Public Document Pack

Argyll and Bute Council
Comhairle Earra-Ghàidheal Agus Bhòid

Executive Director: Douglas Hendry

Kilmory, Lochgilphead, PA31 8RT
Tel: 01546 602127 Fax: 01546 604435
DX 599700 LOCHGILPHEAD

24 April 2023

NOTICE OF MEETING

A meeting of the **ARGYLL AND BUTE LOCAL REVIEW BODY** will be held **BY MICROSOFT TEAMS** on **TUESDAY, 2 MAY 2023** at **2:00 PM**, 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: LAND SOUTH OF BROOMHILL, BREADALBANE STREET, TOBERMORY, ISLE OF MULL (REF: 23/0002/LRB)**

   (a) Notice of Review and Supporting Documentation (Pages 3 - 14)
   (b) Comments from Interested Parties (Pages 15 - 34)
   (c) Comments from Applicant (Pages 35 - 36)

Argyll and Bute Local Review Body

Councillor John Armour
Councillor Kieron Green (Chair)
Councillor Liz McCabe

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

This page is intentionally left blank

Agenda Item 3a

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 100551304-004

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: *		Address 1 (Street): *	Carseview
Extension Number:		Address 2:	Bannockburn
Mobile Number:		Town/City: *	Stirling
Fax Number:		Country: *	Stirlingshire
		Postcode: *	FK78LQ
Email Address: *			

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:	
First Name: *	Andrew	Building Number:	2
Last Name: *	Cripps	Address 1 (Street): *	Culsetter Park Brae
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	Shetland
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	ZE2 9WL
Fax Number:			
Email Address: *			

Site Address Details

Planning Authority:	Argyll and Bute Council

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

Address 1:	Land South of Broomhill, Breadalbane Street,
Address 2:	
Address 3:	
Address 4:	
Address 5:	
Town/City/Settlement:	Tobermory, Isle of Mull
Post Code:	

Please identify/describe the location of the site or sites

Northing	755024	Easting	150301

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)

Removal of Condition 6 relating to watching brief for invasive plant species. Condition not relevant to this particular development plot and should not have been attached to the approval

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 unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Condition 6. The condition relating to the watching brief for Japanese Knotweed was attached to the approval with out due diligence by the planning authority. The invasive plant was located circa 50m from the site boundary and not within the site boundary. we submitted a previous report to confirm this however it seems that this did not satisfy he planning officer. The applicant was not given the opportunity to provide a further response, hence the appeal to the LRB.

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)

Report on Invasive Plant species within the development plot boundary. Report confirming no species have been identified.

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application. 22/00693/PP

What date was the application submitted to the planning authority? * 04/04/2022

What date was the decision issued by the planning authority? * 20/12/2022

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

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: 13/03/2023

This page is intentionally left blank

AGL Architect Ltd
32 Carseview Road
Bannockburn
Stirling
FK7 8LQ

11th March 2023

FAO Sandy Lees

Dear Sirs

SUR140 Breadalbane Street Tobermory - Invasive Weeds Survey

The above site and neighbouring boundaries have been inspected and we are pleased to provide the following survey report on our findings together with our general recommendations.

Site Description

The survey is an area of land set aside for planning permission for a residential building to the east of Breadalbane Street, Tobermory, Mull.

Accessed from street level, the land steeply falls eastward, comprising of recently cleared vegetation allowing access into otherwise generally, densely overgrown site.

Survey Details

A non-intrusive visual walkover survey was carried out on 9th March 2023. At this time of year invasive species are easily identified by any vegetation visible at the time of our inspection along with any plant residue such as leaf litter and dead stalks which remained from the previous growing season.

Japanese knotweed is known to be located approximately 50m from site, a distance that should not affect survey area. As a result, closer inspection, especially of the southern site boundary and neighbouring properties were part of the survey brief.

Survey Findings Summary

There was **no evidence of any invasive plants detected during the survey**. We would confirm that the survey area and boundaries should therefore be regarded as free of any risk of invasive plants for any future development work.

Recommendations

Given the survey area is free of any invasive plants, there is no need for any further input from an invasive weeds specialist other than that mentioned already in our summary. All future works undertaken should therefore ensure compliance with SEPA recommendations, current legislation and achieve Best Practice.

Scotweed Ltd specialise in the identification of invasive plants and in a variety of treatment options available including herbicide management and removal and disposal services.

