason: To accord with Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended, and in order to integrate the proposed dwellinghouse with its surrounds.

4. Pursuant to Condition 1 – no development shall commence until plans and particulars of the means of vehicular access and parking/turning arrangements to serve the development have been submitted to and approved by the Planning Authority. Such details shall incorporate:
- i) Formation of the access at the junction with the public road in accordance with Operational Services Drawing No SD08/004a with visibility splays measuring 2.4 metres to point X by 75 metres to point Y from the centre line of the junction;
 - ii) A written scheme of improvement works to the existing public road including surfacing with bitumen macadam to a depth of 100mm for a minimum length of 350m and the provision of two passing places
 - iii) A system of surface water drainage is required to prevent water from passing onto the public road. Any existing roadside ditch will be required to be culverted to the satisfaction of the Roads Engineer.
 - iv) The provision of parking and turning in accordance with the requirements of Policy LDP 11 of the Argyll and Bute Local Development Plan.

Prior to work starting on site, the visibility splays shall be cleared of all obstructions such that nothing shall disrupt visibility from a point 1.05 metres above the junction at point X to a point 0.6 metres above the public road carriageway at point Y. The final wearing surface on the access shall be completed prior to the development first being brought into use and the visibility splays shall be maintained clear of all obstructions thereafter.

The approved parking and turning layout shall be implemented in full 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 interests of road safety to ensure that the proposed development is served by a safe means of vehicular access and has an appropriate parking and turning area in accordance with the provisions of Policy LDP 11 and Supplementary Guidance SG LDP TRAN 4 and SG LDP TRAN 6 of the adopted Argyll and Bute Local Development Plan.

5. Pursuant to Condition 1 – no development shall commence until a scheme of boundary treatment, surface treatment and landscaping has been submitted to and approved by the Planning Authority. The scheme shall comprise a planting plan and schedule which shall include details of:
 - i) Existing and proposed ground levels in relation to an identified fixed datum;
 - ii) Existing landscaping features and vegetation to be retained;
 - iii) Location design and materials of proposed walls, fences and gates;
 - iv) Proposed soft and hard landscaping works to include a screen planting belt not less than 10 metres in width along the north eastern boundary of the site.
 - v) A programme for the timing, method of implementation, completion and subsequent on-going maintenance.

All of the hard and soft landscaping works shall be carried out in accordance with the approved scheme unless otherwise approved in writing by the Planning Authority.

Any trees/shrubs which within a period of five years from the completion of the approved landscaping scheme fail to become established, die, become seriously diseased, or are removed or damaged shall be replaced in the following planting season with equivalent numbers, sizes and species as those originally required to be planted unless otherwise approved in writing by the Planning Authority.

Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity.

6. Pursuant to Condition 1 – no development shall commence until details of the proposed means of private foul drainage to serve the development have been submitted to and approved by the Planning Authority.

The duly approved scheme shall be implemented in full concurrently with the development that it is intended to serve and shall be operational prior to the occupation of the development.

Reason: To ensure that an adequate means of foul drainage is available to serve the development.

Note to Applicant:

Private drainage arrangements are also subject to separate regulation by Building Standards and SEPA.

7. Notwithstanding Condition 1 above, no development shall commence until an appraisal of the wholesomeness and sufficiency of the intended private water supply and the system required to serve the development has been submitted to and approved by the Planning Authority.

The appraisal shall be carried out by a qualified hydrologist and shall include a risk assessment having regard to the requirements of Schedule 4 of the Private Water Supplies (Scotland) Regulations 2006 which shall inform the design of the system by which a wholesome and sufficient water supply shall be provided and maintained. The 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.

The development shall not be brought into use or occupied until the required water supply system has been installed in accordance with the agreed specification and is operational.

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 to Applicant:

Regulatory requirements for private water supplies should be discussed with the Council's Environmental Health Officers in the first instance.

8. Notwithstanding Condition 1 above, 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.

9. Notwithstanding the provisions of condition 1 above, no development or other work shall be carried out on the site until a Phase 1 Habitat Survey has been submitted to and approved by the Planning Authority.

Reason: To ensure that the proposed development accords with the provisions of SG LDP ENV 1.

10. Notwithstanding the provisions of condition 1 above, the developer shall secure the implementation of an archaeological watching brief, to be carried out by an archaeological organisation acceptable to the Planning Authority, during all ground disturbance. The retained archaeological organisation shall be afforded access at all reasonable times and allowed to record, recover and report items of interest and finds. A method statement for the watching brief will be submitted by the applicant, agreed by the West of Scotland Archaeology Service and approved by the Planning

Authority prior to the commencement of the watching brief. The name of the archaeological organisation retained by the developer shall be given to the Planning Authority and to the West of Scotland Archaeology Service in writing not less than 14 days before development commences.

Reason: In order to protect archaeological resources.

