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Argyll and Bute Council
Comhairle Earra-Ghàidheal Agus Bhòid

Executive Director: Douglas Hendry

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1 December 2022

NOTICE OF MEETING

A meeting of the **ARGYLL AND BUTE LOCAL REVIEW BODY** will be held **BY MICROSOFT TEAMS** on **THURSDAY, 8 DECEMBER 2022** at **9:00 AM**, which you are requested to attend.

Douglas Hendry
Executive Director

BUSINESS

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST**
3. **CONSIDER NOTICE OF REVIEW REQUEST: CUL NA BUTHA, FIONNPHORT, ISLE OF MULL (REF: 22/0005/LRB)**
   (a) Notice of Review and Supporting Documentation (Pages 3 - 22)
   (b) Comments from Interested Parties (Pages 23 - 38)

Argyll and Bute Local Review Body

Councillor Kieron Green (Chair) Councillor Graham Hardie
Councillor Luna Martin

Contact: Fiona McCallum, Committee Services Officer Tel: 01546 604392

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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 100604130-001

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.

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:	AGL Architect Ltd		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Alexander	Building Name:	
Last Name: *	Lees	Building Number:	32
Telephone Number: *	[redacted]	Address 1 (Street): *	Carseview
Extension Number:		Address 2:	Bannockburn
Mobile Number:		Town/City: *	Stirling
Fax Number:		Country: *	Stirlingshire
		Postcode: *	FK78LQ
Email Address: *	info@aglarchitect.co.uk		

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

☒ Individual ☐ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	Other	You must enter a Building Name or Number, or both: *	
Other Title:	Mr & Mrs	Building Name:	The Smiddy
First Name: *	Alan	Building Number:	
Last Name: *	Lindsay	Address 1 (Street): *	Fionnphort
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	Fionnphort
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	PA66 6BW
Fax Number:			
Email Address: *	[redacted]		

Site Address Details

Planning Authority:	Argyll and Bute Council

Full postal address of the site (including postcode where available):

Address 1:	CUL NA BUTHA
Address 2:	FIONNPHORT
Address 3:	
Address 4:	
Address 5:	
Town/City/Settlement:	ISLE OF MULL
Post Code:	PA66 6BL

Please identify/describe the location of the site or sites

Northing	723269	Easting	130154

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)

Following approval of the application ref:12/01531/PP for the erection of log cabin for a temporary period of 5 years, this application is to create a permanent dwelling house for the existing log cabin at Ferry Shop, Fionnphort,

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 a 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 unl kely 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.

please refer to the supporting LRB Statement attached

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)

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)

Existing plans & Elevations Proposed Plans & Elevations LRB Statement

Application Details

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

22/00837/PP

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

21/04/2022

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

22/09/2022

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)

to gauge the visual impact of the building concerned

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 Alexander Lees

Declaration Date: 21/10/2022

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Local Review Board Statement: Cul Na Butha, Fionnphort

for Mr & Mrs Lindsay

(Applicants)

21st October 2022

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STATEMENT IN SUPPORT OF THE APPEAL AGAINST THE DECISION OF THE ARGYLL & BUTE COUNCIL TO REFUSE THE PLANNING APPLICATION FOR THE CHANGE OF USE FROM TEMPORARY ACCOMMODATION TO PERMANENT ACCOMMODATION.

PLANNING REFERENCE: 22/00837/PP

DECISION DATE: 22nd September 2022

1. Project Background

1.1 The Applicants submitted a detailed planning application to Argyll & Bute Council on 22nd April 2022 to change the current temporary approval into a permanent approval for the existing building located to the rear of the local shop. This application was refused on the 22nd September 2022 with two reasons given for the decision. They are as follows:

1.1.1 The use of the temporary chalet as permanent residential accommodation would not provide a satisfactory living environment in the Argyll and Bute climate. Additionally, the permanent siting of the chalet, with its temporary nature of construction, design and appearance, would be detrimental to the environmental character of the settlement in which it is sited. The proposal would be contrary to Policy LDP 8 and supplementary guidance LG LDP HOU 4 of the adopted 'Argyll and Bute Local Development Plan' which seek to prevent the use of non-permanent structures for permanent residential accommodation.

1.1.2 The appearance of the temporary chalet, by virtue of its siting, design, materials and character, would represent an incongruous feature within the streetscape and surrounding Area of Panoramic Quality, contrary to the provisions of Policy LDP 9 and Supplementary Guidance SG LDP ENV 13 and SG LDP ENV 14 of the adopted 'Argyll and Bute Local Development Plan' 2015 which seeks to ensure that development is sited and positioned so as to pay regard to the context within which it is located and ensure that the design of developments and structures are compatible with the surroundings.

1.2 A previous approval (ref:12/01531/PP) was to replace a static caravan with a log cabin to be used as temporary residential use.

1.3 Communication from the Planning Authority, throughout the determination period, was limited and the Applicants were only advised of the decision to refuse the application when we received the determination. We (AGL Architect) requested that the planning officer enter into discussions to

come to a mutually acceptable solution. However, this did not happen. As far as we are aware the planning officer did not visit the site and struggle to understand how they can decide that the building was an “incongruous feature” within the streetscape.

1.4 The Applicants and ourselves were frustrated that the Planning Authority determined this application without communication with either party, particularly given the references to subjective policies referred to in the refusal notice.

1.5 The Appellants submit that the subjective policies, referred to in the refusal notice, have prejudicially influenced the Planning Authority and wrongly harmed the planning application's chance of being approved.

2. Site Analysis / Building Description / Application Proposal

2.1 The property is within the rural setting of Fionnphort.

2.2 There are no large open vistas into the site. The property is located to the rear of the plot allocated to the Ferry Shop and Post Office, circa 45m from the public road.

2.3 Access to the property is via a private driveway between the Ferry Shop and Seaview.

2.4 The property is part of a building group within the Ferry Shop curtilage and outbuildings in adjacent plots.

2.5 The property:

(a) consists of a single storey dwelling with insulated timber walls and onduline sheet roof with double glazed windows.
(b) Property is connected to mains water, drainage and electrical supplies.
(C) The building is heated via modern storage heaters and wood burning stove.

2.6 The proposal includes:

(a) Existing ceiling to be full insulated and sheeted with plasterboard finish.
(b) External cladding to be repaired and treated to protect cladding.
(c) General repairs to external fabric of building including repairs to rainwater goods.

2.7 The proposals will enable the building to be upgraded to achieve a higher energy efficiency for a permanent residence.

