

Public Document Pack

Argyll and Bute Council
Comhairle Earra Ghaidheal agus Bhoid

Executive Director: Douglas Hendry



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2 September 2021

NOTICE OF MEETING

A meeting of the **ARGYLL AND BUTE LOCAL REVIEW BODY** will be held **BY TEAMS** on **THURSDAY, 9 SEPTEMBER 2021 at 10:00 AM**, which you are requested to attend.

Douglas Hendry
Executive Director

BUSINESS

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST (IF ANY)**
3. **CONSIDER NOTICE OF REVIEW REQUEST: LAND EAST OF CAMUSDARACH, KILMELFORD (REF: 21/0003/LRB)**
 - (a) Notice of Review and Supporting Documentation (Pages 3 - 42)
 - (b) Comments from Interested Parties (Pages 43 - 68)
 - (c) Comments from Applicant (Pages 69 - 70)

Argyll and Bute Local Review Body

Councillor Audrey Forrest
Councillor Jean Moffat

Councillor David Kinniburgh (Chair)

Contact: Hazel MacInnes Tel: 01546 604269

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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 100340229-003

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:

Ref. Number:

You must enter a Building Name or Number, or both: *

First Name: *

Charles

Building Name:

Last Name: *

Tibbles

Building Number:

12

Telephone Number: *

07976 340225

Address 1
(Street): *

James Street

Extension Number:

Address 2:

Mobile Number:

Town/City: *

FALKIRK

Fax Number:

Country: *

Scotland

Postcode: *

FK2 7EZ

Email Address: *

charles@charlestibblesplanning.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"/> | You must enter a Building Name or Number, or both: * | |
| Other Title: | <input type="text"/> | Building Name: | <input type="text" value="Kilmelford Yacht Haven"/> |
| First Name: * | <input type="text"/> | Building Number: | <input type="text"/> |
| Last Name: * | <input type="text"/> | Address 1 (Street): * | <input type="text" value="Kilmelford"/> |
| Company/Organisation | <input type="text" value="K. G. McColl and Company Limited"/> | Address 2: | <input type="text"/> |
| Telephone Number: * | <input type="text"/> | Town/City: * | <input type="text" value="Oban"/> |
| Extension Number: | <input type="text"/> | Country: * | <input type="text" value="Scotland"/> |
| Mobile Number: | <input type="text"/> | Postcode: * | <input type="text" value="PA34 4XD"/> |
| Fax Number: | <input type="text"/> | | |
| Email Address: * | <input type="text" value="info@kilmelfordyachthaven.co.uk"/> | | |

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

| | | | |
|----------|-------------------------------------|---------|-------------------------------------|
| Northing | <input type="text" value="712461"/> | Easting | <input type="text" value="183955"/> |
|----------|-------------------------------------|---------|-------------------------------------|

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)

Site for erection of dwellinghouse

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.

See separate Statement of Reasons

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)

Since the decision to refuse the application was issued, the Council has determined its position on representations to the emerging LDP2 which is relevant to the consideration of this proposal. The relevant matters are briefly addressed in the accompanying Statement of Reasons and draw on the landscape matters as presented in the statement that was lodged in support of the application.

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)

Statement of reasons

Application Details

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

20/02352/PPP

What date was the application submitted to the planning authority? *

22/01/2021

What date was the decision issued by the planning authority? *

03/06/2021

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

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may select more than one option if you wish the review to be a combination of procedures.

Please select a further procedure *

By means of inspection of the land to which the review relates

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

The decision turns on landscape issues which cannot be fully assessed without inspecting the site and it's landscape setting.

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 Charles Tibbles

Declaration Date: 21/07/2021

Statement of Reasons

K. G. McColl and Company Limited seek review of the delegated decision on their application for Planning Permission in Principle (ref. 20/02352/PPP) for a dwellinghouse on land east of Camusdarach, Kilmelford, which they own as part of their property holdings at Kilmelford Yacht Haven and is surplus to that required for the operation of the boatyard. The case for the development is set out in detail in the submitted Supporting Statement.

By way of background, whilst it is acknowledged that such proposals might more appropriately be pursued through a future development plan review, the economic impact of the Covid-19 Pandemic on the operation of the Kilmelford Yacht Haven has presented an entirely unforeseen and pressing situation which has prompted an asset review by the business. In the face of ongoing difficulties with a second badly impacted trading season, the position of the business would be greatly assisted by positive and early consideration of the current development proposal. Hence the decision was made to pursue an early application for permission in principle and to now seek review of the refusal of that application by the planning authority. The proposal has attracted significant public support and a local resident is poised to take ownership of the proposed housing plot subject to obtaining Planning Permission in Principle. To date during the Pandemic there has been a significant loss of turnover at Kilmelford Yacht Haven of around 60%, presenting particular difficulties for the business at a time when it had been hoped to increase turnover following recent investment in the business, most notably in relation to the new cafe facilities.

From the outset, it was acknowledged that the proposal is contrary to the adopted LDP. However, the emerging LDP2 anticipates a more flexible approach to development in the Countryside policy zone, dependent upon its landscape impact. Progress with LDP2 has been subject to continuing delays caused in part by the Pandemic, reinforcing the decision to make an early application for Planning Permission in Principle. It is clear from the Council's past consideration of the site through previous development plan work that the site could be developed without causing unacceptable landscape impacts and it is hoped that a conclusion consistent with that previous view will be reached by the Local Review Body. Since the refusal notice was issued, the Council has considered representations to the emerging LDP2 and has determined that no changes to the emerging Countryside policy O2 are necessary but that 'a technical note on development in the countryside will be prepared by the Council and will set out in more detail guidance on the content and style of LVIA that will be required to be carried out', with the intention that this will be 'proportionate to the scale and sensitivity of proposals'. It is argued that significant weight should now be attached to the to the relevant provisions of the emerging LDP2

Whilst a detailed LVIA has not been carried out in support of the current application, the Council have reached their own findings as to the landscape character at this location in the past as detailed at page 4 of the application supporting statement and it is submitted that an appropriate LVIA at this location would consider the matters outlined below.

Deriving baseline information for LVIA should consider existing landscape character assessment work such as that commissioned by the Council as part of the Argyll and Bute Landscape Capacity Study which recapped on earlier landscape assessment work co-ordinated by SNH. Whilst the key landscape characteristics of this part of Argyll that were identified in the Study are not represented in the low lying scrub/ woodland cover at the proposed development site, the Study did suggest utilising existing woodland and new broadleaf planting to ensure new development is integrated sensitively into the landscape where development is being considered in coastal areas. The landscape cover at the site presents adequate scope to realise a modest and sensitively sited dwelling. Consequently, it is not considered that the landscape impact of development at this location would be significant and support for that view can be drawn from the fact that it was

previously proposed as a potential area for development by the Council and included as such in a previously adopted development plan. The development plan status of the land was changed on the basis of the LDP Examination Reporter recommendations which were founded and defined in part on erroneous objection content which the LDP process provided no opportunity for the landowner to respond to. As explained at page 4 of the application supporting statement, the previous Reporter's findings as to visual impact and character can be questioned and there is no evidence that they were based in any robust analysis of landscape and visual impact. Given this background, it would seem disproportionate, and somewhat unfair to now require a full LVIA for this modest proposal.

In assessing the potential visual impact of proposals, it is noted that the desire is to build a modestly sized 1½ storey house and garage. The preferred design would allow for the main entrance door to be sited at the rear of the property with the garage and parking area located between the house and the A 816. This would minimise any visual impact in views across Loch na Cille and from the loch side. Visually, a new dwelling would appear as a continuation of the pattern already established by The Gatehouse and Camusdarach, assimilating into its surroundings in a similar manner to the latter. Loch na Cille is largely surrounded by development, and it is submitted that the proposed development could be much more sensitively assimilated into its surroundings than, for example, the residential properties that line the north shore. Externally a finish of white render with natural cedar cladding is envisaged. An appropriate approach to development at the site could be secured by condition to ensure that the proposal is successfully integrated into its landscape setting and provide appropriate mitigation against any significant adverse visual impacts. In visiting the proposed development site and assessing views of it from the surrounding area the Local Review Body will reach their own conclusions about the significance of any visual impact that would be caused by the development. The proposed development would only be widely visible from the north shore of Loch na Cille. It is submitted that the visual impact of the proposal in views from the road along the north shore of Loch na Cille would not be significant.

The circumstances of the proposed development are unique and the proposal should be determined upon its own merits. The content of an emerging plan can be a material consideration and, in appropriate circumstances, can outweigh the provisions of an adopted plan. Whilst the proposed development is contrary to the adopted LDP, the emerging LDP2, and in particular emerging Policy O2 supports a more flexible approach to development in the Countryside zone where compatible with landscape designation interests with Landscape and Visual Impact Assessment demonstrating to the satisfaction of the Planning Authority that the proposal can be satisfactorily integrated into its landscape setting. In the circumstances of the current application it is hoped that the information submitted with the application is sufficient to demonstrate and give confidence that the proposal could be satisfactorily integrated into its landscape setting. If it is so minded, it is therefore requested that the Local Review Body considers granting Planning Permission in Principle on that basis and subject to such conditions as it may consider necessary to secure the satisfactory integration of the development into its landscape setting.

Charles Tibbles **Planning**

Land at Kilmelford Yacht Haven

Application for Planning Permission in Principle

Proposed site for dwellinghouse

Supporting Statement

December 2020

Land at Kilmelford Yacht Haven

Application for Planning Permission in Principle

Proposed site for dwellinghouse

Supporting Planning Statement

Introduction

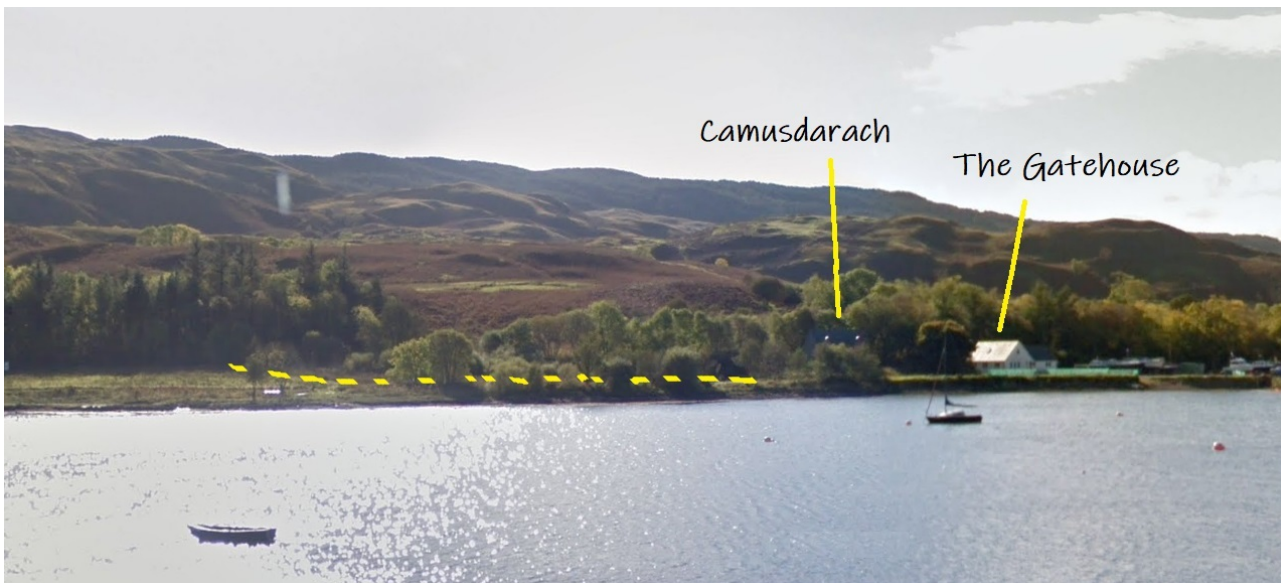
This statement forms part of an application under the Town and Country Planning (Scotland) Act 1997 (as amended) by K. G. McColl and Company Limited which seeks planning permission in principle for a proposed dwelling on land at Kilmelford Yacht Haven.

