

MINUTES of MEETING of ARGYLL AND BUTE LOCAL REVIEW BODY held BY MICROSOFT TEAMS on TUESDAY, 18 JANUARY 2022

Present: Councillor David Kinniburgh (Chair)
Councillor Kieron Green Councillor Sandy Taylor

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

1. APOLOGIES FOR ABSENCE

There were no apologies for absence.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CONSIDER NOTICE OF REVIEW REQUEST: LAND SOUTH WEST OF LUB RIACH, TOBERMORY, ISLE OF MULL (REF: 21/0006/LRB)

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

He advised that his first task would be to establish if the Members of the LRB felt that they had sufficient information before them to come to a decision on the Review.

Councillor Green advised that to some extent he wasn't clear what the Appellant was seeking as he felt the content of the submission was fairly vague.

Councillor Taylor noted that the Appellant was seeking approval of their planning application for a dwellinghouse. He noted that there had been a previous consent for the site over 5 years ago and that there was a technical issue over whether there had been work started on the site or not. He confirmed that he accepted the view of the Planning Officer that a meaningful start had not been made which meant a new application had to be submitted. Councillor Taylor further noted that the current Argyll and Bute Local Development Plan 2015 did not support development on this site and, while the new LDP may support it, it would be premature to afford any weight to the new LDP2 at this time as the proposed provisions that would be relevant to the consideration of 'settlement strategy' for countryside development were the subject of objection and required to be the subject of Examination by the Scottish Government Reporter.

Councillor Kinniburgh acknowledged that this application had to be assessed against the policies of the current Local Development Plan due to the length of time that had passed since the previous consent. He also accepted the Planning Officer's view that no meaningful start had been made on the site and therefore little weight could be given to the previous application. Councillor Kinniburgh noted that there were objections to the LDP2 in respect of the relevant policies that would apply to this proposal that would allow it to be granted. He agreed that there would be a need to wait until these objections were considered by the Scottish Reporter before consideration could be given to LDP2.

Councillor Kinniburgh referred to page 35 of the Agenda Pack and a suggestion made by the Planning Officer that “in order gain approval for this location/development would be to de-croft the existing croft house and any curtilage, such that the remaining land therefore constitutes a bare land croft, which would then underpin a locational need for the development in accordance with the LDP. No concerns are raised with the siting and/or design of the proposal submitted in landscape terms. In order to achieve the above it would be necessary to withdraw the current application, carry out any de-crofting process with the crofting commission before resubmitting a revised application with a new croft management plan reflective of the changes made. I have looked at the original croft house planning application and do not see any planning reason in the decision in 2002 which would preclude this process. However, you may wish to confirm this for yourself too.”

Councillor Kinniburgh questioned whether or not the Applicant had looked into this suggestion made by the Planning Officer. He sought advice on whether this was something the LRB could check and if the Applicant was willing to do this, could be taken into account by the LRB in reaching a decision on this case.

Mr Jackson advised that the issue with the application at this time was it did not accord with the relevant policies of the current Local Development Plan and that this was a suggestion of something the Applicant could consider doing in the future. He said it would not be appropriate for the LRB to work up something that said “if you do this we can approve it”. He also agreed that the Members of the LRB were correct to take the view that the proposed LDP2 could not be given sufficient weight at this time due to the objections to it which had still to be assessed by the Scottish Reporter. He said that there was nothing in the paperwork submitted to indicate that the Applicant has tried to de-croft the land, and there was nothing to say that they intended to do that. He advised the Members that it would be difficult to get a competent Motion to tie that in to allow the LRB to process the Appeal in this way.

Councillor Taylor said that he commended the Planning Officer for trying to help the Applicant realise his ambition to develop. He advised that from what he had read he believed the Applicant had been given that opportunity but decided to go through the route of Appeal as it would be “less hassle” than to go through the de-crofting process. He commented that the option of de-crofting land and submitting a new application was still open to the Applicant and that he was happy that the Planning Officer had suggested this route.

Councillor Kinniburgh said that he recognised the points made by Mr Jackson and that he had just been looking to see if there was anything further the LRB could do. He advised that having heard from Councillor Taylor and Mr Jackson, he was minded to agree with the Planning Officer that the proposal could only be assessed against the policies of the current Local Development Plan. He agreed that the Applicant could de-croft the land and submit a new application if he wished.

Councillor Green supported the views of his colleagues.

Councillor Kinniburgh moved that the LRB uphold the decision by the Planning Officer to refuse planning permission for the reasons stated in the report of handing. This was seconded by Councillor Taylor and no one was otherwise minded.

Decision

The Argyll and Bute Local Review Body, having considered the merits of the case de nova, unanimously agreed to uphold the decision of the Planning Officer to refuse planning permission for the following reasons:

1. The development does not represent an opportunity for infill, rounding-off, redevelopment or a change of use of an existing building. Although the site does form part of a registered croft, it is not identified as a bareland croft. No other exceptional case arguments have been presented. As such, there is a general policy presumption against this type of housing development within the open 'countryside' which fails to accord with policy LDP DM 1 or Supplementary Guidance Policy SG LDP HOU 1 of the adopted Argyll and Bute Local Development Plan 2015.
2. Whilst consideration has been given to a previously granted planning permission for this site, it is confirmed that sufficient weight cannot be given to an expired, unimplemented permission, to outweigh the current policy presumption against the development that exists within the current LDP.
3. There are no other material considerations, including issues raised by third parties, which warrant anything other than the application being determined in accordance with the provisions of the development plan.

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