2.8 The use of the building will be for a permanent residential use for a local family and will be ancillary to the Ferry Shop.






3. The reasons for refusal and the applicants' comments on these reasons

3.1 The planning application was refused with two reasons given for that decision, as set out in para 1.1 above.

3.2 It is now proposed to address each of these reasons to demonstrate why the Applicant's application can be approved without being in contravention of the quoted Local Plan Policies.

3.2.1 ***Reason 1:*** *The use of the temporary chalet as permanent residential accommodation would not provide a satisfactory living environment in the Argyll and Bute climate. Additionally, the permanent siting of the chalet, with its temporary nature of construction, design and appearance, would be detrimental to the environmental character of the settlement in which it is sited. The proposal would be contrary to Policy LDP 8 and supplementary guidance LG LDP HOU 4 of the adopted 'Argyll and Bute Local Development Plan' which seek to prevent the use of non-permanent structures for permanent residential accommodation*.

3.2.2 The officer's statement is somewhat subjective and illustrates their single mindedness. Policy LDP 8 recognises the need to ensure that the existing community of Fionnphort is strengthened through providing development opportunities to generate growth economically and in population. There is currently a shortage of housing on the island which is not holiday let and affordable to young families. A key aspect of the LDP is to deliver of affordable housing in challenging economic circumstances. Reason 1 therefore is incorrect. The applicants have already been approached by a number of local families keen to rent the building thus highlighting the real need for affordable housing.

3.2.3 It is also worth highlighting that the building could help protect the viability of The Ferry Shop in the future. it would be a more attractive to prospective buyers if there was some form of accommodation for new owners given how difficult it is to find housing in the local area. The purchase of the shop in 2011 would not have been possible if there had not been a residential caravan there. It is not unreasonable to envisage the shop closing if a new buyer cannot be found because there is nowhere for them to live.

3.2.4 The reason also states that the accommodation would not provide a satisfactory living environment. Without correspondence with the planning authority during the assessment period we are not aware as to whether or not they have taken cognisance of the proposed refurb works as part of the change of use. The refurb works would bring a vast improvement to the energy efficiency of the dwelling. In response to the statement relating to the temporary nature of the building, we would strongly disagree with this statement. This construction type is found and used internationally for residential uses in places such as Scandinavia. A climate more aggressive than that of West Scotland. The cabin provided a satisfactory living environment for the applicants between the years 2013 to 2021. Environmental Health were consulted as part of the process and have not received any complaints since the building was erected on 2013.

3.2.5 SG LDP HOU4 relates to caravans (and non-permanent structures) There is no detailed description of what is classed as a non-permanent structure. In our opinion the property is not a non-permanent structure but a permanent structure previously used as a full-time residence. It is also worth noting that the council tax has been paid since 2013.

3.3 ***Reason 2:*** The appearance of the temporary chalet, by virtue of its siting, design, materials and character, would represent an incongruous feature within the streetscape and surrounding Area of Panoramic Quality, contrary to the provisions of Policy LDP 9 and Supplementary Guidance SG LDP ENV 13 and SG LDP ENV 14 of the adopted 'Argyll and Bute Local Development Plan' 2015 which seeks to ensure that development is sited and positioned so as to pay regard to the context within which it is located and ensure that the design of developments and structures are compatible with the surroundings.

3.3.1 Policy LDP 9 and SG LDP ENV 13 will resist development where its scale, location or design will have an adverse impact on the landscape. The Area of Panoramic Quality, when viewed in its entirety consists of a mixture of building types in relation to design, massing and architectural quality. Therefore, the proposals would sit suitably within its site context. The location of the dwelling is significantly set back from the main streetscape with very little intervention. The design and massing of the building is subservient to the surrounding building context. This is illustrated In the photographs below.

View of building from opposite side of road

View of building from driveway

4. Conclusion

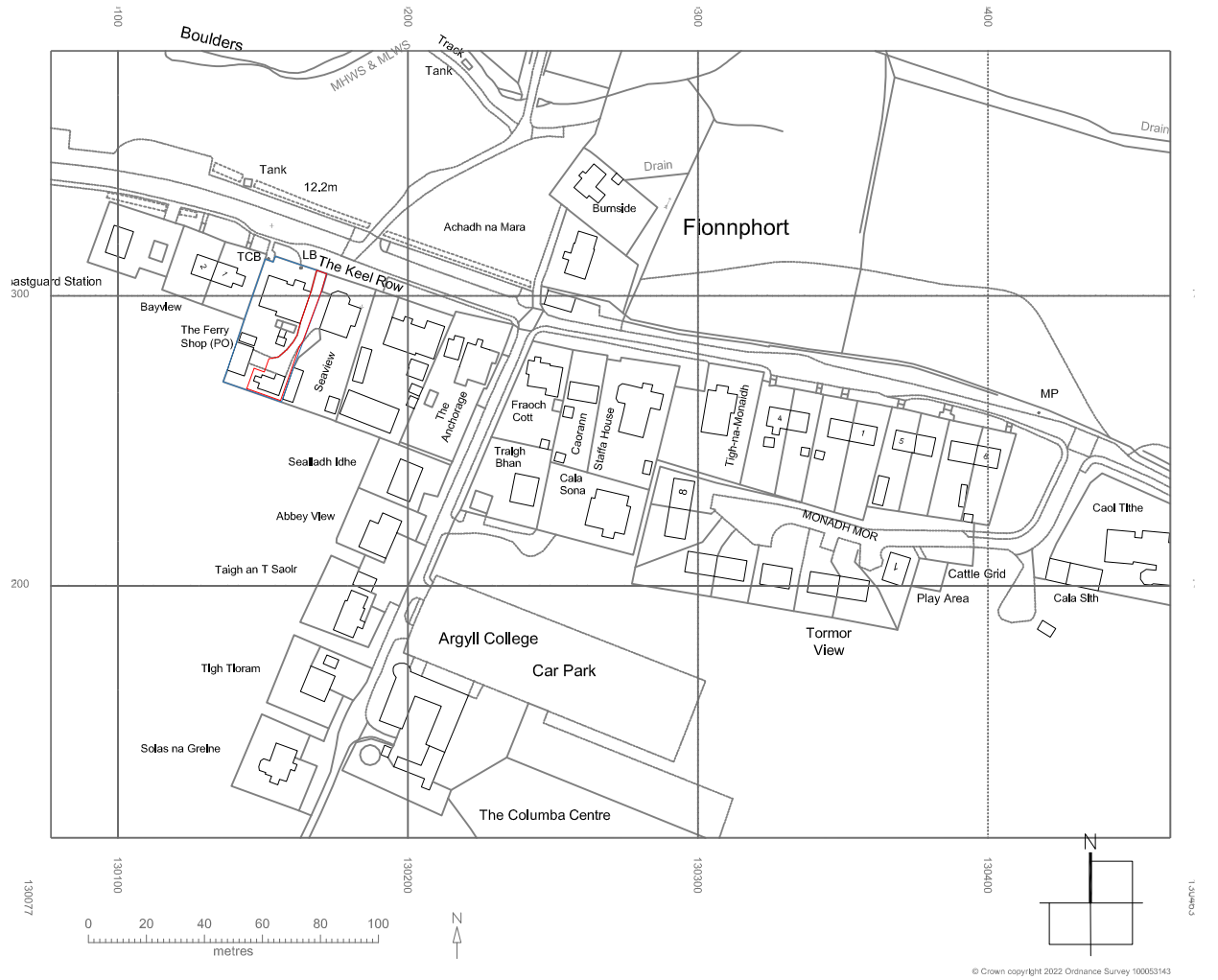
4.1 Whilst there were only two reasons for refusing the application, we believe it was due to interpretation of subjective policies together with hiding behind the idea of protecting the character of the APQ. Having established that the character is not of a singular, uniform design, scale, mass or use of materials we have sought to demonstrate why the proposals will not have the adverse effect as feared by the planning authority.