K. G. McColl and Company Limited are the owners of Kilmelford Yacht Haven which is an important local business. The ongoing Covid-19 emergency restrictions were unforeseen and have severely curtailed custom over the 2020 season with major financial implications for the business. Another very difficult year now appears inevitable in 2021 and the owners are keen to best realise their assets in the short term in order to support the business through this difficult time. The current position was not envisaged at the stage where proposals might have been pursued through the Local Development Plan 2 process. Very recently, interest has arisen from a local buyer keen to build their own home at this location. Hence the owners now request that Argyll and Bute Council give favourable consideration to the grant of planning permission in principle for a dwelling. This would facilitate a capital release assisting the business both in the short term and with investment in its longer term operation. The owners have a positive view to the future and investment, for example in the recently approved cafe project, will benefit the local economy and tourism.

The Application Site

The application site (hereafter referred to as the Site) comprises around 0.33 hectares of land north of the A816 to the south west of Kilmelford. The Site slopes gently downhill from the A816 towards the private vehicle access serving Kilmelford Yacht Haven and the surrounding enclave of development. The open shores of Loch na Cille lie to the north a short distance beyond the private vehicle access. The eastern boundary of the Site is clearly demarcated on the ground by a fence beyond which lies an area of open ground.

Photograph 1 shows the approximate position of the east and northern boundaries of the Site with a broken yellow line. It is considered that a dwelling on the western portion of the Site could assimilate into the local scene in a very similar manner to Camusdarach and The Gatehouse which are the two dwellings depicted to the right in Photograph 1.



Photograph 1: View of the site and immediate surroundings from the north side of Loch na Cille

The Site (outlined red in Map 1. below) occupies an unused area of land with scrub and taller trees towards the boundary with the A816. As such views into the Site from the A816 are restricted, particularly during the summer months when trees are in leaf.



Map 1: The Site is shown outlined red. The applicants have vehicular access rights from the A816 over the area shaded blue.

Planning History

A search of Argyll and Bute Council's available online planning records does not reveal any previous planning decisions pertaining to the Site. Two previous planning proposals at the Site were withdrawn prior to determination and a number of applications have been considered in relation

to adjacent areas. For convenience, details of previous proposals with internet links to related background documents are detailed at Appendix 1.

The previous assessment of the Site through the development management process seems overstated in emphasising the prominence and visibility of the Site as does the reference to it as being isolated and open. It is perhaps the case that trees and scrub vegetation at the Site have grown significantly since that time.

The Site is quite discrete in nature and vegetation cover compared to the open land to the east which was the subject of a planning appeal decision in 2001 (as detailed at Appendix 1).

The respective planning permissions for Camusdarach and the Gatehouse to the west and their subsequent development demonstrate how a dwelling might be successfully assimilated into the local scene without impacting it's character.

Development Plan History

Whilst historic officer assessment of proposals for the Site through the development management process have not been supportive, a positive stance as to the potential for development at this location was proposed by the Council under the Finalised Argyll and Bute Local Plan. Subsequently, Proposed Modifications removed the proposed Potential Development Area as the owner no longer wished to develop the area for business reasons. If the Proposed Modification of the plan had been informed by any environmental concerns then one might have expected some corresponding explanation in the stated justification. For assistance, background references to previous development plan consideration are detailed at Appendix 2.

The Council's view as to the potential suitability of the Site for development presumably also influenced the decision to include it within the Settlement Zone under the Proposed Local Development Plan for Argyll and Bute. In response to objections, Argyll and Bute Council were of the view that the landscape character at this location (i.e. including the Site considered here) is consistent with Settlement Zone designation based on the topography of the site along with its location adjacent to existing housing and the existing boatyard to the west.

The process leading up to adoption of the Local Development Plan severely impacted the value and usefulness of the site to the owners and left no opportunity for them to respond to the issues introduced in the Reporter's conclusions, and in particular that development at this location: *"would constitute ribbon development, with a consequent adverse visual impact on the head of Loch Melfort, the setting of Kilmelford and the character of the surrounding rural area"*. Even if were accepted that ribbon development were to result, this does not of itself determine that there would be any significant visual impact to the surrounding area, nor would it necessarily determine that any visual impact would be detrimental.

It should also be noted that the Reporter's conclusions and recommendations were defined around the site boundary of planning permission 08/00029/DET. That permission was in fact never implemented. A differently designed dwelling was eventually constructed upon a larger planning application site extending further eastwards than the site previously approved under planning permission 08/00029/DET.

Development Plan

The current statutory development plan for the Site is the Argyll and Bute Local Development Plan, as adopted on 26th March 2015. Relevant provisions are reproduced at Appendix 3 to this report.

As a development that would prospectively extend an existing settlement into the Countryside Zone, Policy LDP DM1 creates a presumption against development at this location.

As an Area of Panoramic Quality, Policy SG LDP ENV 13 requires particular attention to massing form and design details of development. It is considered that the site presents more than adequate scope for the sensitive assimilation of development appropriate to this location such that the final design details can be appropriately determined through subsequent Application for Approval of Matters Specified in Conditions.

At Section 1.6 the adopted LDP explicitly acknowledges that unforeseen change can give rise to a need for review of policy. Given the impact of the Covid emergency and economic recession it is hoped that sympathetic consideration will be given to the desirability of supporting local businesses at this difficult time.

Emerging Development Plan

The Argyll and Bute Proposed Local Development Plan 2 was published for consultation between 14th November 2019 and 24th January 2020. This was prior to the World Health Organisation's declaration of international health emergency and some months prior to the introduction of subsequent ongoing emergency restrictions in the UK to control the spread of Covid-19.

Proposed LDP2 includes the Site within the Countryside Zone but sets advocates a more flexible policy approach to development within the Countryside zone compared to the adopted LDP provisions.

The proposed policy approach for Countryside Areas would only support development at the Site *"where this is of an appropriate scale, design, siting and use for its countryside location, as detailed in the relevant subject policies"*.

At this location, adjacent to but outwith settlement boundaries, the proposed policy approach would also require

"..... a Landscape and Visual Impact Assessment demonstrating to the satisfaction of the Planning Authority, that the proposal can be successfully integrated into its landscape setting"

Proposed LDP2 also includes the Site as part of a Local Landscape Area where the proposed policy provisions would resist development

"where its scale, location or design will have a significant adverse impact on the character of the landscape."

Any conclusion to the effect that development of a dwelling at the Site would have a significant adverse impact on the landscape would sit at odds with the Council's assessment of the Site in relation to the previous LDP Examination, as would and any doubts about the potential for successful integration of the proposal with the landscape setting. It should also be noted that the

site was not included in the Argyll and Bute Landscape Capacity Assessment, presumably because the Site was proposed as part of a Potential Development Area at the time the assessment work was instructed.

The proposed requirement for a formal Landscape and Visual Impact Assessment is difficult to justify in this instance given the Council's assessment of the Site as presented to the previous LDP Examination.

Indicative Regional Spatial Strategy

In anticipation of the future commencement of new legislative provisions for Regional Spatial Strategies under the Planning (Scotland) Act 2019, Argyll and Bute Council have produced an [Indicative Regional Spatial Strategy](#) for those parts of the Council area outwith Loch Lomond and the Trossachs National Park. Once commenced, the new legislative provisions will place a duty on the Council to have regard to such Strategies in preparing development plans for their area.

The Strategic Overview expressed at page 4 identifies the major overriding issue for the area as depopulation which needs to be tackled by:-

- i) enabling community wealth building to grow resilience in our communities, creating higher quality jobs and enabling new investment in our communities,
- ii) delivering a diverse range of new homes, and
- iii) by improving our connectivity both in terms of transport and digital connectivity.

This all takes place in the context of mitigating and adapting to climate change, the significant economic and social impacts on our communities wrought by Covid-19, the resultant recession and the potential impacts of leaving the EU.

It is submitted that the issues and context expressed in the Council's Indicative Regional Strategy, are material to the consideration of this application.

Conclusions

Whilst the proposition that the Site may be suitable for development has clearly, and not unreasonably, been held by Argyll and Bute Council in the past, this is not reflected in the adopted LDP and Proposed LDP2.

It is accepted that development at the site would not accord with the terms of the current development plan. Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the current application be determined in accordance with that plan unless material considerations indicate otherwise. In this connection it is requested that careful consideration and commensurate weight are attached to the material considerations described below in reaching a decision on this application.

Economic circumstances: the impacts of Covid-19 emergency restrictions and recent deep economic recession have had an unforeseen and significant adverse impact on the operations of Kilmelford Yacht Haven. This situation is expected to continue in the short term with a full recovery not now expected until at least 2022. Kilmelford Yacht Haven is an important local

business and integral to the tourism and hospitality industry in Argyll. Maintaining investment is necessary to the ongoing success of the business and there would be significant benefit in this connection if they can secure planning permission in principle at the earliest opportunity for development of the Site, and in so doing release resources to assist Kilmelford Yacht Haven through this difficult time. Circumstances have changed significantly and quickly over the past year making a rapid response imperative in order to protect and support the future of Kilmelford Yacht Haven and leave them well prepared to embrace the future resumption of customer demand.

Emerging Policy Considerations: Proposed LDP2 promises a more flexible approach to development in Countryside Areas. Support for the proposal under emerging policy provisions hinges on it's landscape impacts. Given the Council's past support for development at the Site and their associated assessment of landscape issues it is hoped that sympathetic consideration will be given to the current proposals. Whilst the Reporters at the LDP Examination took a different view, and one which the Council had little choice to but to accept in terms of the LDP process, this does not prevent the Council from considering matters in light of current circumstances and giving this application appropriate due consideration on it's own individual merits.

APPENDIX 1:

Previous Planning Proposals for the Application Site

An application for planning permission (**00/01334/DET**) for a dwellinghouse, garage and septic tank at the Site was withdrawn on 5 June 2001 prior to Committee consideration. A [draft officer report](#) (dated 17 May 2001) had been prepared to consider the application and is available in the Council's Online Planning and Building Standards System. The report concluded that the proposal contravened relevant development plan policies applicable at that time.

A previous outline planning application (**06/02417/OUT**) described as "site for erection of staff dwelling house" was made by Kilmelford Yacht Haven in November 2006. An report was included in the [agenda papers \(at page 63\)](#) for the Oban, Lorn & The Isles Area Committee of 7 March 2007. Whilst recommended for refusal, consideration of the matter was continued for a site inspection on 23 March 2007 and the application was subsequently withdrawn on 2 April 2007 prior to any further consideration by the Area Committee. The officer's recommended refusal, expressing concerns that the proposal represented piecemeal development within an area that was proposed as a Potential Development Area under the emerging Local Plan at the time where a comprehensive approach to development was required.

Planning History of Surrounding Areas

Land to immediately west of the Site is occupied by a dwelling house (Camusdarach) constructed pursuant to planning permission 08/01029/DET.