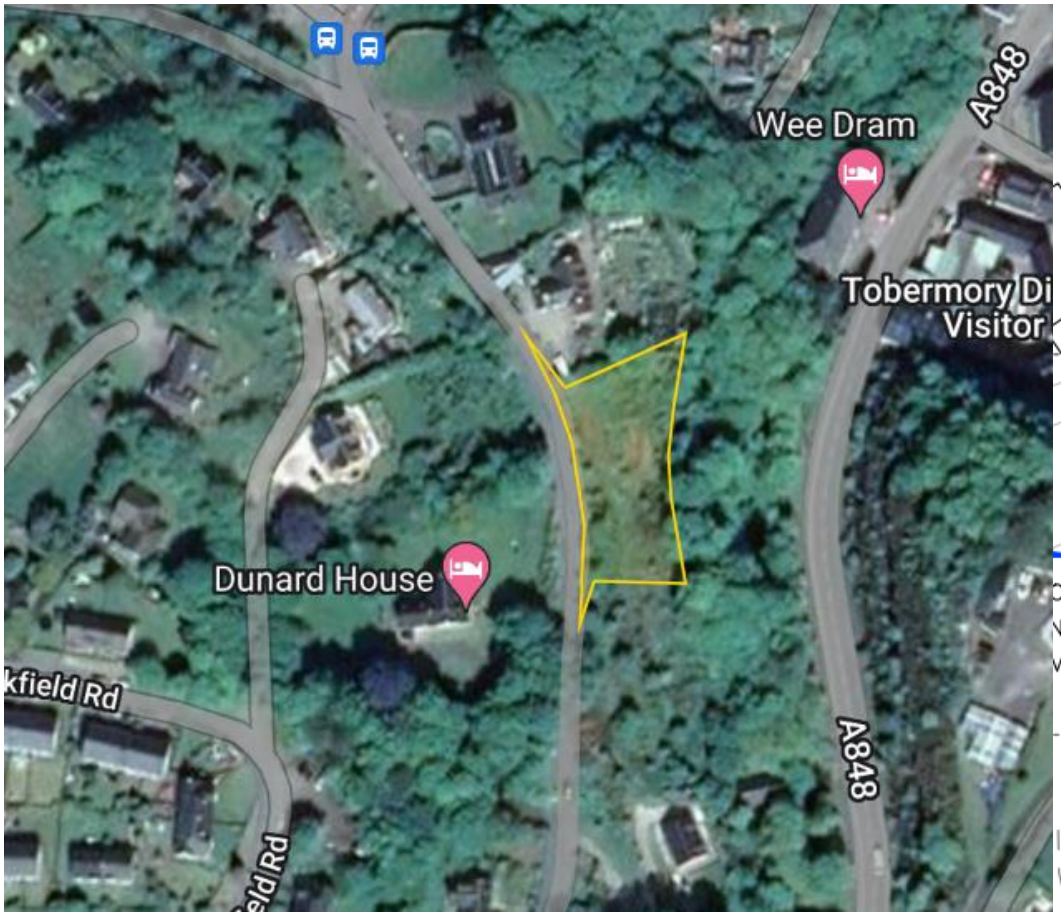
Yours faithfully

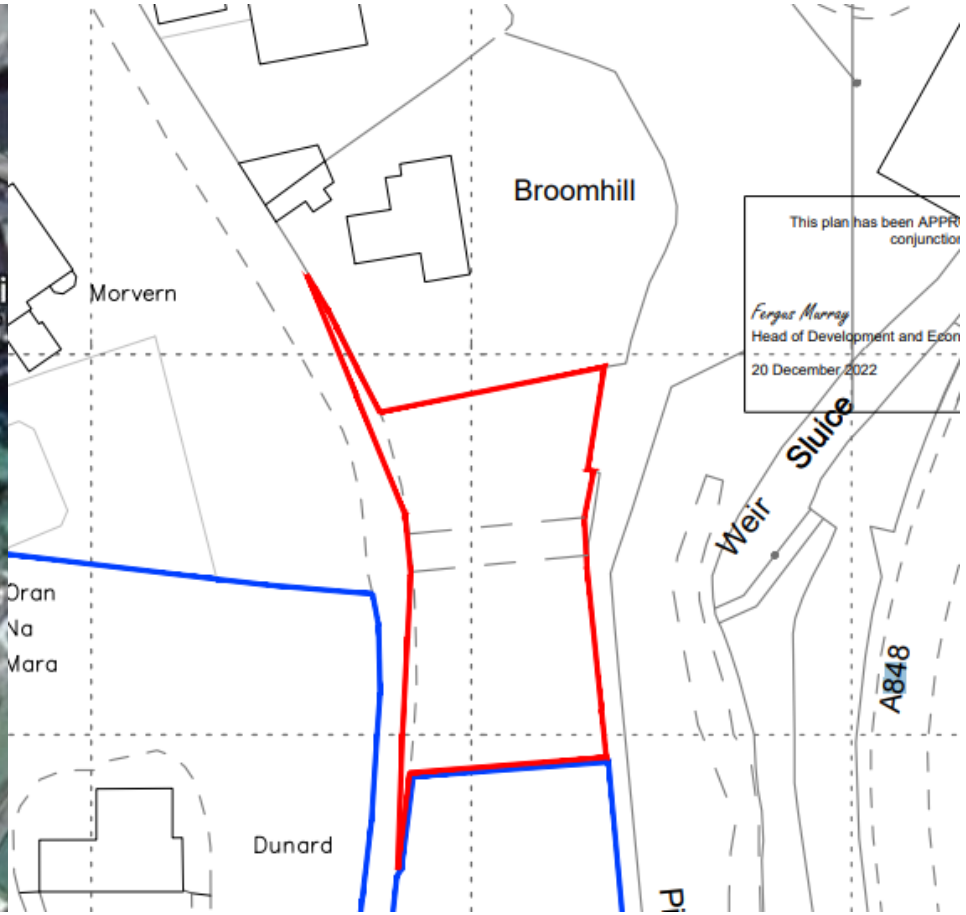
Paul Burns MSc CSJK
ScotWeed Ltd

Survey Photographs

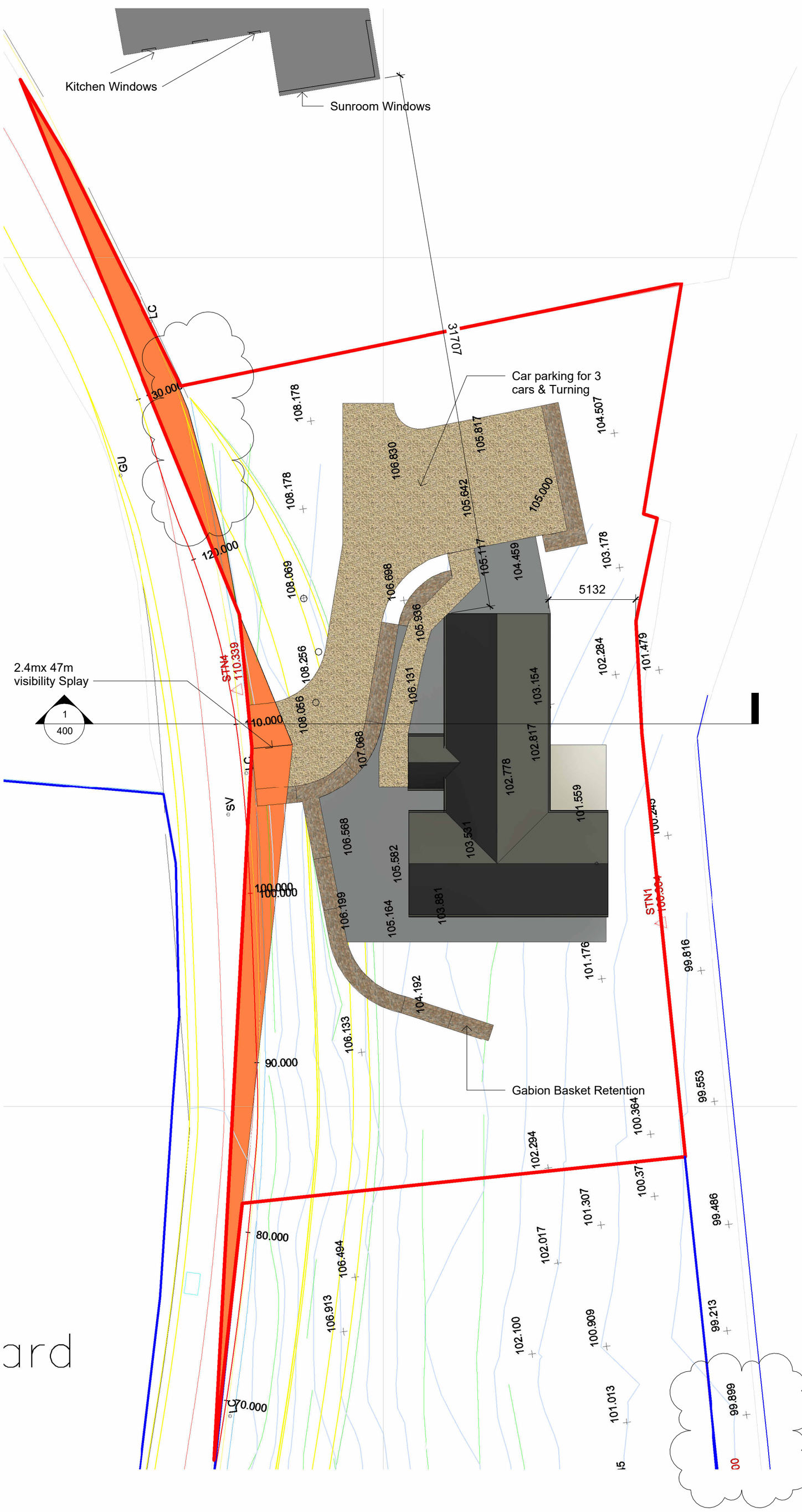
View from access gate	View south across survey from street	View across survey area towards access gate	Within site looking east
			
View north from southern boundary	**View north from within site**	**View north up towards access gate**	**Pipeline amongst dense undergrowth at lower eastern section**
			

Invasive Weeds Survey Location Plan





This page is intentionally left blank



0 4 8 12 16 20

GRAPHIC SCALE: 1:200

North

Gabion Basket Retention

Plot Area = 1230m2
House Footprint = 112m2
Amenity Space = 1128m2

Rev	Description	Date
A	Visibility Splays included in boundary	18.05.22
B	Topo Survey Indicated	24.08.22

AGL ARCHITECT

PROJECT
Proposed Dwelling

TITLE
Site Plan

STATUS
PLANNING

SITE
Site South of Broomhill,
Breadalbane Street
Tobermory

CLIENT
Mr & Mrs A. CRIPPS

DRAWN BY	CHECKED BY	DATE
AGL	AGL	18.03.22

SCALE (@ A2)	PROJECT NUMBER
1 : 200	22-105

DRAWING NUMBER	REV
101	B

Site Plan
1 : 200

This page is intentionally left blank

STATEMENT OF CASE

FOR

ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY
23/0002/LRB

APPEAL AGAINST CONDITION 6 OF PLANNING PERMISSION 22/000693/PP

ERECTION OF DWELLINGHOUSE AND FORMATION OF VEHICULAR ACCESS

LAND SOUTH OF BROOMHILL, BREADALBANE STREET, OBAN

3 APRIL 2023

STATEMENT OF CASE

The Planning Authority is Argyll and Bute Council ('the Council'). The appellants are Mr and Mrs Andrew Cripps ("the appellants").