4.2 In light of the above, Mr & Mrs Lindsay asks that the Local Review Body overturn the decision of the planning officer and grant permission for the change to a permanent residence. The applicant is happy to accept conditions relating to materials should this be necessary.

OWNERSHIP BOUNDARY

APPLICATION BOUNDARY

BLOCK PLAN SCALE 1:200



LOCATION PLAN SCALE 1:2500

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1:100- 0 1m 2m 3m 4m 5m 6m 7m 8m 9m 10m
1:50- 0 1m 2m 3m 4m 5m
1:5- 0 100mm 200mm 300mm 400mm 500mm

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MR & MRS A. LINDSAY

Retention of log cabin for permanent residential accommodation/staff accommodation
Cul Na Butha
Main Street, Fionnphort. PA66 6BL

EXISTING LOCATION PLAN

scale	date	drawn:	status:
AS NOTED@A3	17.03.22	AGL	PLANNING
proj no. 22-111-100	Dwg no. 100	REV B	

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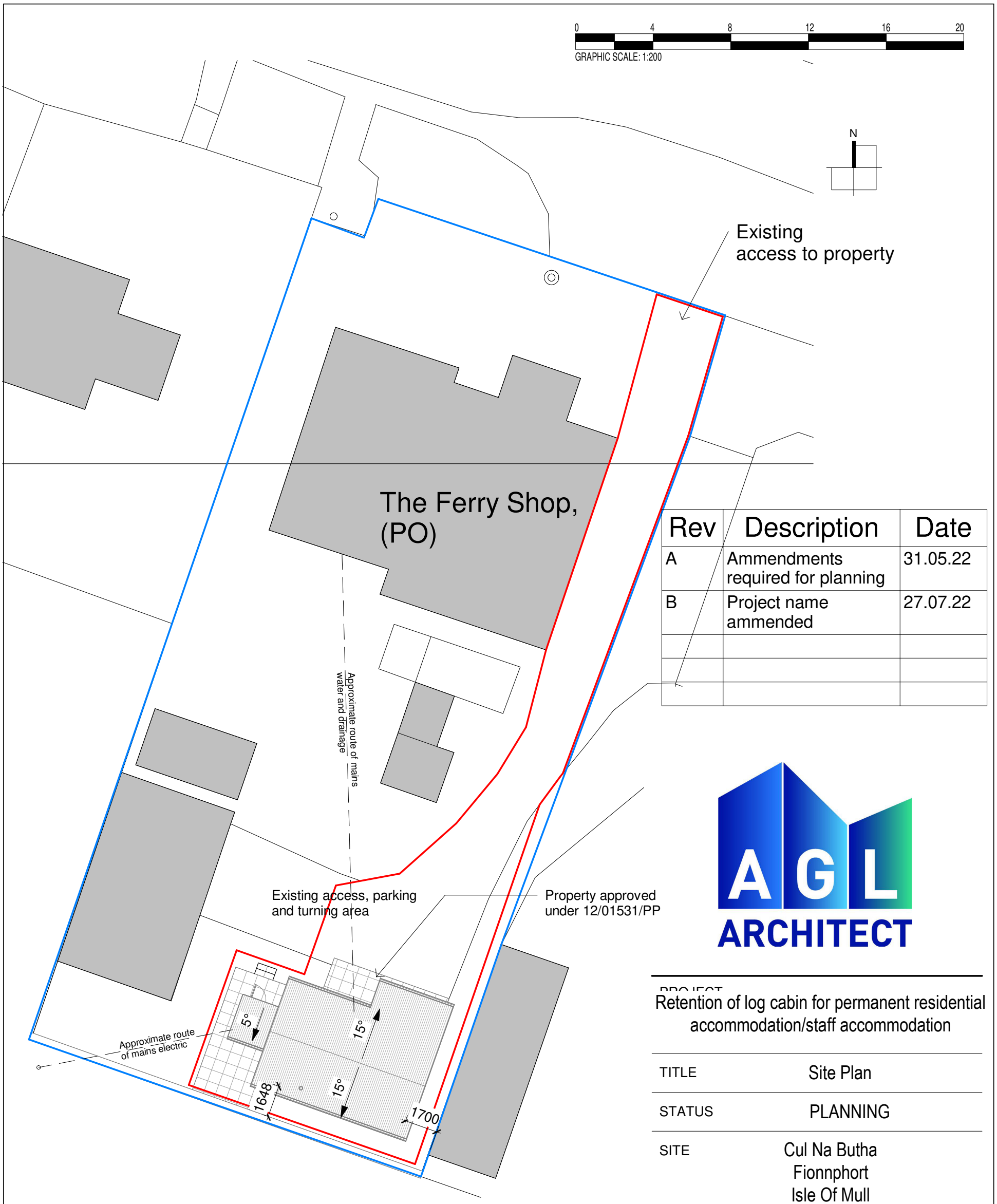

Rev	Description	Date
A	Ammendments required for planning	31.05.22
B	Project name ammended	27.07.22

AGL ARCHITECT

Retention of log cabin for permanent residential accommodation/staff accommodation