To the west of Camusdarach lies a further dwellinghouse called The Gatehouse which was constructed pursuant to planning permission 04/00061/DET (which represented a revision of earlier proposals which had been approved under planning permission 01/01161/DET). The discharge of an associated Section 75 Agreement restricting occupancy was authorised on 27 May 2015 (see application 15/00494/PP).

A planning application for a guest house (00/01767/DET) on the land east of the Site was refused on appeal on 8 October 2001. In his [appeal decision](#), the Reporter concluded that a guest house at this location would spoil views from the main road across the appeal site to the loch and hills to the north.

APPENDIX 2:

Consideration of the Site in preparing Argyll and Bute Local Plan

The Site formed part of a proposed Potential Development Area (PDA) "PDA5/128 Kilmelford - Boatyard" for mixed use development per page 140 of the Finalised Argyll and Bute Local Plan as approved by the Council at their [Meeting on 6 April 2005](#). Subsequently, as part of "[Further Proposed Modifications 3](#)" dated March 2007 an alternative approach was endorsed by the Council at their [Meeting on 25 April 2007](#) per item 4 with the [Appendix A](#) of the associated officer report stating as follows:

| <i>"Proposal Map Modification"</i> | <i>"Reason For Modification"</i> |
|--|---|
| <i>"Deletion of PDA 5/128 for mixed use purposes associated with the use of the boatyard and replacement with sensitive countryside and a small area of settlement adjacent to existing boatyard an established business and industry area."</i> | <i>"Owner of the boatyard is no longer interested in developing PDA 5/128 for business reasons and wishes to build one house adjacent to established boatyard and existing manager's house in order to support the retention of the boatyard. "</i> |

Consideration of the Site in preparing the Argyll and Bute Local Development Plan

The Site was proposed for inclusion in the Settlement Zone under the Proposed Local Development Plan for Argyll and Bute.

The proposed Settlement Zone designation of the Site was the subject of objections by Peter Stott and Ewan G Kennedy which were considered through the Local Development Plan Examination process. As noted in the [Report of Examination](#) (see pages 432-436), the Council were of the view that the landscape character at this location is consistent with Settlement Zone designation based on the topography of the site along with its location adjacent to existing housing and the existing boatyard to the west. The Reporter did not fully accept the Council's position and recommended changes to the Proposals Map (per page 22 of the [changes document](#)). These were subsequently accepted by the Council in the process leading up to adoption of the current Argyll and Bute Local Development Plan at the Council's [Meeting of 22 January 2015](#).

APPENDIX 3:

Development Plan Extracts

The current statutory development plan for the Site is the Argyll and Bute Local Development Plan, as adopted on 26th March 2015.

The adopted LDP Proposals Map identifies the Site as falling within the Countryside Zone and an Area of Panoramic Quality.

Within the Countryside Zone, Policy LDP DM1 provides as follows

*“Encouragement shall be given to sustainable forms of development as follows:-
..... (E) Within the Countryside Zone up to small scale* on appropriate infill, rounding off and redevelopment sites and changes of use of existing buildings. In exceptional cases development in the open countryside up to and including large scale* may be supported on appropriate sites if this accords with an ACE**. There is a presumption against development that seeks to extend an existing settlement into the Countryside Zone.”*

The Glossary to the adopted LDP explains that Areas of Panoramic Quality are areas of regional importance in terms of their landscape quality which were previously identified as ‘Regional Scenic Areas’ in the former Strathclyde Structure Plan.

Within the Area of Panoramic Quality, Policy SG LDP ENV 13 provides:

“..... Particular attention shall be given to massing, form and design details within sensitive locations such as Areas of Panoramic Quality”

The adopted LDP expressly acknowledges the possibility of future change per the following text extract:

“1.6 WHAT IF THINGS CHANGE?

1.6.1 The Council will update its evidence base and monitor progress towards meeting the LDP’s strategic vision and key objectives through the publication of the Action Programme every two years.

1.6.2 Key areas where changing trends or uncertainty may result in a need to change policy include:

- Future levels of population, economic and employment growth;*
- Changes in legislative requirements or Government guidance.*

APPENDIX 4:

Extracts from the Emerging Development Plan

The Argyll and Bute Proposed Local Development Plan 2 was published for consultation between 14th November 2019 and 24th January 2020 and includes the Site within the Countryside Zone ([see Map 189](#)) as per the adopted LDP. In this connection, the Proposed [Written Statement](#) explains:

“3.5 The plan seeks to promote a more flexible approach to development in those areas identified in the proposals maps as Countryside Areas. These are areas, where suitably scaled new development which in the opinion of the Council as Planning Authority is able to meet the sustainable development criteria outlined in Policy 02 (A) below will normally be permitted. In those Countryside Areas where there are nature conservation or landscape designations in place proposals for development will have to demonstrate that they are compatible with the designation interests.”

The proposed policy approach for Countryside areas is set out at page 20 of the Plan as follows:

“Policy 02 – Outwith Settlement Areas

Outwith the Settlement Areas shown on the proposals map, development will only be acceptable where it can be demonstrated that it accords with:

An allocation of this plan; or parts A, B or C as set out below, together with all other relevant policies of the LDP2:

A – Countryside Areas

Within the Countryside Areas there is a presumption in favour of sustainable development where this is of an appropriate scale, design, siting and use for its countryside location, as detailed in the relevant subject policies. All developments will require a Landscape and Visual Impact Assessment demonstrating to the satisfaction of the Planning Authority, that the proposal can be successfully integrated into its landscape setting unless they are:

- Infill; or*
- Rounding off; or*
- Redevelopment opportunities of clusters; or*
- Previously developed sites.*

Development adjacent to, but outwith settlement boundaries which are delineated in the Proposals Maps will not constitute infill, rounding off or redevelopment.”

The proposed policy approach for Local Landscape Area where the following provisions will apply:

Development Impact on Local Landscape Areas (LLA)

9.6 The aim of this policy is to provide locally important landscapes in Argyll and Bute, with adequate protection against damaging development that would diminish their high scenic value. The Council has identified Local Landscape Areas and these are shown on the main Proposals Maps. These LLA’s are important not only for their physical landforms and scenic value, but also for the environmental assets that they represent. These qualities could easily be destroyed or damaged by even a relatively small, insensitive development. They therefore must be protected.

Policy 71 – Development Impact on Local Landscape Areas (LLA)

Argyll and Bute Council will resist development in, or affecting, a Local Landscape Area where its scale, location or design will have a significant adverse impact on the character of the landscape unless it is adequately demonstrated that:

- a) Any significant adverse effects on the landscape quality for which the area has been designated are clearly outweighed by social, economic or environmental benefits of community wide importance; and*
- b) The proposal is supported by an LVIA and consistent with the relevant Argyll and Bute Landscape Capacity Assessment.*

Municipal Buildings Albany Street Oban PA34 4AW

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(SCOTLAND) REGULATIONS 2013

REFUSAL OF PLANNING PERMISSION IN PRINCIPLE

REFERENCE NUMBER: 20/02352/PPP

K. G. McColl And Company Limited
Charles Tibbles
12 James Street
Falkirk
Scotland
FK2 7EZ

I refer to your application dated 23rd December 2020 for planning permission in principle under the above mentioned Act and Regulations in respect of the following development:

Site for erection of dwellinghouse at Land East Of Camusdarach Kilmelford Argyll And Bute

Argyll and Bute Council in exercise of their powers under the above mentioned Act and Regulations hereby refuse planning permission in principle for the above development for the **reason(s) contained in the attached appendix.**

Dated: 3 June 2021



Fergus Murray
Head of Development and Economic Growth



REASONS FOR REFUSAL RELATIVE TO APPLICATION NUMBER: 20/02352/PPP

1. The site the subject of this application lies within an area designated as Countryside Zone within the adopted Argyll and Bute Local Development Plan (LDP) 2015.

The site does not represent an appropriate opportunity for infill, rounding-off, redevelopment or change of use of building development within the Countryside Zone as required by Policy LDP DM 1 of the adopted LDP and there has been no acceptable substantive claim of any 'exceptional case' for the development based upon any locational or operational site requirement of sufficient weight to justify the harm of the development in terms of its landscape impact.

The application site is also situated within the Knapdale and Melfort Area of Panoramic Quality where consideration has to be given to Policy LDP DM 3 and SG LDP ENV 13 of the adopted LDP which seek to resist development in, or adjacent to, an APQ where its scale, location or design will have a significant adverse impact on the character of the landscape.

The proposed development is therefore contrary to the established and adopted sustainable development aims of the Council as expressed within key planning Policy LDP STRAT 1 and to the established and adopted settlement strategy as espoused within key planning policy LDP DM 1. It is not considered that the proposed development would constitute an appropriate departure to these key planning policies.

The proposal is therefore considered to be contrary to the provisions of Policies STRAT 1, LDP DM 1, LDP 3, LDP 8, LDP 9 and Supplementary Guidance SG 2, SG LDP HOU 1, SG LDP ENV 13 and SG LDP ENV 14 of the adopted 'Argyll and Bute Local Development Plan' 2015.

NOTES TO APPLICANT (1) RELATIVE TO APPLICATION NUMBER 20/02352/PPP

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended) within three months from the date of this notice. A Notice of Review request must be submitted on an official form which can be obtained by contacting The Local Review Body, Committee Services, Argyll and Bute Council, Kilmory, Lochgilphead, PA31 8RT or by email to localreviewprocess@argyll-bute.gov.uk
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state, and it cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the landowner's interest in the land, in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997 (as amended).



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: 20/02352/PPP

Planning Hierarchy: Local Development

Applicant: K.G. McColl and Company Limited

Proposal: Site for the Erection of a Dwellinghouse

Site Address: Land East of Camusdarach, Kilmelford

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 the erection of a dwellinghouse
- Installation of private drainage system

(ii) Other specified operations

- Connection to public water main
 - Utilisation of existing vehicular access
-

(B) RECOMMENDATION:

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

(C) HISTORY:

06/02417/OUT

Site for erection of staff dwellinghouse – Withdrawn: 02/04/07

(D) **CONSULTATIONS:**

Area Roads Authority

Report dated 02/02/21 advising that the existing access is adequate and raising no objection subject to a condition being imposed on the grant of planning permission requiring the provision of an appropriate parking and turning area within the site.

Scottish Water

Letter dated 25/03/21 raising no objection to the proposed development advising that it will be fed from Kilmelford Water Treatment Works but advising that they are unable to confirm capacity until such time as a Pre-Development Form is submitted for consideration. Scottish Water also advise that there is no public Scottish Water Waste Water infrastructure within the vicinity of the site and accordingly private arrangements will require to be investigated.

Scottish Environment Protection Agency (SEPA)

E-mail dated 28/05/21 advising no objection to the proposed development subject to conditions being imposed on the grant of permission requiring all development to be located on ground above 3 metres Above Ordnance Datum (mAOD) and the finished floor level to be set at a minimum of 4.35m AOD.

JBA Consulting Ltd (JBA)

Report dated 05/02/21 advising no objection subject to the same finished floor level required by SEPA and which should encompass the CFB 200 year still water level, an allowance for climate change, and allowance for wave action and a 0.6m freeboard.

Kilmelford Community Council

Letter dated 02/03/21 providing the following comments to the application.

- The Supporting Statement identifies the Covid-19 situation as being the need to sell the site to raise funds for the boatyard business. As this is not a planning consideration surely it is not relevant to the application? The Statement correctly identifies the Planning Department's previous views on this and the adjacent site, as well as LDP2.

Planning Authority Comment: *The proposed development is fully assessed in Section P below where this issue is addressed.*

- The boatyard site - originally approximately 8 acres - has already been reduced by selling land for housing to raise money. At what point will it stop? The reduction of the site area reduces the potential viability of the boatyard.