Note to Applicant:

Regard should be had to the West of Scotland Archaeology Service's consultation comments in respect of the proposed development.

APPENDIX TO DECISION APPROVAL NOTICE

Appendix relative to application **19/01924PPP**

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

No

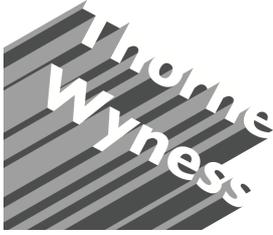
-
- (B)** Has the application been the subject of any "non-material" amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing.

No

-
- (C)** The reason why planning permission in principle has been approved.

The site is considered to represent a suitable opportunity for the proposed development without causing any detrimental impact on the wider area and there are no infrastructural constraints which would preclude the development of the site.

The proposal accords with Policies LDP STRAT 1, LDP DM 1, LDP 3, LDP 8, LDP 9, LDP 10, LDP 11 and Supplementary Guidance SG 2, SG LDP ENV 1, SG LDP ENV 13, SG LDP ENV 14, SG LDP ENV 20, SG LDP HOU 1, SG LDP SERV 1, SG LDP ENV 20, SG LDP TRAN 4, SG LDP 5 and SG LDP TRAN 6 of the adopted 'Argyll and Bute Local Development Plan' 2015 and there are no other material considerations which would warrant anything other than the application being determined in accordance with the provisions of the development plan.



For the attention of the Local Review Board, % Adele Price Williams

Wednesday, 22 April 2020

RE: 20/006/LRB (19/01924/PPP) Plot 2, Land East of Ardteatle Cottage, Dalmally

Dear Sir/Madam,

There are a some points raised in the statement of case from the council and in the comments from the objectors, Mr Sheilds and Ms de Rijk, that my client wishes that I address.

Firstly in the LRB statement of case for Argyll and Bute.

“Improvement works to the existing public road including surfacing with bitumen macadam to a depth of 100mm for a minimum length of 350m and the provision of two passing places”

The surfacing works mentioned here are more properly described as resurfacing works, since a tarmac carriageway exists here already.

“SG LDP TRAN 5 requires that where development proposals will significantly increase vehicular or pedestrian traffic on substandard private or public approach roads, then developments will be required to contribute proportionately to improvements to an agreed section of the public or private road network.”

Since my client's planning application (19/01924/PPP) was granted the occupiers of Ardteatle Cottage have been granted planning permission for an extension to add 2 bedrooms to their one bedroom house, (19/02623/PP). We also note that a cabin style ancillary dwelling containing sanitary facilities and sleeping accommodation and advertised as a holiday let has been erected within the curtilage of Ardteatle cottage. The advertisement on AirBnB states that this has a parking place. As this increases the number of bedrooms at Ardteatle Cottage from 1 to 4, SG LDP TRAN 6 states that Ardteatle cottage should have 3 parking spaces (2 for the house proper and one for the ancillary dwelling operated as a letting room). The existing one bedroom Ardteatle cottage would have required 1 parking space. Therefore this is an increase of 2 parking spaces, which is the same number that are required for my client's application which predates both the ancillary dwelling, which has no planning permission or building warrant, and the application for the extension at Ardteatle cottage. This demonstrates that the road was perfectly acceptable for the additional traffic generated by two additional car parking spaces at the time my client made his application.

Further, there are countless examples of minor roads all over Argyll and Bute that support more than two dwellings. For example the Class III road between Torloisk and Dervaig on Mull has much steeper winding turns, and several sections where passing places are more than 350m apart and supports at least 5 dwellings, a cafe / museum, lumber traffic from forestry operations and also carries through traffic between the West coast of Mull and Dervaig.

"The Area Roads Engineer has assessed the proposed development against this policy and has deemed that the specific improvements as specified by part (iii) of condition 4 of planning permission ref 19/01924/PPP are wholly practical and proportionate to the nature and scale of development proposed"

If it is now the council's policy to make every crofter at the end of an unclassified local road pay half as much again as they intend to spend on their whole house towards the cost of maintaining the public highway, this is a major change in policy and it should be mentioned explicitly in the LDP and SGs. However, this would collapse the price of land in many locations as it would make many development sites across Argyll and Bute economically unviable by pushing the cost of building the house well over its resale value. If it is not the council's policy to apply this condition generally, then the application of this condition in this case demonstrates that its application in this instance does not meet the 'fair and reasonable' tests in the planning policy guidance.

With regards to points made by Sonja de Rijk and Steve Shields:

1)

This point on highway conditions has been addressed in the context of planning policy above. Further, the objectors state:

"In summary we would point out that Ardteatle cottage is 200 years old and this road has served this one property for many years. The current infrastructure is designed for this one property and is not fit, safe or capable of taking the traffic from additional development."