TITLE	Site Plan
STATUS	PLANNING
SITE	Cul Na Butha Fionnphort Isle Of Mull PA66 6BL
CLIENT	Mr & Mrs A. Lindsay

DRAWN BY	CHECKED BY	DATE
AGL	AGL	02.04.22

SCALE (@ A3)	PROJECT NUMBER
1 : 200	22-110

DRAWING NUMBER	REV
101	B

Site Plan

1 : 200

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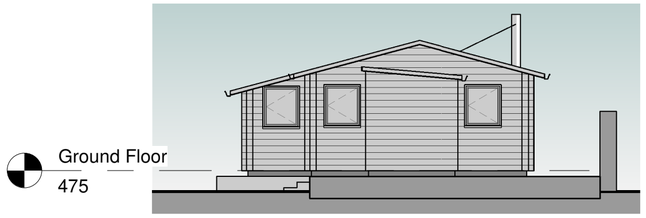
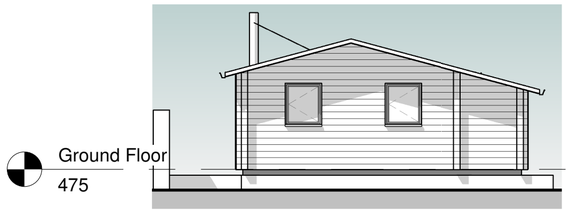
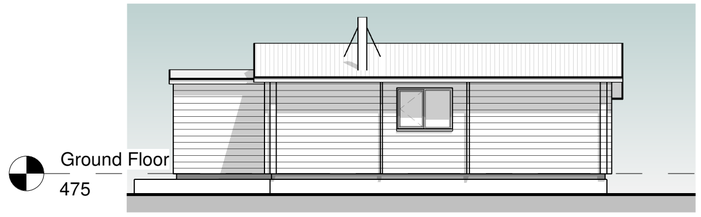


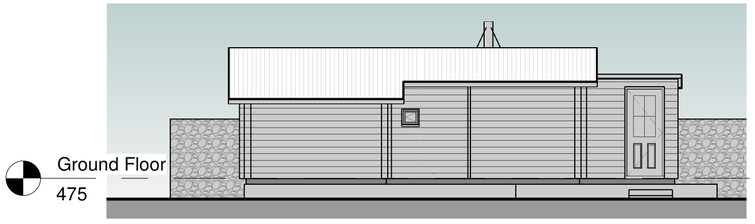
West Elevation
1 : 100



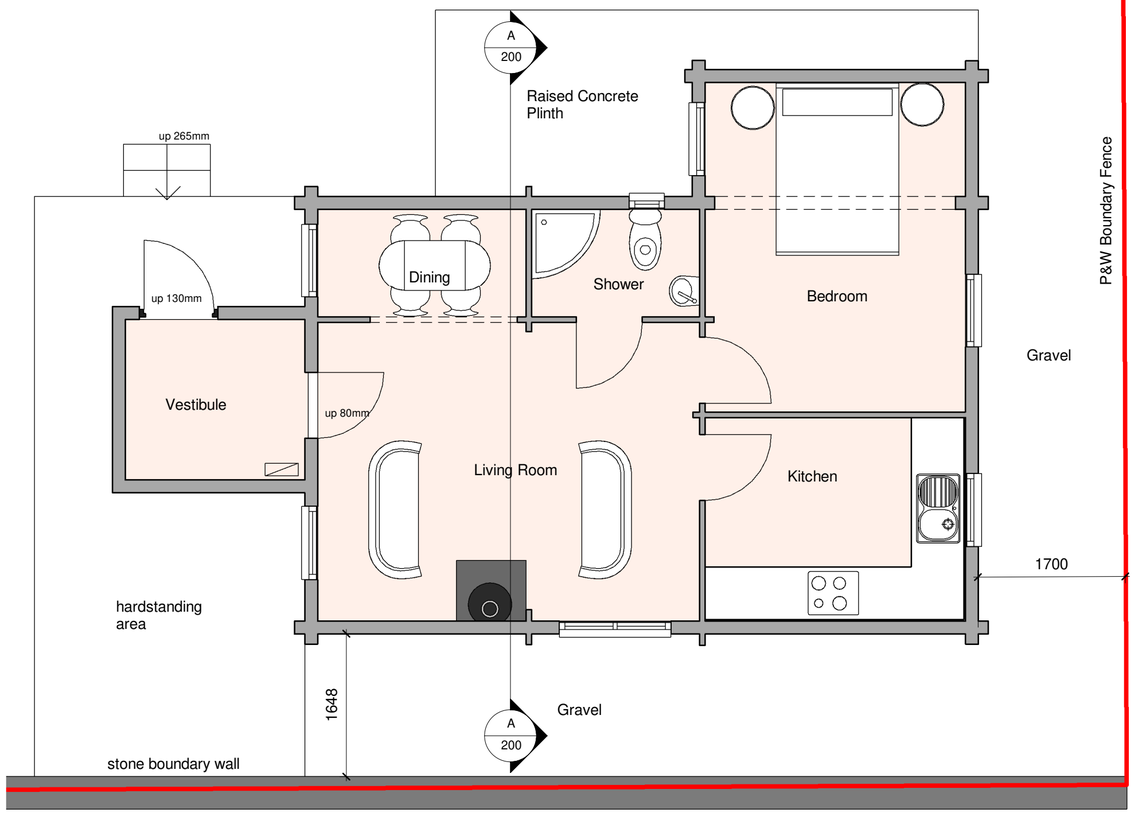
East Elevation
1 : 100



South Elevation
1 : 100



North Elevation
1 : 100



Ground Floor
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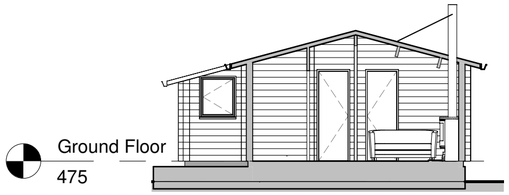

Section A
1 : 100

SCOPE OF WORKS
- Existing ceiling / roof to be insulated internally and lined with plasterboard.
- Existing external timber cladding to be repaired and and stained to protect cladding.
- General repairs and maintenance to external fabric of building inc repairs to rainwater goods etc.

EXISTING BUILDING

WALLS:	External walls consist of timber frame strucutre clad externally with horizontal timber shiplab boarding.
ROOF:	Roof consists of profiled metal sheet roof laid on sarking boards supported by purlins.
DOORS:	Timber doors and windows.
SERVICES:	The building is served with mains drainage, water and electricty.