Planning Authority Comment: *This is not a material consideration in the determination of this planning application.*

- The statement by Scottish Water is ambiguous and not helpful. They may have 'room' within their Kilmelford facilities but it is not believed that the site could be connected to the sewage system as it is on the other side of the Loch and similarly the potable water main does not cross the Loch.

Planning Authority Comment: *In their response to the application Scottish Water advise that there is no public foul drainage system within the vicinity of the site and that private treatment options should be investigated. This is reflected in the application which proposes a septic tank and soakaway.*

- Approximately 20 years ago 2 x 25mm water pipes were connected to the main to feed two properties on the south side but it is believed that there are now probably 6

properties connected to this inadequate supply. This has led to the situation where one of the original two properties frequently has no water and it is likely that legal steps will be taken to resolve the long standing problem.

Planning Authority Comment: *This is not a material consideration in the determination of this planning application but a separate civil matter for affected parties.*

- While some properties nearby are on a private supply there is unlikely to be capacity for more, owing to the impending forest planting on Glenmore Hill.

Planning Authority Comment: *This is not a material consideration in the determination of this planning application which proposes connection to the public water main.*

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 and Neighbour Notification procedures, overall closing date 04/03/21.

(F) REPRESENTATIONS:

2 objections and 21 expressions of support have been received.

OBJECTIONS

Lorna Hill, Kames Lodge, Kilmelford, PA34 4XS (02/03/21)

Jane Rentoul, Laroch, Kames, Kilmelford, PA34 4XS (02/03/21)

Summary of issues raised

- The Supporting Statement suggests that planning permission should be granted to the owner of the land due to their business having suffered curtailed custom during 2020 due to Covid 19 restrictions. Whilst there is sympathy for any business or person who has suffered from the effects of the pandemic, the impact of any Covid 19 measures should not be a matter of consideration by the Planning Department in deciding a planning application. To do so could set a very dangerous precedent, opening the gateway for any business or person to seek planning permission to mitigate their losses suffered under the Covid restrictions. This could have very wide and far reaching consequences.

Planning Authority Comment. *These comments are noted by the Planning Authority and are addressed in the assessment of the application at Section P below.*

- The site is in a Countryside Area and under the forthcoming LDP2 will have the protection of being included in the Local Landscape Area.

Planning Authority Comment: *The proposed Local Development Plan 2 is not yet at a stage where it represents a material consideration in the determination of planning applications.*

- If the application is successful there is a serious risk of encouraging further planning applications to build on designated Countryside Areas outwith Settlement Areas.

Planning Authority Comment: *Each planning application is considered on its own merits and assessed against the relevant policies of the Development Plan in force at the time together with all other material planning considerations.*

SUPPORT

Mr Stephen Barton – by e-mail only (04/03/21)
Mr Graeme Bruce – by e-mail only (04/03/21)
Mr Ian Forsythe, Loughrigg, Isfryn Road, Prestatyn, LL19 8LN (03/03/21)
Mr Alasdair Smith, 54 Glenfyne Park, Ardrishaig, PA30 8HQ (03/03/21)
Mr Jonathan Simm, 28 The Meadows, Berwick on Tweed, TD15 1NY (03/03/21)
Mr Derek Buchan, 74 Catto Drive, Peterhead, AB42 1RZ (04/03/21)
Mr Tim Tindle, Frennich House, Brig o’Turk, Callander, FK17 8HT (04/03/21)
Mr Ron Masson, 9A Fountainhill Road, Edinburgh, EH9 2NL (04/03/21)
Dr Toby Clark, Pier North, Melfort Pier, Kilmelford, PA34 4XD (04/03/21)
Ms Sally Fletcher, Estate Cottage, Melfort Estate, Kilmelford, PA34 4XD (04/03/21)
Mr Adam Edwards, The Gatehouse, Kilmelford, PA34 4XD (04/03/21)
Miss Caroline Edwards, 1 Glenshellach Terrace, Flat 3, Oban, PA34 4BH (04/03/21)
Mr Andrew Knowles, Rhencullen, Kilmelford, PA34 4XD (04/03/21)
Mr Piet Hammick, Voert Sek, Kilmelford, PA34 4XH (03/03/21)
Mr Simon Fletcher, Cuilfail Hotel, Kilmelford, PA34 4XA (03/03/21)
Mr Ross Stewart, Tullich Cottage, Kilmelford, PA34 4XA (03/03/21)
Miss Amy Edwards, Chalet 2, Kilmelford Yacht Haven, Kilmelford, PA34 4XD (03/03/21)
Miss Emily Edwards, Chalet 1, Kilmelford Yacht Haven, Kilmelford, PA34 4XD (03/03/21)
Mr Alan Udall, Harbourmaster House, Melfort Pier, Kilmelford, PA34 4XD (02/03/21)
Mr David Millward, An Torr, The Glebe, Kilmelford, PA34 4XF (02/03/21)
Mr Steve Morely, Alafoss, Cuilfail Terrace, Kilmelford, PA34 4XH (01/03/21)

Summary of issues raised

- Kilmelford Yacht Haven is a long standing and important business providing local employment, trains apprentices and through its moorings brings a large amount of seasonal business to the village pub, restaurant and shop.
- It is good to note in the Supporting Statement that the sale of the land will enable investment to enhance the facilities offered at the boatyard which will support, protect and enhance employment prospects despite the economic ravages of the Covid 19 pandemic.
- There are very few employment opportunities in Kilmelford and with the sale of this land an investment opportunity arises reinforcing and adding to employment through the enhancement of Yacht Haven facilities.
- The land is overgrown and has no visual appeal of any note and a property of appropriate design would, from a visual perspective, complement the small enclave of houses located on either side of the boatyard.
- A suitably designed and finished dwellinghouse on this site would enhance the attractiveness of Loch Na Cille and improve the visual amenity for visitors and would balance out the extensive development over the years on the north side of the head of Loch Melfort.
- Support should be given to local people and dwellinghouses should be encouraged where there is a housing need.
- Consideration should be given to future generations and employment. I would hate to see Kilmelford become a village of complaining and moaning retired people who cannot adapt to change.

- This application for a single dwellinghouse will make an additional contribution to the Council Tax income of the Council on an ongoing basis helping with the Council's budget gap.

Planning Authority Comment: *These expressions of support are noted by the Planning Authority.*

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

(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: | Yes |
| (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 (Countryside Zone)

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 2 – Sustainable Siting and Design Principles

SG LDP ENV 13 – Development Impact on Areas of Panoramic Quality (APQs)
(Knapdale and Melfort APQ)
 SG LDP ENV 14 – Landscape
 SG LDP HOU 1 – General Housing Development including Affordable Housing
 SG LDP SERV 1 – Private Sewage Treatment Plans & Wastewater Systems
 SG LDP SERV 2 – Incorporation of Natural Features/Sustainable Drainage
 Systems (SuDS)
 SG LDP SERV 7 – Flooding and Land Erosion, The Risk Framework
 SG LDP TRAN 4 – New and Existing, Public Roads and Private Access Regimes
 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
 Argyll and Bute Proposed Local Development Plan 2 (November 2019)
 Consultation Responses
 Third Party Representations

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

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

Planning permission in principle is sought for the erection of a dwellinghouse on an area of land to the east of Camusdarach, Kilmelford.

In terms of the current adopted ‘Argyll and Bute Local Development Plan’ (LDP) 2015 the application site is situated within the Countryside Zone (CZ) where Policy LDP DM 1 of the LDP is restrictive, only giving support to small scale development on an appropriate infill, rounding off, redevelopment or the change of use of building development subject to compliance with other relevant policies and supplementary guidance (SG).

Policy LDP 8 supports new sustainable development proposals that seek to strengthen communities where they comply with other relevant policies with SG LDP HOU 1 expanding on this policy limiting support to new housing within the CZ to an infill, rounding off and redevelopment basis where these are not immediately adjacent to defined settlement boundaries.

The application site is also situated within the Knapdale and Melfort APQ where consideration has to be given to Policy LDP DM 3 and SG LDP ENV 13 which seek to resist development in, or adjacent to, an APQ where its scale, location or design will have a significant adverse impact on the character of the landscape.

Policy LDP 9 and SG 2 seek developers to site and position development so as to pay regard to the context within which it is located taking into account the location or sensitivity of the area with developments of poor quality or inappropriate layouts being resisted.

The application is seeking planning permission in principle (PPP) with no layout, design or infrastructure details having been submitted. The purpose of this application is to establish the principle of development, with the intention that if permission in principle were to be granted, matters of layout and design should be addressed by way of future application(s) for approval of matters specified in conditions.

The site is an area of gently sloping ground covered with scrub and some taller trees along its boundary. The site is situated between the A816 public road which forms its southern boundary and the private access track leading to Kilmelford Yacht Haven which forms its northern boundary. To the west the site is bounded by 'Camusdarach' a residential dwellinghouse and to the east the land continues in the same manner as the site until it reaches the private access track.

The CZ does not have the general capacity to successfully absorb any scale of new housing development which is why the presumption in favour of new housing development in the CZ is restricted to change of use of existing buildings or small-scale development in close proximity to existing buildings on infill, rounding-off and redevelopment sites where these are not immediately adjacent to defined settlement boundaries in order to prevent settlement coalescence.

In this case, the proposed development does not represent an opportunity for infill, rounding off, redevelopment or a change of use of an existing building and, whilst the supporting statement submitted with the application intimates that the granting of permission for a dwellinghouse on the site would facilitate a capital release assisting the ongoing operation of the applicants business, Kilmelford Yacht Haven, the desire to sell a building plot to fund the ongoing operation of a business does not, in the considered opinion of officers, represent a substantive 'exceptional case' to allow a dwellinghouse to be supported in the open countryside.

With regard to infrastructure to serve the proposed development, the application proposes to utilise the existing private access spurring from the A816 public road currently serving Kilmelford Yacht Haven and a number of residential dwellinghouses. In their response to the application the Roads Authority advised that the existing access is adequate and raised no objection subject to conditions being imposed on the grant of planning permission to secure the provision of an appropriate parking and turning area within the site. Connection to the public water supply is proposed with drainage via installation of a private system. Scottish Water raised no objection to the proposed development. Whilst, with appropriate safeguarding conditions, this aspect of the proposal could be considered consistent with Policy LDP 11 and SG LDP TRAN 4 and SG LDP TRAN 6 which seek to ensure that developments are served by a safe means of vehicular access and have an appropriate parking provision within the site and SG LDP SERV 1 which gives support to private drainage proposals where connection to the public system is not feasible, this is not relevant as the principle of development on the site is not considered consistent with policy as detailed above.

The site is within an area identified at risk of coastal flooding and accordingly comments were sought from SEPA and JBA. In their response SEPA raised no objection to the proposed development subject to conditions being imposed on the grant of permission

requiring all development to be located on ground above 3 metres Above Ordnance Datum (mAOD) and the finished floor level to be set at a minimum of 4.35m AOD. JBA raised no objection subject to the same finished floor level required by SEPA and which should encompass the CFB 200 year still water level, an allowance for climate change, and allowance for wave action and a 0.6m freeboard. Whilst, with appropriate safeguarding conditions, this aspect of the proposal could be considered consistent with Policy LDP 10 and SG LDP SERV 7 which seek to ensure that developments are not at risk of flooding, this is not relevant as the principle of development on the site is not considered consistent with policy as detailed above.

