

**MINUTES of MEETING of ARGYLL AND BUTE LOCAL REVIEW BODY held BY SKYPE
on TUESDAY, 11 MAY 2021**

Present: Councillor David Kinniburgh (Chair)
Councillor Graham Hardie Councillor Roderick McCuish

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 NE OF KILDONALD COTTAGE, CAMPBELTOWN (REF: 21/0001/LRB)

The Chair, Councillor David Kinniburgh, 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 LRB felt that they had sufficient information before them to come to a decision on the Review.

Councillor McCuish advised that he did not have enough information before him and that he would like a couple of points clarified.

Councillor Hardie confirmed that he had enough information before him.

Councillor Kinniburgh advised that he would like to request some further information before coming to a decision on this Review. He advised that from reading the report of handling, the Planning Officer had indicated that the proposed development would be 1³/₄ storey dwelling with internal garage, giving a total ground floor area of around 150 sqm. Reference was also made to two single storey cottages with footprints slightly under 150 sqm. The Planning Officer had stated that these were not substantial buildings and the scale of the proposed building would not make it the subordinate building. The Applicant, however, had advised that the proposal was for a 1¹/₂ storey dwelling and that the footprint of the house would be 170sqm and include a garage. The Applicant had also indicated that the footprint of the nearby Kildonald Cottage was 250 sqm. Councillor Kinniburgh advised that he would like clarification from the Planning Officer on the footprint of the proposed building and the footprints of the buildings he was comparing it too.

Councillor Kinniburgh also referred to the Applicant's offer to plant trees. He referred to page 13 of the Agenda pack and the Planning Officer's commentary at section 5&6 which stated that "*The offer to plant trees is welcome as part of a landscape*

plan addressing the proposal area. However, a woodland may not easily be controlled as a permanent land use feature within the landscape. If the intention is to use plantings as the substantial ground feature to comply with the definition of rounding off, then there requires to be a proposal detailing how this feature would be protected from clearing in the future, as for example, is the case with ancient woodland. It is possible that a planning condition could control the future status of the woodland but this would need to be accompanied by an active management plan that would ensure its health and vitality in perpetuity. It would be unusual for such an approach to be used to meet the terms of planning policy". He then referred to the further submission provided by the Applicant (contained within pages 21 and 22 of the Agenda Pack) which provided details of the required management of the suggested wooded area. Councillor Kinniburgh said he would like clarification from the Planning Officer on whether or not this further information would fulfil the requirements of the definition of rounding off within the Local Development Plan and if the additional information provided could be considered an active management plan. He also sought clarification on whether or not a Section 75 legal agreement to regulate the use of the land north of the site could be requested via a planning condition.

Councillor McCuish referred to page 14 of the Agenda Pack and the Planning Officer's commentary at point 8 which stated "*The use of a Section 75 agreement to regulate the use of the land to the north such that it is not developed with buildings for any use would require to be discussed with the council's legal team. It would be expected that these discussions are concluded in advance of any planning application. Such an approach could be used in conjunction with the offer of woodland planting and future land management. However, this was not in front of officers at the time of making a determination*". Councillor McCuish advised that he would like clarification from the Planning Officer on whether or not pre application discussions were undertaken with the Applicant.

Councillor Kinniburgh said that he had noted that the Applicant currently resided in a farm house and that it had been suggested by the Applicant that this property could be used for letting purposes if sold. He advised that he would like clarification from the Applicant as to whether or not her home was still part of an operating farm and if so, would it be able to continue to operate as a farm if, and when, the farm house was sold. He also sought further clarification from Planning Officer on whether or not the proposal could be classed as an exceptional case if the current property did continue to operate as a farm business.

Councillor Hardie confirmed that having reviewed all the information before him he had come to the conclusion that the proposal should be rejected for the reasons detailed on page 18 of the Agenda Pack, section R which stated "*The proposal is not consistent with the relevant provisions of the Local Development Plan regarding siting within the Countryside Zone and an Area of Panoramic Quality contrary to policies LDP DM1, LDP STRAT 1 and LDP 3. The application does not meet the criteria set out in policy LDP DM 1 for housing in the countryside as the site is not infill or rounding off. There are no material considerations which warrant departure from these provisions.*"

Councillor Kinniburgh acknowledged that the information contained within the planning report could lead Councillor Hardie to that conclusion. However, he advised that following receipt of the further information which he would like to request, he believed that some of these aspects may provide the LRB with material

considerations which would allow for a departure to the provisions of the Local Development Plan.

Councillor McCuish said that he fully respected Councillor Hardie's position, but given the further information both he and Councillor Kinniburgh have asked for, he said this might lead the LRB to a different position from that which the Planning Officer put forward in the report of handling. He pointed out that some of the information before the LRB now was not before the Planning Officer when he determined the case.

It was noted that the majority view of the LRB was to request further information and that all the Members of the LRB would be able to consider again their position at a future meeting once this further information was received and all interested parties were given the opportunity to comment on it.

Decision

The Argyll and Bute LRB agreed by a majority:

1. To request the following written information from the Applicant:

Clarification on whether or not the Applicant's current home formed part of a farm business and, if so, would it be able to continue to operate as a farm if, and when, that property was sold.

2. To request the following further written information from the Planning Officer:

- (a) Clarification on whether or not pre application discussions were undertaken with the Applicant and whether or not advice in relation to the potential for tree planting and a section 75 legal agreement was discussed.

- (b) Clarification on the size and footprint of the proposed development and the size and footprints of the nearby buildings the proposed development was being compared to (having noted that the Applicant had indicated the proposed development would be 1½ storey and 170sqm including a garage, with a nearby property being 250 sqm, which was different to what had been stated in the report of handling).

- (c) Clarification on whether or not the proposed tree planting north of the site could be considered rounding off as defined in the Local Development Plan and if the information provided by the Applicant could be considered an active management plan and enable a Section 75 Legal Agreement to restrict the use of the land north of the site to be included as a planning condition.

- (d) If the Applicant confirms that the farm house she currently lives in is part of a farm business and could continue to operate as a farm if, and when, the property was sold, clarification on whether or not the proposal could be considered an exceptional case.

3. To adjourn the meeting and reconvene once the further information was received and all interested parties had been given the opportunity to comment on it.

(Reference: Notice of Review and supporting documentations, comments from Planning Officer and comments from Applicant, submitted)