0 1 2 3 4 5 10
GRAPHIC SCALE: 1:100

0 1 2 3 4 5
GRAPHIC SCALE: 1:50

Rev	Description	Date
A	Project name ammended	27.07.22

AGL ARCHITECT

PROJECT
Retention of log cabin for permanent residential accommodation/staff accommodation

TITLE
Existing Plans & Elevations

STATUS
PLANNING

SITE
Cul Na Butha
Fionnphort
Isle Of Mull
PA66 6BL

CLIENT
Mr & Mrs A. Lindsay

DRAWN BY	CHECKED BY	DATE
AGL	AGL	02.04.22

SCALE (@ A2)	PROJECT NUMBER
As indicated	22-110

DRAWING NUMBER	REV
200	A

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STATEMENT OF CASE

FOR

ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY

22/0005/LRB

REFUSAL OF PLANNING PERMISSION FOR RETENTION OF LOG CABIN FOR PERMANENT RESIDENTIAL ACCOMMODATION/STAFF ACCOMMODATION – PLANNING APPLICATION REFERENCE 22/00837/PP

CUL NA BUTHA, FIONNPHORT, ISLE OF MULL

STATEMENT OF CASE

The Planning Authority is Argyll and Bute Council ('the Council'). The appellants are Mr and Mrs Alan Lindsay ("the appellant").

Planning permission 22/00837/PP for the retention of a log cabin for permanent residential accommodation/staff accommodation at Cul Na Butha, Fionnphort, Isle of Mull, Argyll and Bute ("the appeal site") was refused by the Planning Service under delegated powers on the 22nd September 2022.

This decision is the subject of referral to a Local Review Body.

DESCRIPTION OF SITE

The site is located within the 'Minor Settlement' of Fionnphort to the south of the A849, from which the access to the site is gained. Undeveloped land adjoins the southern boundary of the site. The Ferry Shop and associated outbuildings are sited to the north and west, and the curtilage of a residential property is sited to the east. Planning permission was granted under application 07/00549/DET for alterations and extensions to The Ferry Shop to provide staff accommodation and the erection of a manager/owners house. A caravan at the site was removed and replaced with the temporary structure following planning application 12/01531/PP. This allowed for the temporary siting of the temporary structure for a period of five years. The current continued use of the land for the siting of the temporary structure therefore constitutes a breach of planning control.

STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED

Section 25 of the Town and Country Planning (Scotland) Act 1997 provides that where, in making any determination under the Planning Act, regard is to be had to the development plan, and all other material planning considerations and the determination shall be made in accordance with the plan unless material considerations indicate otherwise. This is the test for this application.

STATEMENT OF CASE

Argyll and Bute Council considers the determining issues in relation to the case are as follows:

- *Whether the proposed development is acceptable within the designated Minor Settlement within which planning policies LDP STRAT 1, LDP DM1, LDP 3, LDP 8, LDP 9, LDP 10 and LDP 11 seek to ensure development is appropriate to the established natural, human and built environment and seek to ensure a high standard of appropriate design that is contextually appropriate, and to ensure that suitable infrastructure is available to serve the development.*

- *Notwithstanding the above, whether the development is considered to be a temporary structure unsuitable for permanent residential accommodation and, therefore, contrary to planning policy LDP 8 and SG LDP HOU 4.*

- *Notwithstanding the above, whether the development is considered to be materially harmful to the landscape qualities of the Area of Panoramic Quality and, therefore, contrary to planning policies LDP 3, LDP 9, SG LDP ENV 13 and SG LDP ENV 14.*

The Report of Handing (Appendix A) sets out the Council's full assessment of the application in terms of these key determining issues and concludes that:

Firstly, the site does not accord with policies LDP STRAT 1, LDP DM 1, LDP 3, LDP 8, LDP 9, LDP 10 and LDP 11; that the proposed development does not integrate with the character and appearance of the area or consolidate the existing settlement pattern;

Secondly, that the development is a temporary structure that is unsuitable for permanent residential accommodation due to its design, finish and materials of construction, and due to its siting and, therefore, would be contrary to planning policy LDP 8, SG LDP HOU 4 and Policy 69 of the proposed Local Development Plan 2, and;

Thirdly, that the development, which is located adjacent to the busy A849, which provides the access to the Fionnphort ferry terminal, results in a materially harmful impact on the quality and character of the Area of Panoramic Quality and the design, layout and siting do not accord with planning policies LDP 3, LDP 9, LDP SG ENV 13 and SG LDP ENV 14 or the Sustainable Development Guidelines contained within the adopted Local Development Plan.

Furthermore, it is not considered that the highlighted unacceptable impacts of the proposed development can be appropriately mitigated through the use of planning conditions.

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 A. As such it is considered that Members have all the information they need to determine the case. Given the above and that the proposal 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's Agent ("the Agent") has submitted a supporting statement. The following comments are made in relation to their submission:

- The Agent states that, 'Communication from the Planning Authority, throughout the determination period, was limited and the Applicants were only advised of the decision to refuse the application when we received the determination. We (AGL Architect) requested that the planning officer enter into discussions to come to a mutually acceptable solution. However, this did not happen. As far as we are aware the planning officer did not visit the site and struggle to understand how they can decide that the building was an "incongruous feature" within the streetscape'.

  Comment *Officers are entitled to assess and determine a planning application on the basis of the information submitted. We operate a pre-application advice service and it is noted that no such pre-application advice was sought. In addition, there is no evidence to substantiate the claim that officers were asked to enter into discussions to come to a mutually acceptable solution.*

The site was indeed visited (on the 28th August 2022) and a thorough site inspection was carried out. Photographs of the site taken at this site inspection are included as Appendix B.

- The Agent states that, 'Without correspondence with the planning authority during the assessment period we are not aware as to whether or not they have taken cognisance of the proposed refurb works as part of the change of use. The refurb works would bring a vast improvement to the energy efficiency of the dwelling. In response to the statement relating to the temporary nature of the building, we would strongly disagree with this statement.'