Taking all of the above into consideration, it is considered that the development of the site with a dwellinghouse would result in an unacceptable landscape impact contrary to the provisions of Policies LDP STRAT 1, LDP DM 1, LDP 3, LDP 8, LDP 9 and Supplementary Guidance SG 2, SG LDP ENV 13, SG LDP ENV 14 and SG LDP HOU 1 of the adopted 'Argyll and Bute Local Development Plan' 2015 and it is recommended that the application be refused for the reasons appended to this report.

(Q) Is the proposal consistent with the Development Plan: No

(R) Reasons why planning permission in principle should be refused

See reasons for refusal below.

(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: Fiona Scott Date: 01/06/21

Reviewing Officer: Tim Williams Date: 02/06/21

**Fergus Murray
Head of Development and Economic Growth**

REASONS FOR REFUSAL RELATIVE TO APPLICATION REFERENCE 20/02352/PPP

1. The site the subject of this application lies within an area designated as Countryside Zone within the adopted Argyll and Bute Local Development Plan (LDP) 2015.

The site does not represent an appropriate opportunity for infill, rounding-off, redevelopment or change of use of building development within the Countryside Zone as required by Policy LDP DM 1 of the adopted LDP and there has been no acceptable substantive claim of any 'exceptional case' for the development based upon any locational or operational site requirement of sufficient weight to justify the harm of the development in terms of its landscape impact.

The application site is also situated within the Knapdale and Melfort Area of Panoramic Quality where consideration has to be given to Policy LDP DM 3 and SG LDP ENV 13 of the adopted LDP which seek to resist development in, or adjacent to, an APQ where its scale, location or design will have a significant adverse impact on the character of the landscape.

The proposed development is therefore contrary to the established and adopted sustainable development aims of the Council as expressed within key planning Policy LDP STRAT 1 and to the established and adopted settlement strategy as espoused within key planning policy LDP DM 1. It is not considered that the proposed development would constitute an appropriate departure to these key planning policies.

The proposal is therefore considered to be contrary to the provisions of Policies STRAT 1, LDP DM 1, LDP 3, LDP 8, LDP 9 and Supplementary Guidance SG 2, SG LDP HOU 1, SG LDP ENV 13 and SG LDP ENV 14 of the adopted 'Argyll and Bute Local Development Plan' 2015.

APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **20/02352/PPP**

- (A) 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

- (B) The reason why planning permission in principle has been refused:

See reason for refusal above



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 100340229-001

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.

Type of Application

What is this application for? Please select one of the following: *

- Application for planning permission (including changes of use and surface mineral working).
- Application for planning permission in principle.
- Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- Application for Approval of Matters specified in conditions.

Description of Proposal

Please describe the proposal including any change of use: * (Max 500 characters)

Site for dwellinghouse

Is this a temporary permission? *

Yes No

If a change of use is to be included in the proposal has it already taken place?

Yes No

(Answer 'No' if there is no change of use.) *

Has the work already been started and/or completed? *

No Yes – Started Yes - Completed

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:

Ref. Number:

You must enter a Building Name or Number, or both: *

First Name: *

Charles

Building Name:

Last Name: *

Tibbles

Building Number:

12

Telephone Number: *

07976 340225

Address 1
(Street): *

James Street

Extension Number:

Address 2:

Mobile Number:

Town/City: *

FALKIRK

Fax Number:

Country: *

Scotland

Postcode: *

FK2 7EZ

Email Address: *

charles@charlestibblesplanning.co.uk

Is the applicant an individual or an organisation/corporate entity? *

Individual

Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:

You must enter a Building Name or Number, or both: *

Other Title:

Building Name:

Kilmelford Yacht Haven

First Name: *

Building Number:

Last Name: *

Address 1
(Street): *

Kilmelford

Company/Organisation

K. G. McColl and Company Limited

Address 2:

Telephone Number: *

Town/City: *

Oban

Extension Number:

Country: *

Scotland

Mobile Number:

Postcode: *

PA34 4XD

Fax Number:

Email Address: *

info@kilmelfordyachthaven.co.uk

Site Address Details

Planning Authority:

Argyll and Bute Council

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

Northing

712461

Easting

183955

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

Yes No

Site Area

Please state the site area:

0.33

Please state the measurement type used:

Hectares (ha) Square Metres (sq.m)

Existing Use

Please describe the current or most recent use: * (Max 500 characters)

Undeveloped land

Access and Parking

Are you proposing a new altered vehicle access to or from a public road? *

Yes No

If Yes please describe and show on your drawings the position of any existing, altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any change to public paths, public rights of way or affecting any public right of access? * Yes No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? * Yes No

Are you proposing to connect to the public drainage network (eg. to an existing sewer)? *

Yes – connecting to public drainage network

No – proposing to make private drainage arrangements

Not Applicable – only arrangements for water supply required

As you have indicated that you are proposing to make private drainage arrangements, please provide further details.

What private arrangements are you proposing? *

New/Altered septic tank.

Treatment/Additional treatment (relates to package sewage treatment plants, or passive sewage treatment such as a reed bed).

Other private drainage arrangement (such as chemical toilets or composting toilets).

What private arrangements are you proposing for the New/Altered septic tank? *

Discharge to land via soakaway.

Discharge to watercourse(s) (including partial soakaway).

Discharge to coastal waters.

Please explain your private drainage arrangements briefly here and show more details on your plans and supporting information: *

Installation of septic tank and soak away within the application site.

Do your proposals make provision for sustainable drainage of surface water?? * Yes No
(e.g. SUDS arrangements) *

Note:-

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? *

Yes

No, using a private water supply

No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

Assessment of Flood Risk

Is the site within an area of known risk of flooding? *

Yes No Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? *

Yes No Don't Know

Trees

Are there any trees on or adjacent to the application site? *

Yes No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? *

Yes No

Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013) *

Yes No Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? *

Yes No

Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? *

Yes No

Is any of the land part of an agricultural holding? *

Yes No

Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired,) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding

Signed: Charles Tibbles

On behalf of: K. G. McColl and Company Limited

Date: 22/12/2020

Please tick here to certify this Certificate. *

Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? *

Yes No Not applicable to this application

b) If this is an application for planning permission or planning permission in principle where there is a crown interest in the land, have you provided a statement to that effect? *

Yes No Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? *

Yes No Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? *

Yes No Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? *

Yes No Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? *

Yes No Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

- Site Layout Plan or Block plan.
- Elevations.
- Floor plans.
- Cross sections.
- Roof plan.
- Master Plan/Framework Plan.
- Landscape plan.
- Photographs and/or photomontages.
- Other.

If Other, please specify: * (Max 500 characters)

Provide copies of the following documents if applicable:

- | | | |
|--|------------------------------|---|
| A copy of an Environmental Statement. * | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| A Design Statement or Design and Access Statement. * | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| A Flood Risk Assessment. * | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). * | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| Drainage/SUDS layout. * | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| A Transport Assessment or Travel Plan | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| Contaminated Land Assessment. * | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| Habitat Survey. * | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| A Processing Agreement. * | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |

Other Statements (please specify). (Max 500 characters)

Declare – For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Mr Charles Tibbles