Planning permission 22/00693/PP for erection of dwellinghouse and formation of vehicular access on land to the south of Broomhill, Breadalbane Street, Oban ("the appeal site") was granted under delegated powers on 20 December 2022.

Condition 6 of the planning permission has been appealed and is subject of referral to a Local Review Body.

DESCRIPTION OF SITE

The site is located to the east of the public UC68 Breadalbane Street, sitting lower in the landscape than the public road. The site slopes down from west to east towards Eas Brae with a covering of scrub and small trees, with no trees of merit within the site. The site is bounded by dwellinghouses to its northern and southern boundaries. In order to achieve suitable development levels there is a need for retention, such as Gabion Baskets, running parallel with Breadalbane Street along the north / south axis of the site.

Permission was granted for a dwellinghouse comprising a single storey, pitched roof structure taking a 'T' shaped form oriented parallel with the public road reflecting the established development in the surrounding area.

During the processing of the application the Council's Structures Team brought to the attention of the Planning Authority that there was Japanese Knotweed on the site which required to be addressed. In this regard the Agent submitted a survey which identified that, whilst Japanese Knotweed was not present within the site, it was present within the wider area. Accordingly, the Planning Authority imposed a condition on the grant of permission requiring the developer to retain a Watching Brief for Japanese Knotweed during the proposed development.

Condition 6 stated:

"Notwithstanding the provisions of Condition 1, a Watching Brief for the presence of Japanese Knotweed on site shall be kept during the construction period of the development. If Japanese Knotweed is found on the site regard should be had to the guidance provided by SEPA with regard to on-site management of Japanese Knotweed and knotweed infested soil".

Condition 6 is now being appealed by the Appellants.

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 Acts, regard is to be had to the development plan, 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 or not Condition 6 should have been imposed on the grant of planning permission.*

The Report of Handling (Appendix 1) sets out the Council's detailed 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 (ROH) 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

In summary, the appellants contend that the Planning Authority did not use due diligence when they imposed Condition 6 on the grant of planning permission as it had been demonstrated, through the report submitted to the Planning Authority during the processing of the application, that Japanese Knotweed was not present on the application site.

The Planning Authority noted in the ROH that the survey submitted in support of the application identified that, whilst Japanese Knotweed was not present within the site at the time that the survey was carried out i.e. on 21 April 2021, it was present within the wider area.

In this regard, due to the invasive nature of Japanese Knotweed, and the speed in which it can spread, the Planning Authority imposed a condition requiring the developer to retain a Watching Brief for Japanese Knotweed during the construction period of the proposed development. Members are reminded that planning permissions have an initial life of three years from the date upon which permission is originally granted. Just because there might not be Japanese Knotweed on a site at the start of year one does not mean that the site can be guaranteed to be free of Knotweed by the end of year three (or beyond if the permission is renewed).

The condition was imposed as a matter of good practice and in accordance with national and local planning and environmental policy with no requirement for the Appellant to do anything in order to comply with the condition, only a requirement for good site management practice to be undertaken during the construction period of the proposed development to ensure that the site remains free from Japanese Knotweed. If Japanese Knotweed were to be found during the construction period, the only requirement for the Appellant would be to comply with SEPAs guidance to the on-site management of Japanese Knotweed and Knotweed infested soil, again in line with local and national planning and environmental policy. If Knotweed continues to be absent from the site at the time of construction then there is no requirement on the developer to do anything at all.

Officers have sought to explain the very limited implications of the planning condition with the appellant's agent. This is a planning condition designed to reflect current best practice having proper regard to national biodiversity considerations.

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 in the ROH appended to this Statement of Case, it remains the view of the Planning Service that Condition 6 was imposed appropriately in order to ensure that the development site remained free of Japanese Knotweed. This condition is considered to comply with the appropriate legal tests for the imposition of planning conditions.

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

APPENDIX 1

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

---

Reference No:	22/00693/PP
Planning Hierarchy:	Local
Applicant:	Mr and Mrs Andrew Cripps
Proposal:	Erection of Dwellinghouse and Formation of Vehicular Access
Site Address:	Land South of Broomhill, Breadalbane Street, Tobermory, Isle of Mull

---

DECISION ROUTE

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

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of dwellinghouse
- Formation of vehicular access

(ii) Other specified operations

- Connection to public water main
- Connection to public drainage system

(B) RECOMMENDATION:

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

(C) CONSULTATIONS:

Argyll and Bute Council - Roads Authority
Report dated 10/06/22 advising no objection to the proposed development subject to conditions being imposed on the grant of permission to secure the appropriate construction of the access at the junction with the public road, clearance of visibility splays and provision of an appropriate parking and turning area within the site.