  Comment *Officers were aware of the extremely scant details of the 'proposed refurb' works submitted with the application but were not persuaded that these limited works would be likely to result in the 'vast improvement' to the thermal efficiency of what is, essentially, a timber shed to an extent where the permanent residential occupation of this temporary building would be acceptable under the terms of policy SG LDP HOU 4. This 'log cabin' type building was originally assessed as being for temporary accommodation only and is specifically described as such within the planning application which lead to its siting on the land (12/01531/PP). The development was never intended to remain on site and should have been removed some five years previously.*

  The temporary structure is not suitable for permanent accommodation and this was highlighted during the assessment of the application for temporary permission, where it was stated that the make-up and design of the temporary structure was not desirable. This is of particular concern as the description of the proposal within the application form for the permanent retention of the temporary structure states that the temporary structure may either be used for the accommodation of a shop worker, or would be used as a permanent dwellinghouse for a family, which may therefore be independent of The Ferry Shop. Due to the very limited amenity space surrounding the temporary structure, it was considered necessary to limit the occupation of the temporary structure to a person or persons solely or mainly employed in the adjoining shop/business and a condition to this effect was attached to the granting of temporary planning permission. This application for the retention of the temporary structure for permanent residential accommodation, for either a shop assistant or local family, again raised concerns with regard to the very limited private amenity space available, which would directly conflict with the core policy of LDP STRAT 1.

- The Agent states that, 'There are no large open vistas into the site. The property is located to the rear of the plot allocated to the Ferry Shop and Post Officer, circa 45m from the public road'.

  Comment *Whilst the temporary structure is sited to the rear of the plot, it is clearly visible within the streetscene, occupying the open space between The Ferry Shop and Post Office to the west and the adjacent residential property to the east. Policy LDP 3 requires development to protect, conserve or enhance the established character and local distinctiveness of the landscape in terms of its location, scale, form, and design. The proposed development would occupy the constrained site to the rear of The Ferry Shop and Post Office, disrupting the established settlement pattern. The scale, form and design of the temporary structure is incompatible and out of character in the context of the local vernacular which is characterised by traditionally proportioned dwellings which make use of traditional facing materials.*

  Policy LDP ENV 13 – Development Impact on Areas of Panoramic Quality, states that Argyll and Bute Council will resist development in, or affecting, an Area of Panoramic

Quality where its scale, location or design will have a significant adverse impact on the character of the landscape. In all cases, the highest standards in terms of location, siting, design, landscaping, boundary treatment and materials, and detailing will be required within Areas of Panoramic Quality. The supporting text states that the aim of this policy is to provide locally important landscape with adequate protection against damaging development that would diminish their very high scenic value. These qualities can easily be destroyed or damaged by relatively small, insensitive development. The application site and the temporary structure the subject of the application is readily visible from the public realm. Development which would individually or cumulatively erode the established local character will not be permitted. The important policy considerations outlined above would not be set aside simply because the development is partially screened by the Ferry Shop.

- The Agent seeks to highlight the need for affordable housing and the viability of The Ferry Shop.

  The application for the erection of the temporary structure for a period of five years was granted solely on the basis of temporary occupation during the development of the scheme approved under application 07/00549/DET. This scheme was for the alterations and extensions to the shop to provide staff accommodation and erection of manager/owners house. SG LDP HOU 4, and the preceding policy, states that temporary structures will not be permitted for permanent dwellinghouses. The application for temporary permission acknowledged this, however considered it appropriate on the basis of temporary necessity to provide accommodation during the development of the approved planning scheme outlined above. The proposed Local Development Plan 2 carries forward and reiterates this approach within Policy 69 which states that the design, finishes and materials of construction do not allow for repairs, extensions or adaptations. Additionally, the temporary structures are prone to deterioration and not considered suitable for long-term retention; the proposed external works required on the temporary structure highlight this. The previous temporary permission considered the temporary structure inappropriate for any use other than temporary accommodation in connection with The Ferry Shop and no sufficient or justifiable reason has been presented for its long term retention to overcome the concerns in relation to the habitation quality, the lack of amenity space and the incompatible design and appearance.

CONCLUSION

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

In this case, as detailed in the Report of Handling appended to this submission, the development does not represent an appropriate opportunity for permanent residential accommodation and there has been no sufficient or justifiable reason for the development to overcome the concerns outlined above. The proposed development is therefore confirmed as being contrary to planning policies STRAT 1, LDP DM 1, LDP 3, LDP 8, LDP 9 and Supplementary Guidance SG LDP HOU 4, SG LDP ENV 13 and SG LDP ENV 14 of the Argyll and Bute Local Development Plan 2015.

Taking account of the above, it is respectfully submitted that the application for Review be dismissed.

APPENDIX A – REPORT OF HANDLING

Argyll and Bute Council
Development & Economic Growth

Delegated 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

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Reference No:	22/00837/PP
Planning Hierarchy:	Local Development
Applicant:	Mr Alan Lindsay
Proposal:	Retention of log cabin for permanent residential accommodation/staff accommodation
Site Address:	Cul Na Butha, Fionnphort, Isle of Mull

DECISION ROUTE

Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Retention of log cabin for permanent residential accommodation

(ii) Other specified operations

- Internal works
- Repairs and staining of external cladding

(B) RECOMMENDATION:

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

(C) CONSULTATIONS:

Area Roads Authority
Report dated 22.08.2022 advising no objections to the application.

Environmental Health
Letter dated 17.08.2022 advising no objections to the application.

(D) HISTORY:

12/01531/PP
Erection of log cabin for a temporary period of 5 years.

Granted on 01.10.2012

07/00549/DET
Alterations and extension to shop to provide staff accommodation and erection of management/owners house.
Granted on 15.05.2007

(E) PUBLICITY:

The proposal has been advertised in terms of Regulation 20 and Neighbour Notification procedures, overall closing date 25.08.2022.

(F) REPRESENTATIONS:

(i) Representations received from:

No representations received.

(ii) Summary of issues raised:

- N/A

(G) SUPPORTING INFORMATION

Has the application been the subject of:

(i)	**Environmental Statement:**	No
(ii)	**An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:**	No
(iii)	**A design or design/access statement:**	No
(iv)	**A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:**	No

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(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: No

(I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: No

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(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' Adopted March 2015

LDP STRAT 1 – Sustainable Development
LDP DM 1 – Development within the Development Management Zones
LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment
LDP 8 – Supporting the Strength of our Communities
LDP 9 – Development Setting, Layout and Design
LDP 10 – Maximising our Resources and Reducing our Consumption
LDP 11 – Improving our Connectivity and Infrastructure

'Supplementary Guidance to the Argyll and Bute Local Plan 2015' (Adopted March 2016)

Landscape and Design

SG LDP ENV 13 –Development Impact on Areas of Panoramic Quality (APQs)
SG LDP ENV 14 – Landscape

Residential Caravans and Sites

SG LDP HOU 4 – Residential Caravans and Sites (for Permanent Homes)

Sustainable Siting and Design

SG LDP Sustainable – Sustainable Siting and Design Principles

Resources and Consumption

SG LDP SERV 2 – Incorporation of Natural Features / SuDS

Transport (Including Core Paths)

SG LDP TRAN 4 – New & Existing, Public Roads & Private Access Regimes
SG LDP TRAN 6 – Vehicle Parking Provision

(ii) 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.