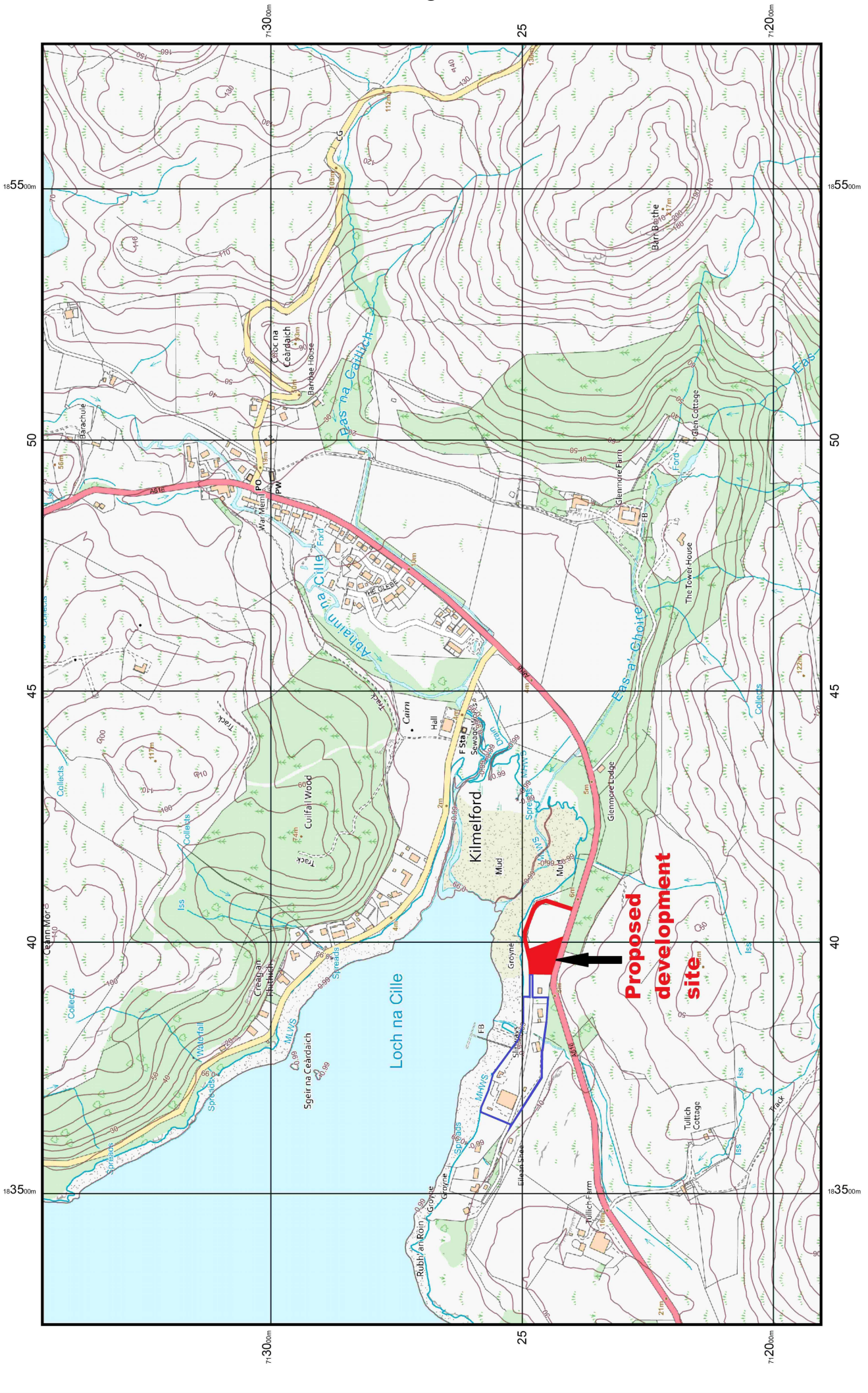
Declaration Date: 14/12/2020

Payment Details

Online payment: 224882

Payment date: 22/12/2020 11:18:00

Created: 22/12/2020 11:18

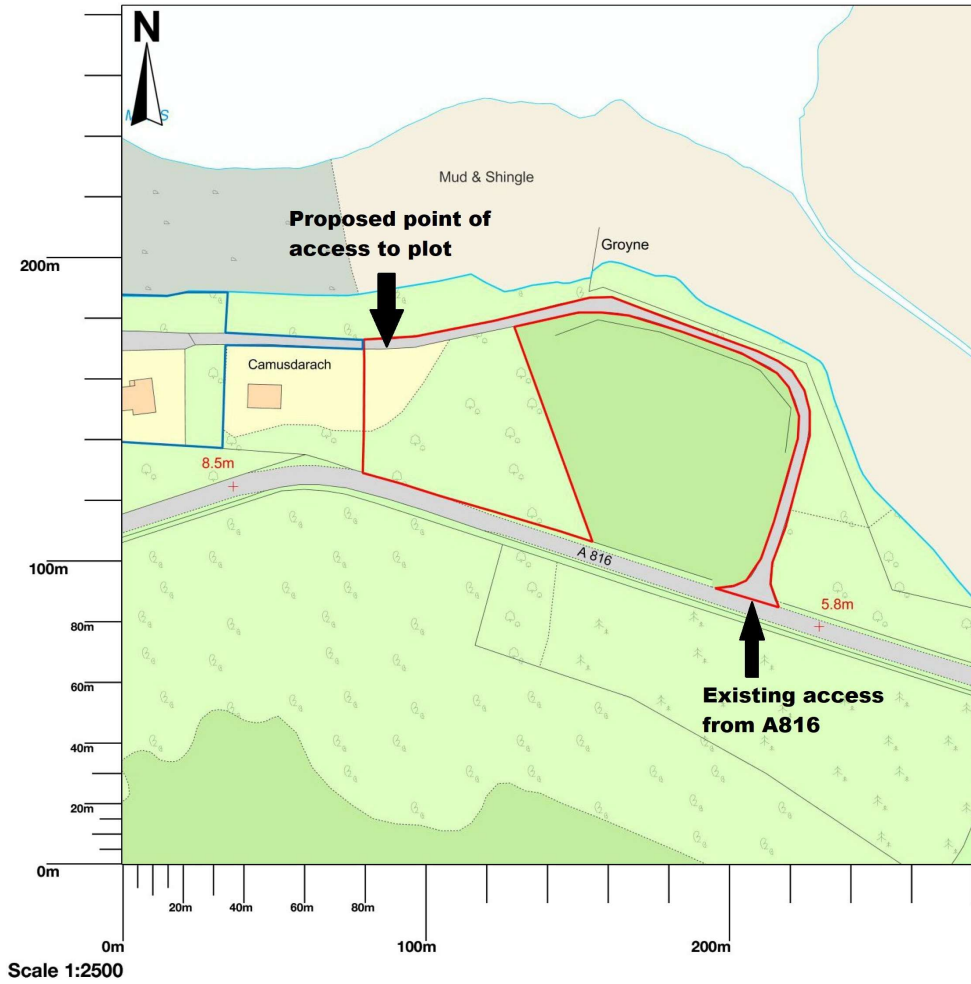


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Land at Kilmelford Yacht Haven, Kilmelford, Oban, PA34



STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

21/0003/LRB

**REFUSAL OF PLANNING PERMISSION IN PRINCIPLE 20/02352/PPP
SITE FOR THE ERECTION OF A DWELLINGHOUSE**

LAND EAST OF CAMUSDARACH, KILMELFORD

09/08/21

STATEMENT OF CASE

The Planning Authority is Argyll and Bute Council ('the Council'). The appellant is KG McColl and Company ("the appellant").

Planning permission in principle 20/02352/PPP for a site for the erection of a dwellinghouse on an area of land east of Camusdarach, Kilmelford ("the appeal site") was refused by the Planning Service under delegated powers on 03/06/21.

The planning application has been appealed and is subject of referral to a Local Review Body.

DESCRIPTION OF SITE

The site is an area of gently sloping ground covered with scrub and some taller trees along its boundary. The site is situated between the A816 public road which forms its southern boundary and the private access track leading to Kilmelford Yacht Haven which forms its northern boundary. To the west the site is bounded by 'Camusdarach' a residential dwellinghouse and to the east the land continues in the same manner as the site until it reaches the private access track.

The site does not represent an appropriate opportunity for infill, rounding-off, redevelopment or change of use of building development within the Countryside Zone (CZ) as required by Policy DM 1 above and there has been no substantive claim of any 'exceptional case' for the development based upon any locational or operational site requirement and accordingly planning permission in principle was refused.

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 weight should be given to the forthcoming Local Development Plan 2 (LDP 2) and;*
- *Whether the economic impact of the Covid 19 Pandemic on the operation of the appellants business should be treated as a material planning consideration.*

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 weight should be attributed to proposed Local Development Plan 2 (pLDP2) in the consideration of the application.

Planning Authority Comment:

The application was determined under the terms of the Local Plan in force at the time, namely the adopted 'Argyll and Bute Local Development Plan' (LDP) 2015. This was the only correct and competent course of action open to Officers at that time and it is that decision, and that decision only, which is the subject of the current Review.

The unchallenged policies and proposals within pLDP2 may be afforded significant material weighting in the determination of planning applications at this time as the settled and unopposed view of the Council. However, elements of the pLDP2 which have been identified as being subject to unresolved objections still require to be subject of Examination by a Scottish Government appointed Reporter and cannot be afforded significant material weighting at this time.

In this instance the relevant Policy of pLDP2 that the current proposal relies on, Policy 02 – Outwith Settlement Areas, has been objected to and requires to be subject of the aforementioned Examination by a Scottish Government appointed Reporter.

It is of critical importance that all planning applications are properly assessed in accordance with the provisions of the approved and adopted Local Development Plan in force at that time. Whilst it is acknowledged that the applicant could submit a further application at an appropriate time in the future when pLDP2 becomes a material consideration, the fact remains that the applicant chose to submit their current application (subject of this Review) substantially before the material emergence of pLDP2. In that fundamental regard, the proposed development must be considered premature to any future planning policy.

The Planning Authority robustly maintains that the planning application the subject of this Review was assessed properly and in correct accordance with the provisions of the adopted Local Development Plan and all other material planning considerations. Any suggestion to the contrary is refuted.

Should Members decide to undertake a site visit, this would be on the basis of assessing the application in terms of the adopted LDP and not the forthcoming pLDP 2.

- The appellant contends that the economic impact of the Covid 19 Pandemic on the operation of their business should be treated as a material planning consideration in the determination of the planning application.

Planning Authority Comment:

Whilst the supporting information intimates that the granting of permission for a dwellinghouse on the site would facilitate a capital release assisting the ongoing operation of the appellants business, Kilmelford Yacht Haven, the desire to sell a building plot to fund the ongoing operation of a business does not, in the considered opinion of Officers, represent a substantive 'exceptional case' to allow a dwellinghouse to be supported in the open countryside.

It is concluded that:

- *Officers could only have determined this application under the provisions of the adopted (current) LDP and to any other material planning considerations.*
- *The relevant Policy of pLDP2 is not yet at a stage where it can be used as a material consideration in the determination of any planning applications.*
- *The ongoing economic operation of the appellants business does not represent a substantive 'exceptional case' warranting the granting of permission for a dwellinghouse in the CZ.*

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, as set out above, it remains the view of the Planning Service, as set out in the Report of Handling appended to this statement, that the proposed site does not represent an appropriate opportunity for development with a dwellinghouse and would result in an unacceptable environmental impact by virtue of introducing a form of inappropriate development into the CZ detrimental to the character and appearance of the wider landscape.

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

APPENDIX 1

**Argyll and Bute Council
Development and Economic Growth**

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: 20/02352/PPP

Planning Hierarchy: Local Development

Applicant: K.G. McColl and Company Limited

Proposal: Site for the Erection of a Dwellinghouse

Site Address: Land East of Camusdarach, Kilmelford

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 the erection of a dwellinghouse
- Installation of private drainage system

(ii) Other specified operations

- Connection to public water main
 - Utilisation of existing vehicular access
-

(B) RECOMMENDATION:

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

(C) HISTORY:

06/02417/OUT

Site for erection of staff dwellinghouse – Withdrawn: 02/04/07

(D) **CONSULTATIONS:**

Area Roads Authority

Report dated 02/02/21 advising that the existing access is adequate and raising no objection subject to a condition being imposed on the grant of planning permission requiring the provision of an appropriate parking and turning area within the site.

Scottish Water

Letter dated 25/03/21 raising no objection to the proposed development advising that it will be fed from Kilmelford Water Treatment Works but advising that they are unable to confirm capacity until such time as a Pre-Development Form is submitted for consideration. Scottish Water also advise that there is no public Scottish Water Waste Water infrastructure within the vicinity of the site and accordingly private arrangements will require to be investigated.

Scottish Environment Protection Agency (SEPA)

E-mail dated 28/05/21 advising no objection to the proposed development subject to conditions being imposed on the grant of permission requiring all development to be located on ground above 3 metres Above Ordnance Datum (mAOD) and the finished floor level to be set at a minimum of 4.35m AOD.

JBA Consulting Ltd (JBA)

Report dated 05/02/21 advising no objection subject to the same finished floor level required by SEPA and which should encompass the CFB 200 year still water level, an allowance for climate change, and allowance for wave action and a 0.6m freeboard.

Kilmelford Community Council

Letter dated 02/03/21 providing the following comments to the application.

- The Supporting Statement identifies the Covid-19 situation as being the need to sell the site to raise funds for the boatyard business. As this is not a planning consideration surely it is not relevant to the application? The Statement correctly identifies the Planning Department's previous views on this and the adjacent site, as well as LDP2.

Planning Authority Comment: *The proposed development is fully assessed in Section P below where this issue is addressed.*

- The boatyard site - originally approximately 8 acres - has already been reduced by selling land for housing to raise money. At what point will it stop? The reduction of the site area reduces the potential viability of the boatyard.

Planning Authority Comment: *This is not a material consideration in the determination of this planning application.*

- The statement by Scottish Water is ambiguous and not helpful. They may have 'room' within their Kilmelford facilities but it is not believed that the site could be connected to the sewage system as it is on the other side of the Loch and similarly the potable water main does not cross the Loch.

Planning Authority Comment: *In their response to the application Scottish Water advise that there is no public foul drainage system within the vicinity of the site and*

that private treatment options should be investigated. This is reflected in the application which proposes a septic tank and soakaway.

- Approximately 20 years ago 2 x 25mm water pipes were connected to the main to feed two properties on the south side but it is believed that there are now probably 6 properties connected to this inadequate supply. This has led to the situation where one of the original two properties frequently has no water and it is likely that legal steps will be taken to resolve the long standing problem.

Planning Authority Comment: *This is not a material consideration in the determination of this planning application but a separate civil matter for affected parties.*

- While some properties nearby are on a private supply there is unlikely to be capacity for more, owing to the impending forest planting on Glenmore Hill.

Planning Authority Comment: *This is not a material consideration in the determination of this planning application which proposes connection to the public water main.*

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 and Neighbour Notification procedures, overall closing date 04/03/21.

(F) REPRESENTATIONS:

2 objections and 21 expressions of support have been received.

OBJECTIONS

Lorna Hill, Kames Lodge, Kilmelford, PA34 4XS (02/03/21)

Jane Rentoul, Laroche, Kames, Kilmelford, PA34 4XS (02/03/21)

Summary of issues raised

- The Supporting Statement suggests that planning permission should be granted to the owner of the land due to their business having suffered curtailed custom during 2020 due to Covid 19 restrictions. Whilst there is sympathy for any business or person who has suffered from the effects of the pandemic, the impact of any Covid 19 measures should not be a matter of consideration by the Planning Department in deciding a planning application. To do so could set a very dangerous precedent, opening the gateway for any business or person to seek planning permission to mitigate their losses suffered under the Covid restrictions. This could have very wide and far reaching consequences.

Planning Authority Comment. *These comments are noted by the Planning Authority and are addressed in the assessment of the application at Section P below.*

- The site is in a Countryside Area and under the forthcoming LDP2 will have the protection of being included in the Local Landscape Area.