Argyll and Bute Council – Structures Team
Finalised response dated 11/11/22 advising that they do not have any specific comments but advised that the footprint of the building and associated infrastructure should not encroach onto the embankment that retains the road and that as there is Japanese Knotweed on the site which requires to be addressed

Scottish Water
Letter dated 14/06/22 advising no objection to the proposed development which will be served by the Tobermory Water Treatment Works and the Tobermory Waste Water Treatment Works. Scottish Water do however advise that further investigations may be required once formal applications for connection are submitted to them for consideration.

Scottish Environment Protection Agency (SEPA)
Letter dated 14/06/22 advising no objection to the proposed development on flood risk grounds.

JBA Consulting Ltd (JBA)
Report dated 24/06/22 advising no objection to the proposed development subject to a condition being imposed on the grant of permission to secure a suitable surface water drainage scheme.

The above represents a summary of the issues raised. Full details of the consultation responses are available to view via the Public Access section of the Council's website.

(D) HISTORY:

17/00180/PP
Erection of dwellinghouse and formation of vehicular access – Granted: 21/08/17

(E) PUBLICITY:

The proposal has been advertised in terms of Regulation 20 and Neighbour Notification procedures, overall closing date 07/07/22.

(F) REPRESENTATIONS:

Two representations have been received regarding the proposed development.

Elizabeth MacIver, Oran na Mara, Breadalbane Street, Tobermory (11/06/22)
Dr V. Linnerman - by e-mail only (20/06/22)

Summary of issues raised:

- Advising that the boundary line between Dunard and Oran na Mara has been shown incorrectly in the application.

Officer Comment: *This has since been amended by the Agent only requiring an amendment to the blue line indicating the other land in the ownership of the Applicant and note the red line delineating the application site.*

- How does the proposed access affect the boundary wall of the neighbouring dwellinghouse?

Officer Comment: *This is not a material planning matter in the consideration of this application but a matter between the developer and neighbouring property.*

- Concerns over the drainage to serve the development as the main drain under the site runs slowly and this could be affected by the proposed increase in use.

Officer Comment: *Scottish Water was consulted on the proposed development and raised no objection to connection to their infrastructure. With regards to surface water drainage, the Council's flooding advisors JBA Consulting Ltd requested that a condition be imposed on the grant of permission to secure a suitable scheme for the treatment of surface water drainage.*

- Concerns over the mature beech tree within the neighbouring ground which is close to the proposed parking area, how will this be affected by the proposed development.

Officer Comment: *This is not a material planning matter in the consideration of this application but a matter between the developer and neighbouring property.*

The above represents a summary of the issues raised. Full details of the letters of representation are available to view via the Public Access section of the Council's website.

(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

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

---

(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 *(Settlement 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 to the Argyll and Bute Local Plan 2015' (Adopted March 2016)

Natural Environment

SG LDP ENV 6 – Impact on Trees / Woodland

Landscape and Design

SG LDP ENV 14 – Landscape

Historic Environment and Archaeology

SG LDP ENV 17 – Development in Conservation Areas and Special Built Environment Areas (SBEAs)

General Housing Development

SG LDP HOU 1 – General Housing Development Including Affordable Housing Provision

Sustainable Siting and Design

SG LDP Sustainable – Sustainable Siting and Design Principles

Resources and Consumption

SG LDP SERV 2 – Incorporation of Natural Features / SuDS

Addressing Climate Change

SG LDP SERV 7 – Flooding and Land Erosion – Risk Framework

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, 2006
- Consultation Responses
- Third Party Responses
- 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 36 – New Private Accesses
- Policy 39 – Construction Standards for Private Access
- Policy 78 – Woodland Removal

(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

The principle of a dwellinghouse on this site has been established by the granting of planning permission reference 17/00180/PP on 21st August 2017 which remains live and capable of implementation on site due to the extension to planning permissions put in place by the Scottish Government in response to the Covid 19 pandemic.

The current application is seeking to secure permission for an amended design to that approved under the previous permission.

In terms of the adopted 'Argyll and Bute Local Development Plan' (LDP) 2015 the application site is located within the Key Settlement of Tobermory where Policy LDP DM 1 gives encouragement to sustainable forms of development on appropriate sites subject to compliance with other relevant policies and supplementary guidance (SG).

Policy LDP 3 assesses applications for their impact on the natural, human and built environment. The site is within the Tobermory Conservation Area requiring the provisions of SG LDP ENV 17 to be considered which seeks to ensure that proposed developments does not detract from the appearance or character of the Conservation Area.

Policy LDP 8 supports new sustainable development proposals that seek to strengthen communities with SG LDP HOU 1 expanding on this policy giving support to new housing in the settlements on appropriate sites provided there are no unacceptable environmental, servicing or access issue.

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. The Sustainable Siting and Design Standards expand on this policy seeking development layouts to be compatible with, and consolidate the existing settlement and take into account the relationship with neighbouring properties to ensure no adverse privacy or amenity issues.