- Scottish Planning Policy (SPP), 2014
- Argyll and Bute Sustainable Design Guidance

- Argyll and Bute proposed Local Development Plan 2 (November 2019) – 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. 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. The provisions of pLDP2 that may be afforded significant weighting in the determination of this application are listed below:

- Policy 35 – Design of New and Existing, Public Roads and Private Access Regimes
- Policy 37 – Development Utilising an Existing Private Access or Existing Private Road
- Policy 39 – Construction Standards for Private Access
- Policy 69 – Residential Caravans and Sites (for Permanent Homes)

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

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

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

(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

This application seeks planning permission for the retention of an existing temporary chalet for permanent residential accommodation on land to the rear of The Ferry Shop, Fionnphort.

Planning permission was granted under application 07/00549/DET for alterations and extensions to The Ferry Shop to provide staff accommodation and the erection of a manager/owners house. Following this, planning permission was granted through application 12/01531/PP for the siting of a temporary chalet for a limited period of 5 years.

In terms of the adopted Argyll and Bute Local Development Plan, the application site is located within the Minor Settlement of Fionnphort where Policy LDP DM 1 gives support to up to small scale development, subject to compliance with all other relevant policies and supplementary guidance.

Policy LDP 3 assesses applications for their impact on the natural, human and built environment, requiring development proposals to protect, conserve or enhance the established character and local distinctiveness of the surrounding area. The site lies within the Central, South and West Mull Area of Panoramic Quality and therefore the

provisions of SG LDP ENV 13 are of relevance. SG LDP ENV 13 seeks to ensure developments within an Area of Panoramic Quality do not have any significant adverse impact on the character of the landscape.

Policy LDP 9 seeks developers to produce and execute a high standard of appropriate design and ensure that development is sited and positioned so as to pay regard to the context within which it is located. Development layouts must take into account the location or sensitivity of the area within which they are to be sited, the impact from key viewpoints and give consideration to appropriate landscaping to integrate developments within the natural environment.

Policy LDP 11 supports all development proposals that seek to maintain and improve internal and external connectivity by ensuring that suitable infrastructure is delivered to serve new developments. SG LDP TRAN 4 and SG LDP TRAN 6 expand on this policy seeking to ensure developments are served by a safe means of vehicular access and have an appropriate parking provision within the site.

This application seeks consent for the permanent retention of the temporary chalet located to the rear of The Ferry Shop for the purposes of providing longer-term residential accommodation at Fionnphort. The application proposes internal works to insulate the building along with external works comprising repair and staining of the timber cladding and repairs to the rainwater goods. The existing cabin is a temporary, timber-framed structure clad with horizontal timber boarding with a profiled metal sheet roof.

SG LDP HOU 4 states that caravans and all other non-permanent structures will not be permitted for permanent homes. Temporary necessity cases may apply, as with the original application for the temporary chalet at the site, where re-housing is urgently required for emergency accommodation or for the purpose of temporary occupation when building a principal residence on the site.

The previous temporary planning permission for the temporary chalet was granted on the basis that it would provide temporary living accommodation during the development of the previously approved dwellinghouse; the accompanying Report of Handling advises of the policy presumption against the use of such temporary structures for permanent residential accommodation. This strong policy presumption against temporary accommodation structures is also presented within the Argyll and Bute proposed Local Development Plan 2, specifically Policy 69 (Residential Caravans and Sites (for Permanent Homes)), which can be afforded significant material weighting in the determination of planning applications. The supporting text to Policy 69 provides the relevant context, stating that Argyll and Bute's climate and exposed locations mean that such structures are not considered suitable for long term retention. Additionally, the shape, size and materials of construction are difficult to integrate visually with the surrounding landscape and streetscene and can therefore have a detrimental impact on the amenity of the local area.

In addition to the unsuitability of the structure for permanent habitation, it is also readily visible from the public realm; whilst it is set back from the road it occupies the space between The Ferry Shop and the dwelling to the east of the site. The structure is incompatible and out of character in the context of the local vernacular which is characterised by traditionally proportioned dwellings which make use of traditional facing materials. The temporary structure fails to make any positive contribution to the enhancement of local character or to the setting of the site within the wider landscape. The size of the plot is such that the structure has very little amenity space and is therefore inappropriate to the site. The matter of amenity space was

highlighted as an issue within the Report of Handling for the temporary use of the chalet. The structure would therefore be detrimental in terms of visual impact upon the streetscene and the amenity of the occupant.

With regards to development impact on Areas of Panoramic Quality, as detailed within supplementary guidance SG LDP ENV 13, the highest standards in terms of location, siting, design, materials and detailing is required within Areas of Panoramic Quality. For the reasons outlined above, it is not considered that the development would adhere to the requirements of SG LDP ENV 13 and would therefore fail to protect the landscape against damaging, insensitive development which would diminish the high scenic value of the area. The site is bound by the A849 immediately to the north of the site, which serves the nearby Fionnphort ferry terminal. The structure is easily visible by passing traffic and members of the public and it is considered that the continued siting of the structure would cause a detrimental visual impact upon the surrounding environment.

Policy LDP 9 states that development shall be sited and positioned so as to pay regard to the context within which it is located. The permanent siting of the chalet with its temporary nature of construction and in this location would be detrimental to the character of the surrounding area.

No supporting statement has been submitted with the application in terms of justification for the permanent siting of the temporary structure. The application form, however, states the chalet would be occupied by a shop assistant or a local family. The previous temporary permission considered the chalet inappropriate for any use other than temporary use during the construction of the previously approved dwellinghouse. It is therefore concluded that there is not a sufficient or justifiable need for the retention of the temporary chalet for permanent residential accommodation.

The temporary structure should have been removed from the site by 1st October 2017 in order to comply with the conditional temporary planning permission granted on 1st October 2012. This planning condition has not been complied with and the developer has, therefore, been in breach of his planning permission for the past five years. The Council will seek the removal of this unlawful temporary chalet through its planning enforcement provision.

The temporary structure would continue to be serviced by connection to the public water supply network and public drainage network. In this regard the proposal is considered to be acceptable in terms of Policy LDP 11 of the LDP and SG LDP SERV 1 which seek to ensure the suitable infrastructure is available to serve developments.