Planning Authority Comment: *The proposed Local Development Plan 2 is not yet at a stage where it represents a material consideration in the determination of planning applications.*

- If the application is successful there is a serious risk of encouraging further planning applications to build on designated Countryside Areas outwith Settlement Areas.

Planning Authority Comment: *Each planning application is considered on its own merits and assessed against the relevant policies of the Development Plan in force at the time together with all other material planning considerations.*

SUPPORT

Mr Stephen Barton – by e-mail only (04/03/21)
Mr Graeme Bruce – by e-mail only (04/03/21)
Mr Ian Forsythe, Loughrigg, Isfryn Road, Prestatyn, LL19 8LN (03/03/21)
Mr Alasdair Smith, 54 Glenfyne Park, Ardrishaig, PA30 8HQ (03/03/21)
Mr Jonathan Simm, 28 The Meadows, Berwick on Tweed, TD15 1NY (03/03/21)
Mr Derek Buchan, 74 Catto Drive, Peterhead, AB42 1RZ (04/03/21)
Mr Tim Tindle, Frennich House, Brig o’Turk, Callander, FK17 8HT (04/03/21)
Mr Ron Masson, 9A Fountainhill Road, Edinburgh, EH9 2NL (04/03/21)
Dr Toby Clark, Pier North, Melfort Pier, Kilmelford, PA34 4XD (04/03/21)
Ms Sally Fletcher, Estate Cottage, Melfort Estate, Kilmelford, PA34 4XD (04/03/21)
Mr Adam Edwards, The Gatehouse, Kilmelford, PA34 4XD (04/03/21)
Miss Caroline Edwards, 1 Glenshellach Terrace, Flat 3, Oban, PA34 4BH (04/03/21)
Mr Andrew Knowles, Rhencullen, Kilmelford, PA34 4XD (04/03/21)
Mr Piet Hammick, Voert Sek, Kilmelford, PA34 4XH (03/03/21)
Mr Simon Fletcher, Cuilfail Hotel, Kilmelford, PA34 4XA (03/03/21)
Mr Ross Stewart, Tullich Cottage, Kilmelford, PA34 4XA (03/03/21)
Miss Amy Edwards, Chalet 2, Kilmelford Yacht Haven, Kilmelford, PA34 4XD (03/03/21)
Miss Emily Edwards, Chalet 1, Kilmelford Yacht Haven, Kilmelford, PA34 4XD (03/03/21)
Mr Alan Udall, Harbourmaster House, Melfort Pier, Kilmelford, PA34 4XD (02/03/21)
Mr David Millward, An Torr, The Glebe, Kilmelford, PA34 4XF (02/03/21)
Mr Steve Morely, Alafoss, Cuilfail Terrace, Kilmelford, PA34 4XH (01/03/21)

Summary of issues raised

- Kilmelford Yacht Haven is a long standing and important business providing local employment, trains apprentices and through its moorings brings a large amount of seasonal business to the village pub, restaurant and shop.
- It is good to note in the Supporting Statement that the sale of the land will enable investment to enhance the facilities offered at the boatyard which will support, protect and enhance employment prospects despite the economic ravages of the Covid 19 pandemic.

- There are very few employment opportunities in Kilmelford and with the sale of this land an investment opportunity arises reinforcing and adding to employment through the enhancement of Yacht Haven facilities.
- The land is overgrown and has no visual appeal of any note and a property of appropriate design would, from a visual perspective, complement the small enclave of houses located on either side of the boatyard.
- A suitably designed and finished dwellinghouse on this site would enhance the attractiveness of Loch Na Cille and improve the visual amenity for visitors and would balance out the extensive development over the years on the north side of the head of Loch Melfort.
- Support should be given to local people and dwellinghouses should be encouraged where there is a housing need.
- Consideration should be given to future generations and employment. I would hate to see Kilmelford become a village of complaining and moaning retired people who cannot adapt to change.
- This application for a single dwellinghouse will make an additional contribution to the Council Tax income of the Council on an ongoing basis helping with the Council's budget gap.

Planning Authority Comment: *These expressions of support are noted by the Planning Authority.*

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

(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: Yes | |
| (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 (*Countryside Zone*)
- 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 2 – Sustainable Siting and Design Principles
- SG LDP ENV 13 – Development Impact on Areas of Panoramic Quality (APQs) (*Knapdale and Melfort APQ*)
- SG LDP ENV 14 – Landscape
- SG LDP HOU 1 – General Housing Development including Affordable Housing
- SG LDP SERV 1 – Private Sewage Treatment Plans & Wastewater Systems
- SG LDP SERV 2 – Incorporation of Natural Features/Sustainable Drainage Systems (SuDS)
- SG LDP SERV 7 – Flooding and Land Erosion, The Risk Framework
- SG LDP TRAN 4 – New and Existing, Public Roads and Private Access Regimes
- 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
- Argyll and Bute Proposed Local Development Plan 2 (November 2019)
- Consultation Responses
- Third Party Representations

(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: No

(L) Has the application been the subject of statutory pre-application consultation (PAC): No

(M) Has a sustainability check list been submitted: No

(N) Does the Council have an interest in the site: No

(O) Requirement for a hearing: No

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

Planning permission in principle is sought for the erection of a dwellinghouse on an area of land to the east of Camusdarach, Kilmelford.

In terms of the current adopted 'Argyll and Bute Local Development Plan' (LDP) 2015 the application site is situated within the Countryside Zone (CZ) where Policy LDP DM 1 of the LDP is restrictive, only giving support to small scale development on an appropriate infill, rounding off, redevelopment or the change of use of building development subject to compliance with other relevant policies and supplementary guidance (SG).

Policy LDP 8 supports new sustainable development proposals that seek to strengthen communities where they comply with other relevant policies with SG LDP HOU 1 expanding on this policy limiting support to new housing within the CZ to an infill, rounding off and redevelopment basis where these are not immediately adjacent to defined settlement boundaries.

The application site is also situated within the Knapdale and Melfort APQ where consideration has to be given to Policy LDP DM 3 and SG LDP ENV 13 which seek to resist development in, or adjacent to, an APQ where its scale, location or design will have a significant adverse impact on the character of the landscape.

Policy LDP 9 and SG 2 seek developers to site and position development so as to pay regard to the context within which it is located taking into account the location or sensitivity of the area with developments of poor quality or inappropriate layouts being resisted.

The application is seeking planning permission in principle (PPP) with no layout, design or infrastructure details having been submitted. The purpose of this application is to establish the principle of development, with the intention that if permission in principle were to be granted, matters of layout and design should be addressed by way of future application(s) for approval of matters specified in conditions.

The site is an area of gently sloping ground covered with scrub and some taller trees along its boundary. The site is situated between the A816 public road which forms its southern boundary and the private access track leading to Kilmelford Yacht Haven which forms its northern boundary. To the west the site is bounded by 'Camusdarach' a residential dwellinghouse and to the east the land continues in the same manner as the site until it reaches the private access track.

The CZ does not have the general capacity to successfully absorb any scale of new housing development which is why the presumption in favour of new housing development in the CZ is restricted to change of use of existing buildings or small-scale development in close proximity to existing buildings on infill, rounding-off and redevelopment sites where these are not immediately adjacent to defined settlement boundaries in order to prevent settlement coalescence.

In this case, the proposed development does not represent an opportunity for infill, rounding off, redevelopment or a change of use of an existing building and, whilst the supporting statement submitted with the application intimates that the granting of permission for a dwellinghouse on the site would facilitate a capital release assisting

the ongoing operation of the applicants business, Kilmelford Yacht Haven, the desire to sell a building plot to fund the ongoing operation of a business does not, in the considered opinion of officers, represent a substantive 'exceptional case' to allow a dwellinghouse to be supported in the open countryside.

With regard to infrastructure to serve the proposed development, the application proposes to utilise the existing private access spurring from the A816 public road currently serving Kilmelford Yacht Haven and a number of residential dwellinghouses. In their response to the application the Roads Authority advised that the existing access is adequate and raised no objection subject to conditions being imposed on the grant of planning permission to secure the provision of an appropriate parking and turning area within the site. Connection to the public water supply is proposed with drainage via installation of a private system. Scottish Water raised no objection to the proposed development. Whilst, with appropriate safeguarding conditions, this aspect of the proposal could be considered consistent with Policy LDP 11 and SG LDP TRAN 4 and SG LDP TRAN 6 which seek to ensure that developments are served by a safe means of vehicular access and have an appropriate parking provision within the site and SG LPD SERV 1 which gives support to private drainage proposals where connection to the public system is not feasible, this is not relevant as the principle of development on the site is not considered consistent with policy as detailed above.

The site is within an area identified at risk of coastal flooding and accordingly comments were sought from SEPA and JBA. In their response SEPA raised no objection to the proposed development subject to conditions being imposed on the grant of permission requiring all development to be located on ground above 3 metres Above Ordnance Datum (mAOD) and the finished floor level to be set at a minimum of 4.35m AOD. JBA raised no objection subject to the same finished floor level required by SEPA and which should encompass the CFB 200 year still water level, an allowance for climate change, and allowance for wave action and a 0.6m freeboard. Whilst, with appropriate safeguarding conditions, this aspect of the proposal could be considered consistent with Policy LDP 10 and SG LDP SERV 7 which seek to ensure that developments are not at risk of flooding, this is not relevant as the principle of development on the site is not considered consistent with policy as detailed above.

Taking all of the above into consideration, it is considered that the development of the site with a dwellinghouse would result in an unacceptable landscape impact contrary to the provisions of Policies LDP STRAT 1, LDP DM 1, LDP 3, LDP 8, LDP 9 and Supplementary Guidance SG 2, SG LDP ENV 13, SG LDP ENV 14 and SG LDP HOU 1 of the adopted 'Argyll and Bute Local Development Plan' 2015 and it is recommended that the application be refused for the reasons appended to this report.

(Q) Is the proposal consistent with the Development Plan: No

(R) Reasons why planning permission in principle should be refused

See reasons for refusal below.

(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: Fiona Scott Date: 01/06/21

Reviewing Officer: Tim Williams Date: 02/06/21

**Fergus Murray
Head of Development and Economic Growth**

REASONS FOR REFUSAL RELATIVE TO APPLICATION REFERENCE 20/02352/PPP

1. The site the subject of this application lies within an area designated as Countryside Zone within the adopted Argyll and Bute Local Development Plan (LDP) 2015.

The site does not represent an appropriate opportunity for infill, rounding-off, redevelopment or change of use of building development within the Countryside Zone as required by Policy LDP DM 1 of the adopted LDP and there has been no acceptable substantive claim of any 'exceptional case' for the development based upon any locational or operational site requirement of sufficient weight to justify the harm of the development in terms of its landscape impact.

The application site is also situated within the Knapdale and Melfort Area of Panoramic Quality where consideration has to be given to Policy LDP DM 3 and SG LDP ENV 13 of the adopted LDP which seek to resist development in, or adjacent to, an APQ where its scale, location or design will have a significant adverse impact on the character of the landscape.

The proposed development is therefore contrary to the established and adopted sustainable development aims of the Council as expressed within key planning Policy LDP STRAT 1 and to the established and adopted settlement strategy as espoused within key planning policy LDP DM 1. It is not considered that the proposed development would constitute an appropriate departure to these key planning policies.

The proposal is therefore considered to be contrary to the provisions of Policies STRAT 1, LDP DM 1, LDP 3, LDP 8, LDP 9 and Supplementary Guidance SG 2, SG LDP HOU 1, SG LDP ENV 13 and SG LDP ENV 14 of the adopted 'Argyll and Bute Local Development Plan' 2015.

APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **20/02352/PPP**

- (A)** 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

- (B)** The reason why planning permission in principle has been refused:

See reason for refusal above

From: [JANE RENTOUL](#)
To: [localreviewprocess](#)
Subject: 21/0003/LRB Land East of Camusdarach, Kilmelford
Date: 11 August 2021 09:02:20

Good Morning Hazel MacInnes,

Following last night's meeting of Kilninver and Kilmelford Community Council, there are no further comments to add to those already submitted in connection with the above application.

Kind regards,

Jane Rentoul

Secretary
Kilninver and Kilmelford Community Council

From: [Alan Udall](#)
To: [localreviewprocess](#)
Subject: Land East of Camusdarach, Kilmelford Ref 21/0003/LRB
Date: 04 August 2021 11:43:21

Dear Sirs,

Further to my letter of support for the original application under reference 20/02352/PPP, I would like to make a further submission for consideration. I have read the submission accompanying the LRB application.

I do note that the full Council Meeting on 24th June 2021 passed the pending LDP to the next stage, a fact referred to in the Agent's submission. Obviously the plainly understandable reason of Covid is the why the original timetable was delayed. However it seems to me that the application should also take into account the thrust of the potential upcoming changes.

Unlike the two nearest Marinas who have year round berthing on Pontoons, Kilmelford Yacht Haven operates on a Seasonal basis providing Summer swinging Moorings. Accordingly they have been badly affected during 2020 by the Travel restrictions imposed ,out of necessity, throughout Scotland. It's logical therefore that the Financial implications must therefore have been more severe in their case than the two Marinas closest who still had income due to having Boats berthed all Year. Kilmelford yacht Haven should be applauded for developing other aspects of their business, such as the Café project approved under application 20/00985/PP. If the sale of a piece of land, which I understand is of no strategic importance to the operation supports this and other enhancements to the Boatyard, then jobs will be protected and created.

It is noticed the public support from Residents, local businesses and customers of the applicant was significant. My estimate is 90% in favour from large number of Public comments submitted

I note that the Agent's LRB submission envisages modestly sized property with suitable cladding. If for example its size was similar to the property next to the Plot (Camusdarach) then I consider that there would be no visual impairment to the surrounding area. Some of the properties on the North Shore of the Loch are very large.

Finally in my letter of support of the original application I referred to the weekly newsletters from the Council regarding the requirements to save costs and generate revenue. In addition to providing work for local Contractors, granting this application would in the near future provide additional revenue over ongoing Years by way of Council Tax.

I would urge the LRB to take a pragmatic view of all the aspects of this case and approve the application.

Yours

Alan Udall



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From: [Pier North](#)
To: [localreviewprocess](#)
Subject: Local Review: land east of Camusdarach, Kilmelford
Date: 06 August 2021 11:42:59

I previously wrote an email in support of the planning application to build a house on the above referenced plot, which was subsequently rejected. I now understand that I may submit a further comment during the review process.

I own a property on the north shore of Loch Melfort at Melfort Pier, so I am a near neighbour of this site.

I continue to fully support this application. A development on this site would benefit the local community. It would be in keeping with the housing on that part of the shore of the loch, and would provide additional much needed permanent accommodation in an area that needs it.

I believe the plans submitted would be entirely in accordance with the visual impact of surrounding developments in the area, and would complement the area surrounding the boatyard.

Furthermore I understand progress has been made with the Local Development Plan, at the Council Meeting in June and this is now with Scottish Ministers. This should be taken into account.

Best regards,
Toby Clark
Pier North,
Melfort Pier
Kilmelford,
PA34 4XD

From: [Steve Morley](#)
To: [localreviewprocess](#)
Subject: Land East of Camusdarach, Kilmelford, Ref. 21/0003/LRB
Date: 06 August 2021 17:19:07

Dear Sirs,

I wish to state that I continue to support this application. The house as planned, which would not be over-large, would not in any way detract from the beauty of the local area (there are already similar houses nearby) and its purchase would enable the owners of the boatyard to develop the same as a resource for local residents and visitors, the presence of whom would lead to increased income for local businesses such as hotels, cafes and shops. It would also mean that local residents had access to enhanced leisure facilities at Kilmelford Yacht Haven.

If Kilmelford is to survive as something more than a dormitory village for Oban, or as a "retirement" enclave with an ever-ageing and dwindling population, then we need new life here. The proposals for the house would be a good step in the right direction, bringing investment and enhanced facilities to the village - visitors would surely follow. (Who knows, some might stay.)

As the house would not detract from the visual beauty of the area, this would surely be a win-win situation.

I understand that the Local Development Plan was discussed at a full meeting of the Council on June 24th., and that it is now with the Scottish Ministers.

I hope that the application is approved.

Yours faithfully,
Steve Morley

From: [Steve Barton](#)
To: [localreviewprocess](#)
Subject: Land East of Camusdarach ref 21/0003/LRB
Date: 07 August 2021 09:30:07

Good Morning-I would like to restate my support for this application.I am a regular visitor to Kilmelford and maintaining it's character and peaceful ambience is important to me but the addition of another dwelling sensitively designed and of moderate size on this site would only enhance the approach to the yacht haven without imposing on any neighbouring houses or local residents in my opinion and I therefore support the request for reconsideration.

Yours sincerely
Dr.S J Barton

Sent from my iPhone

From: [Piet Hammick](#)
To: [localreviewprocess](#)
Subject: REF. 21/0003/LRB (Kilmelford Yacht Haven)
Date: 09 August 2021 18:00:42

Dear Sirs,

I am in full support of the application. In my opinion the proposed development will not have a detrimental effect on the visual aspect of the area. The money raised will be re-invested in the boatyard's facilities which will benefit both boat owners and visitors to the area and also create local employment, We need to be to be thinking of the future of the local area and of the generations to come in the uncertain times that lie ahead,

Yours faithfullu,
Piet Hammick

From:
To: [localreviewprocess](#)
Subject: Land East of Camusdarach, Kilmelford Ref 21/0003/LRB
Date: 09 August 2021 18:46:33

Dear all at the Local Review Body,

I write in connection with the above planning application to re-state my wifes and my own support.

We are customers of Kilmelford Yacht Haven and have come to know the management, staff, local area and businesses very well over the last 10 years.

A thoughtful building sympathetic with the locale would benefit the village rather than detract and will provide important financial support to the boatyard and the vital local jobs during the difficulties of the pandemic.

Supporting the boatyard will also the maintain the customer base of the yard to the benefit of local hotels, cafes and shops of which my wife and I, and other boatyard customers use when visiting our boats or sailing in the vicinity.

Many thanks for your consideration of the above.

Jonathan & Elaine Simm.

From: [Derek Buchan](#)
To: [localreviewprocess](#)
Subject: Land East of Camusdarach, Kilmelford Ref 21/0003/LRB
Date: 10 August 2021 11:38:24

Dear Sirs,

It was disappointing to hear that the planning application 20/02352/PPP was refused earlier this year, but I understand that an application for Review has been submitted by the applicant, quite rightly so.

I supported the application before, and hereby strongly support the application for review. The following reasons for doing so are explained below.

The erection of the property will enhance and balance the existing properties on the north side and south side of Loch Melfort, and be located in a currently overgrown area of land adjacent to an existing two properties, and would enhance the visual impact from the north side of the Loch. The existing properties on the north side of the Loch all appear to be of different styles, both traditional and modern, which do not detract from the visual aspect, so an additional property on the south side of the Loch would provide a balance.

By granting planning permission for the application, would bring benefits to the community.

I fully support this application for review by the Applicants

Regards

Derek Buchan
74 Catto Drive
Peterhead
AB42 1RZ

Derek Buchan

Gray & Adams

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From: [Andrew Knowles](#)
To: [localreviewprocess](#)
Subject: Ref 21/0003/LRB Land East of Camusdarach, Kilmelford
Date: 10 August 2021 20:32:46

Dear Sir/Madam

With regard to the application for outline planning permission, I should like to register my support for this application.

I do not think a modest size house on the proposed land would be detrimental to the landscape and would assist the local community to grow and not stagnate.

Yours faithfully

Andy Knowles

Rhencullen, Kilmelford.

Sent from [Mail](#) for Windows 10

Response to Representations (Local Review reference 21/0003/LRB)

The numerous representations of support are noted and reinforce the significant body of public support expressed previously. In response to the Council's Statement of Case, comments set out below are offered on behalf of K G McColl and Company Limited.

As the proper starting point for the decision now before the LRB, the applicants have always fully acknowledged how the adopted LDP Policy LDP DM 1 sets out a blanket presumption against development where it would extend an existing settlement into the Countryside Zone, as in the case of the current proposal. The presumption is clear and unqualified and in giving proper consideration to the adopted LDP, the other provisions of the adopted Policy LDP DM 1 cannot be imported as an alternative test for the proposal. Thus, there is no scope to consider an 'exceptions case' in terms of the adopted LDP in this instance. The proposal is clearly contrary to the adopted LDP and was publicly advertised as such. Any decision as to the acceptability of the current proposal must be determined from that starting point. The weight to be attached to the material economic considerations and the emerging LDP2 are matters for the discretion of the LRB. They are not subject to any fixed formula but rather should be determined by the LRB as decision maker with regard to the circumstances of this case.

In terms of economic considerations, early approval for the development of land owned by K.G. McColl and Company Limited would directly assist their corporate operation at a time of continuing unprecedented difficulty. This would have direct public benefit as the company is both a local employer and part of the tourism infrastructure and economy in Argyll. These public benefits can be properly taken into account as material considerations in determining a planning application. Approval of the application would help to safeguard both of these public benefits.

As established through case law and reflected in Scottish Government Guidance (in particular Annex A of Circular 3/2013 as quoted in the RoH) the scope of material considerations in the consideration of planning applications is wide and can only be determined in the circumstances of each case. They can include the provisions of a proposed local development plan. Even in advance of publication, policy proposals contained in a proposed LDP (thus reflecting the settled view of the Council) can be material to a decision on a planning application per the decision of the Court of Session, Outer House in *The Trustees of the late Mrs Hilda Jane (or Johanna) Caroline Pilkington v The Scottish Ministers* (2013). In the current instance, the relevant policy proposals have reached the stage of publication. In addition, representations subsequently made to the relevant proposed Policies 02 and 71 have been duly considered by the Council. In accordance with the decision of 24 June 2021, the relevant Policies as contained in the draft LDP2 remain the settled view of the Council. If adopted, the proposed LDP2 policy framework would effect removal of the current Policy LDP DM 1 blanket presumption against development where it would extend an existing settlement into the Countryside Zone. None of the representations to LDP2 have made any suggestion that it should be retained. Rather the arguments put by those responding to the relevant provisions of LDP2 question the extent of Landscape and Visual Impact Assessment that should be required. It is therefore argued that significant weight should be attached to proposed LDP2 provisions and their focus upon landscape and visual issues for determining the acceptability of proposals. In this instance it is argued that landscape interests could be adequately safeguarded through a suitably conditioned grant of planning permission in principle for the modest development proposed. Such a view would be entirely consistent with the Council's previous assessment of the site in preparing the current LDP and the previous Local Plan.

The Description of Site, as set out in the Council's Statement of Case, does not acknowledge the contrast between the dense scrub occupying the application site and the much more open land to the east.

The comment in the Council's Statement of Case that the proposed development must be viewed as premature in the context of proposed LDP2 is disputed given the small scale of the current proposal and the unique circumstances of the proposal. The circumstances of the current case are unique and would not create a precedent for Countryside Zone proposals elsewhere in Argyll.

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