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 of the LDP and Policies 35, 36 and 39 of pLDP2 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.

The site located to the east of the public UC68 Breadalbane Street, sitting lower in the landscape than the public road. The site slopes down from west to east towards Eas Brae with a covering of scrub and small trees, with no trees of merit within the site. The site is bounded by dwellinghouses to its northern and southern boundaries. In order to achieve suitable development levels there will need to be retention, such as Gabion Baskets, running parallel with Breadalbane Street along the north / south axis of the site.

The extant permission shows a modest, single storey, pitched roof dwellinghouse taking a 'T' shaped form finished in white render and natural stone to the walls with a natural slate roof.

The current application is seeking to secure permission for an alternative design for the site proposing a single storey, pitched roof structure taking a 'T' shaped form but with a larger footprint than that previously approved. The dwellinghouse has been oriented parallel with the public road reflecting the established development in the surrounding area. Finishing materials comprise a mix of white render and vertical timber cladding to the walls with a natural Spanish slate roof. Windows are alu-clad timber windows with alu-clad and composite doors.

Through the granting of the previous permission, which remains live and capable of implementation on site, the site has been deemed to represent a suitable opportunity for development with a single dwellinghouse within the defined Settlement of Tobermory.

The amended design subject of the current application is considered to be equally acceptable to that previously approved being of an appropriate scale, form and massing, incorporating traditional elements and finishing materials which will ensure that it integrates well within the site and wider landscape and will not detract from the appearance or setting of the wider Tobermory Conservation Area. The proposal is considered to be in accordance with policies and guidance set out above.

The application proposes a new vehicular access spurring from the public Breadalbane Street to serve the proposed development to which the Council's Roads Engineer raised no objection to subject to conditions being imposed on the grant of permission to secure the appropriate construction of the access at the junction with the public road, clearance of visibility splays and provision of a parking and turning area for two vehicles within the site. The application shows the requisite parking and turning area within the site and therefore there is no need for this element of the proposal to be conditioned. With a condition to secure the appropriate construction of the access at the junction with the public road, and clearance of visibility splays, the proposal is considered to be acceptable in terms of Policy LDP 11, SG LDP TRAN 4 and SG LDP TRAN 6 of the LDP and Policies 35, 36 and 39 of pLDP2 detailed above.

During the processing of the application a comment was sought from the Council's Structures Team (ST) due to the proximity of the site to the public road. Further information was sought from the ST in the form of a section and topographic information in order to allow them to assess the impact of the proposed development on the public road. The Agent provided a section through the site and updated the site plan with levels in order to assist the ST. In their response the ST team advised that they do not have any specific comments but advised that the footprint of the building and associated infrastructure should not encroach onto the embankment that retains the road and that as there is Japanese Knotweed on the site this requires to be addressed. A section has been provided showing development adjacent to, but not encroaching onto the embankment and this will be reinforced by a condition imposed on the grant of permission. A survey has been submitted which identifies that whilst Japanese Knotweed is not present within the site it is present within the wider area. In this regard a condition will be imposed requiring the developer to retain a Watching Brief for Japanese Knotweed during the proposed development.

The application proposes connection to the public water main and public drainage network within the control of Scottish Water. In their response to the application Scottish Water raised no objection to the proposal which will be serviced from the Tobermory Water Treatment Works and the Tobermory Waste Water Treatment Works where there is currently sufficient capacity, however Scottish Water advise that further investigations may be required once applications for formal connections are submitted to them for consideration. An informative will be attached to the grant of permission making the Applicant aware of Scottish Waters comments. In this regard the proposal is considered to be acceptable in terms of Policy LDP 10 which seeks to ensure that proposed developments are served by suitable infrastructure.

The site is within an area identified as having potential to flood and accordingly comments were sought from SEPA and the Council's flooding advisors, JBA. In their response SEPA raised no objection on flood risk grounds advising that the topographic level information provided demonstrates that the site has a steep gradient sloping down towards the watercourse and that the site is elevated several metres above the banks. JBA raised no objection to the proposed development subject to a condition being imposed on the grant of permission to secure a suitably designed schemed for the treatment of surface water drainage in accordance with CIRIA C753 which should include mitigation for surface water flood risk. With a condition to secure the requirements of JBA the proposal is considered to be acceptable in terms of Policy LDP 10 and SG LDP SERV 7 which seek to ensure that proposed developments are not at risk of flooding.

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

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

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

---

(R) Reasons why Planning Permission Should be Granted:

The amended design subject of the current application is considered to be equally acceptable to that previously approved being of an appropriate scale, form and massing, incorporating traditional elements and finishing materials which will ensure that it integrates well within the site and wider landscape and will not detract from the appearance or setting of the Tobermory Conservation Area.

There are no infrastructural constraints which would preclude the proposed development.

The proposal is considered to be consistent with the relevant provisions of the Development Plan, and there are no other material considerations of sufficient significance to indicate that it would be appropriate to withhold planning permission having regard to Section 25 of the Act.