It is important to note that this was the main road between Inverary and Tyndrum, It has not been possible to track down the exact date that it was bypassed, but it was shown as the main road in the 1940-43 OS maps and the Dalmally bypass was constructed in 1970 so it must be between these dates. It seems unlikely that any works were carried out to make it narrower since it was bypassed.

2)

It is not common practice to propose extensive modifications to the public highway for the construction of a single family home. If the objectors believe this they should also have made this proposal in their application for planning permission as the developments on their property increase the traffic by the same amount.

It should also be noted that the current applicant has commenced groundbreaking works prior to permission being granted and regardless of subsequent conditions attached this disregard for planning has left us exceptionally worried that the applicant will have the same level of disregard to us in respect of accessing our home.

A borehole was made to carry out a test to ascertain whether a suitable water supply could be found on site. This was a test done with the full knowledge of the planning officer so that a location for the private water supply could be shown within the red site line. It had to be done as planning permission can not be granted if there is no viable water supply. In no sense has 'ground breaking' for the commencement of development been started on the site.

3)

The objectors are confused about the difference between a planning obligation and a planning condition. Planning obligations are agreed through a section 75 agreement and the intention to require such an onerous agreement as is proposed here should have been notified before the application was granted, not applied in a condition. Further, reasonable is the key word here. For a major development in a city centre location a developer might be asked to provide a proportion of affordable housing or to contribute towards the cost of infrastructure, but these costs are never anywhere near as high as an additional 50% of the resale value of the property that has been constructed.

Regardless of the current state of the road the applicant is missing the point that the current infrastructure is only fit for access to one property alone. The infrastructure requires improvement because of this development.

We note that in their objection the occupiers of Ardteatle cottage state that the road is only suitable for a one car property, yet they cannot believe this is a true statement as they have since applied for permission to build an extension which adds two bedrooms to their house. Even before they have built their proposed extension they need access to their property for a minimum of 3 cars for themselves, the guests that stay in their cabin and for deliveries / other visitors. They could also have potentially up to 5 cars should they wish to operate their house as a bed and breakfast.

4)

"The developer has not included the £150,000 purchase price of the land (which we understand has still not been completed) so by the developers own calculations this is an increase of 26% over the proposed development cost of £350,000 and not the 150% of £200k as claimed by the developer..."

We stated approximately 150% as the costs are approximate. I note that the sentence in our previous statement is grammatically ambiguous but 150% of £200k is obviously meant as £300k in the context of the figures provided. For clarity the point we are making is that this condition is asking for a cost increase of between £80,000 and £100,000 on a £150,000 to £200,000 project. This is based on a rate of between £40-60 / m² given to me by a QS as being typical of prices from Breedons or DK Laferty. The objectors calculations are based on conjecture, as the the price of the land subject to the application is not a matter of public record at this point so the figures derived from this assumed property value have no basis in fact. The permission in question is for a small development plot within a much larger parcel of land, the land as a whole might be worth the amount they are suggesting, but the plot that is subject to the application in question is not. Further, as the land purchase was conditional on the planning application being granted, my client is now obliged to buy the land and so the cost of the land is a now 'sunk cost' and as such it is not relevant.

"Any developer should have taken into consideration that the current infrastructure is not fit for more than the existing property of Ardteatle Cottage and budgeted accordingly"

It was not reasonable to have anticipated the large infrastructure costs as the planning policy guidelines quoted by the objectors in their comments state that my client should have been invited to enter into a section 75 agreement prior to the grant of planning permission not through a condition attached to the application.

"The applicant has incorrectly stated that the application under review is just a renewal of previously lapsed application..."

No-where in the Notice of Review statement submitted on behalf of my client is it stated that this is a renewal of a previous application, this sentence should be ignored. There was a recently expired previous planning permission on the same site as this for 2 dwellings. This did not have a condition attached requiring extensive road maintenance and improvement works. This was mentioned as it demonstrates that the council have treated this particular application unfairly compared to the previous application on the same land.

Conclusion

We suggest that statements that have been made about the unsuitability of the road for carrying additional traffic are hyperbole.

We ask why it is fair for the occupiers of Ardtype Cottage to develop their land such as to increase traffic threefold on the public highway at no cost to themselves, while the whole burden for improvements and maintenance is placed on my client for a similar increase in traffic.

We ask why has this planning permission been singled out for special treatment compared to many other sites in Argyll and Bute.

We further ask councillors to consider if it is now the council's policy to request such onerous conditions on all planning permissions in remote locations across the county. If so, it might be wise to make this change explicit in planning policy documents, such that it can be properly scrutinised by the public as it will affect many in the farming and crofting communities who might be shocked to learn of these additional costs when their planning permission notice arrives.

A reasonable condition would be to resurface the full width of the existing carriageway for 20m at the proposed road entry. The entry detail shown in SD08/004a could also be extended from 20 to 25m to allow extra room for traffic to pass. With the condition to apply before the house is occupied.

Yours Faithfully,

Will Thorne, (ARB) on behalf of Dan Taylor