The application proposes to use the existing access to the site. The Area Roads Engineer has been consulted and has raised no objections to the application. The proposal is compliant with the terms of Policy LDP DM 11, SG LDP TRAN 4, SG LDP TRAN 6 and the relevant policies of the Argyll and Bute proposed Local Development Plan 2, which seek to ensure that developments are served by a safe means of vehicular access and have an appropriate parking and turning area within the site.

Supplementary guidance SG LDP HOU 4 and Policy 69 of the pLDP2 provide a strong policy presumption against the use of such temporary structures for permanent homes. With regard to the previous planning permission, 12/01531/PP granted in October 2012, the reason planning permission was originally granted was due to a statement of case which argued the need for temporary accommodation during the development of the previously approved dwellinghouse; the temporary

chalet replaced a previously existing caravan on the site to provide alternative temporary accommodation for the applicant during this period. With regard to SG LDP HOU 4, 'temporary necessity' relates to the purpose of temporary occupation in an emergency situation or when building a principal residence on site. It is therefore considered that the permanent retention of the temporary chalet for permanent residential accommodation would not comply with the 'temporary necessity' requirements and the proposal is therefore contrary to policy. It is also considered that the permanent siting of the temporary chalet within the identified application site would have a detrimental visual impact upon the surrounding area by virtue of its appearance and would be considered detrimental to the character and visual amenity of the surrounding area. It is important to acknowledge that in the granting of planning permission in 2012, a condition was attached that stated that permission shall cease five years from the date of planning permission having been granted.

For the reasons outlined above, it can be concluded that the proposal for the permanent retention of the temporary chalet structure for permanent residential accommodation would have an adverse impact upon the streetscene and landscape quality of the surrounding Area of Panoramic Quality.

Taking all of the above into consideration, it is considered that the retention of the temporary chalet on the site would result in unacceptable landscape and amenity impacts contrary to the provisions of Policies LDP STRAT 1, LDP DM 1, LDP 3, LDP 8, LDP 9 and Supplementary Guidance SG LDP HOU 4, SG LDP ENV 13 and SG LDP ENV 14 of the adopted Argyll and Bute Local Development Plan 2015 and Policy 69 of the proposed Local Development Plan 2 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 or Planning Permission in Principle Should be Granted:

See reasons for refusal set out 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

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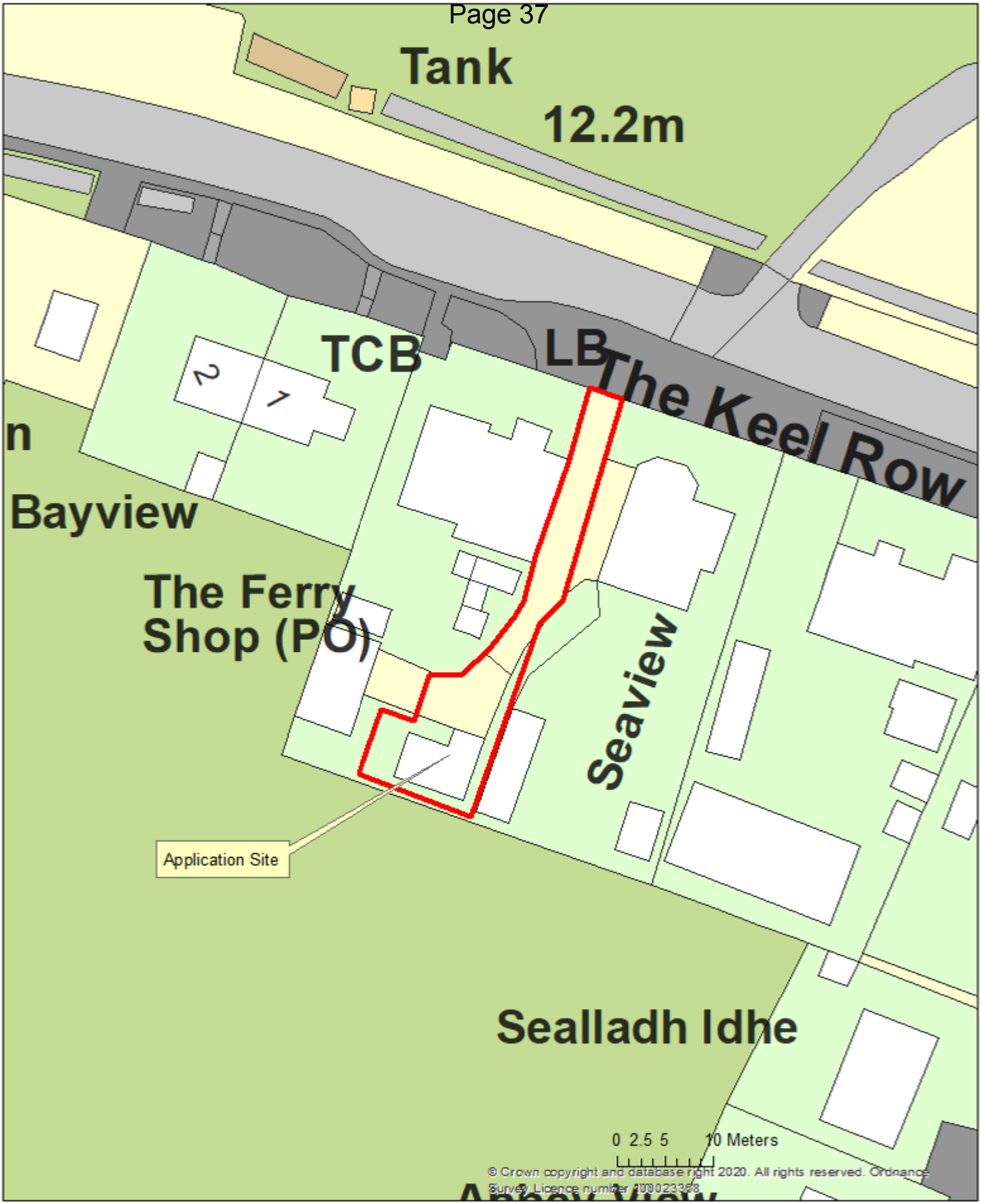
Author of Report:	Emma Shaw	**Date:**	20.09.2022
Reviewing Officer:	Tim Williams	**Date:**	22.09.2022

Fergus Murray
Head of Development and Economic Growth

APPENDIX B – SITE PHOTOGRAPHS, AUGUST 2022


SN13 SZR



Location plan relative to: 22/0005/LRB

1:500

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