(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:**	13/12/22
Reviewing Officer:	Tim Williams	**Date:**	20/12/22

Fergus Murray
Head of Development and Economic Growth

ADDITIONAL CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 22/00693/PP

1. **PP - Approved Details & Standard Notes – Non EIA Development**

The development shall be implemented in accordance with the details specified on the application form dated 01/04/22, supporting information and, the approved drawings listed in the table below unless the prior written approval of the planning authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Plan Title.	Plan Ref. No.	Version	Date Received
Existing Location Plan	100	D	30/11/22
Site Plan	101	B	01/09/22
Proposed Plans & Elevations	200		04/04/22
Site Section	400		01/09/22
Design Statement – 2 PAGES			04/04/22
Invasive Non-Native Species Survey Report Management Plan – 19 PAGES			23/11/22

Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.

Note to Applicant:

Please note the advice and guidance contained in the consultation response from Scottish Water details of which is available to view via the Public Access section of the Council's website. Should you wish to discuss any of the points raised in the response you are advised to contact Scottish Water direct.

2. **Vehicular Access**

Notwithstanding the provisions of Condition 1, the proposed access shall be formed in accordance with the Council's Roads Standard Detail Drawing SD 08/004a and shall include visibility splays of 2.4 metres to point X by 42 metres to point Y from the centre line of the proposed access. The access shall be widened to 5.5 metres for a length of 10 metres and surfaced with a bound material in accordance with the stated Standard Detail Drawing. Prior to work starting on site the access hereby approved shall be formed to at least base course standard and the visibility splays shall be cleared of all obstructions such that nothing shall disrupt visibility from a point 1.05 metres above the access at point X to a point 0.6 metres above the public road carriageway at point Y. The final wearing surface on the access shall be completed prior to the development first being brought into use and the visibility splays shall be maintained clear of all obstructions thereafter.

Reason: In the interests of road safety.

Note to Applicant:

A Road Opening Permit under the Roads (Scotland) Act 1984 must be obtained from

the Council's Roads Engineers prior to the formation/alteration of a junction with the public road.

3. **Gabion Retaining Wall**

Notwithstanding the provisions of Condition 1, full details, in plan form, of the proposed gabion retaining wall shall be submitted and approved in writing with the Planning Authority. Thereafter the development shall be undertaken in accordance with the approved details unless otherwise agreed in writing with the Planning Authority.

Reason: In the interests of visual amenity.

4. **Public Road Embankment**

Notwithstanding the provisions of Condition 1, no part of the development shall encroach onto the embankment that is retaining the public road.

Reason: In the interests of road safety in order to protect the integrity of the public road.

5. **Sustainable Drainage System**

Notwithstanding the provisions of Condition 1, the development shall incorporate a surface water drainage system which is consistent with the principles of Sustainable urban Drainage Systems (SuDS) compliant with the guidance set out in CIRIA's SuDS Manual C753 including mitigation for surface water flood risk. The requisite surface water drainage shall be operational prior to the development being brought into use and shall be maintained as such thereafter.

Reason: To ensure the provision of an adequate surface water drainage system and to prevent flooding.

Note to Applicant:

Further advice on SuDS can be found in SEPA's Standing Advice for Small Scale Development – www.sepa.org.uk.

6. **Watching Brief for Japanese Knotweed**

Notwithstanding the provisions of Condition 1, a Watching Brief for the presence of Japanese Knotweed on site shall be kept during the construction period of the development. If Japanese Knotweed is found on the site regard should be had to the guidance provided by SEPA with regard to on-site management of Japanese Knotweed and knotweed infested soil.

Reason: To ensure the development site is clear of Japanese Knotweed and to prevent the spread of this non-native invasive species through development works.

Note to Applicant:

Further advice on the treatment of Japanese Knotweed can be found on SEPA's website: www.sepa.org.uk.

7. **Landscaping**

No development shall commence until a scheme of boundary treatment, surface treatment and landscaping has been submitted to and approved in writing by the Planning Authority. The scheme shall include details of:

i) Location, design and materials of proposed walls, fences and gates;
ii) Surface treatment of proposed means of access and hardstanding areas;
iii) Any proposed re-contouring of the site by means of existing and proposed ground levels.
iv) Proposed hard and soft landscape works.

The development shall not be occupied until such time as the boundary treatment, surface treatment and any re-contouring works have been completed in accordance with the duly approved scheme.

All of the hard and soft landscaping works shall be carried out in accordance with the approved scheme during the first planting season following the commencement of the development, unless otherwise agreed in writing by the Planning Authority.

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

APPENDIX TO DECISION APPROVAL NOTICE

Appendix relative to application 22/00693/PP

(A) Has the application required an obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended): **No**

If Yes: The terms of the Section 75 obligation may be viewed on the Council's website at www.argyll-bute.gov.uk by recalling the application reference number on the Council's Public Access Module and then by "Clicking" Section 75 Obligation under the attached correspondence or by viewing the Public Planning register located at Planning Services, 1A Manse Brae, Lochgilphead, Argyll, PA31 8RD.

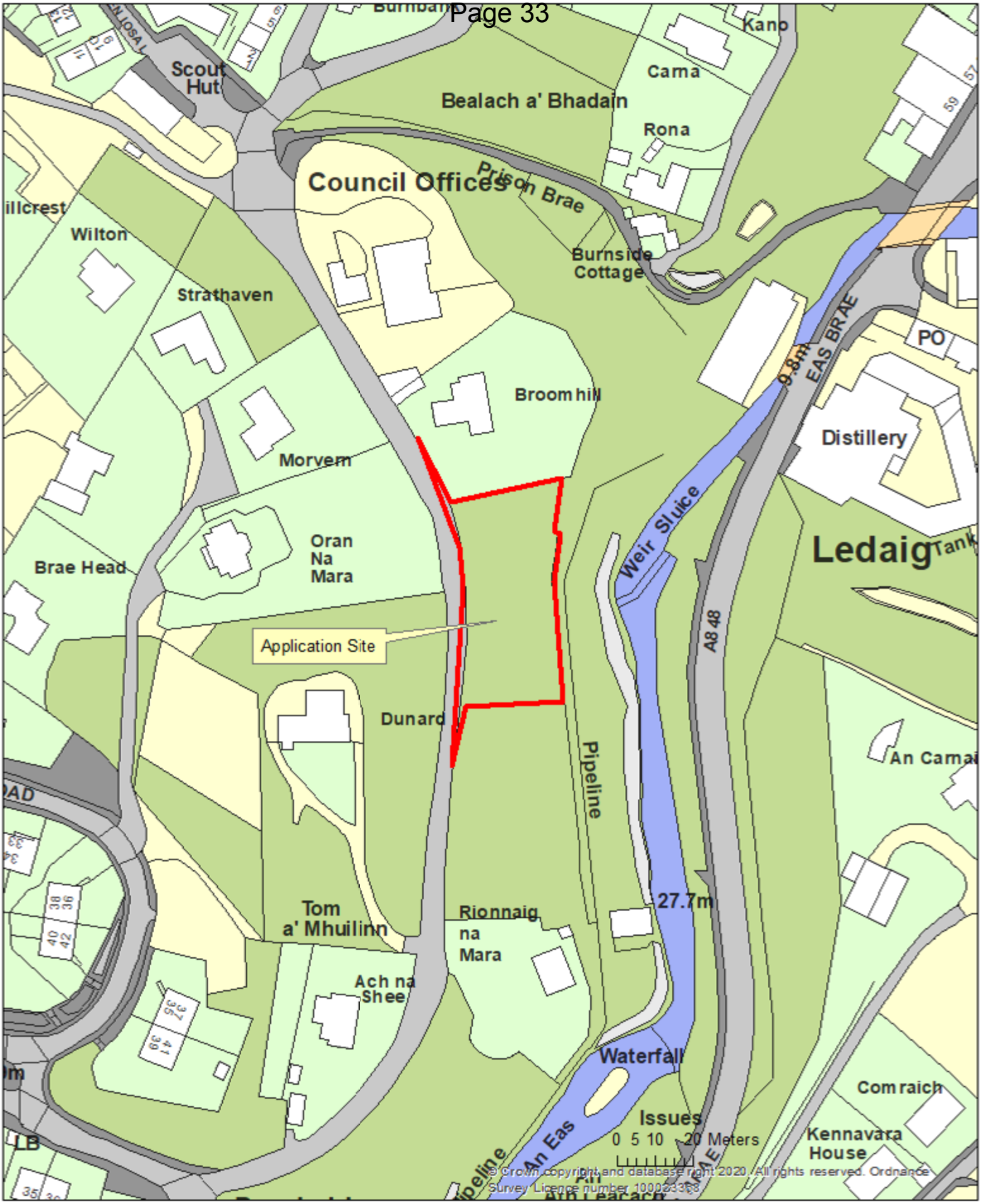
(B) Has the application been the subject of any "non-material" amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing. **No**

(C) Is the proposal consistent with the Development Plan? **Yes**

(D) Summary justification statement for approval of planning permission

The proposal is considered to be consistent with the relevant provisions of the Development Plan, and there are no other material considerations of sufficient significance to indicate that it would be appropriate to withhold planning permission having regard to Section 25 of the Act.

This page is intentionally left blank



Location plan relative to: 23/0002/LRB

1:1,250

This page is intentionally left blank

McCallum, Fiona

From: Sandy Lees | AGL Architect Ltd
Sent: 14 April 2023 08:46
To: McCallum, Fiona; Sandy Lees | AGL Architect Ltd
Cc: localreviewprocess; Andy Cripps
Subject: RE: Notice of Review - Reference 23/0002/LRB (Planning Ref: 22/00693/PP - Land South of Broomhill, Breadalbane Street, Tobermory, Isle of Mull [OFFICIAL]

Good Morning Fiona.

I refer to the representation received from the planning authority.

I will respond by saying that as there is no knotweed on the actual site so therefore this condition was applied incorrectly and it should have at most, be an advisory note on the approval. The report we submitted as part of our LRB appeal justifies our argument that the condition is not required. Should the condition remain then it is a disincentive to any developer to develop the site. The planner has not assessed the imposition of this condition, particularly when it comes to necessity, therefore we end up with an approval that might never be able to be implemented.

I strongly disagree that the appeal should be dismissed.

Kind Regards

Sandy Lees
Architect.
AGL Architect Ltd.

This page is intentionally left blank