

**MINUTES of MEETING of ARGYLL AND BUTE LOCAL REVIEW BODY held BY MICROSOFT TEAMS on MONDAY, 11 SEPTEMBER 2023**

**Present:** Councillor Amanda Hampsey (Chair)

Councillor Graham Hardie

Councillor Andrew Kain

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

**1. APOLOGIES FOR ABSENCE**

There were no apologies for absence.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3. CONSIDER NOTICE OF REVIEW REQUEST: LAND NORTH OF SWALLOWTALE, ACHNAGOUL, INVERARAY (REF: 23/0003/LRB)**

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

Before proceeding further, the Chair invited Mr Jackson to address the matter of an email received from Mr Mark Knowles on 15 August 2023.

Mr Jackson referred to the previous meeting on 14 August 2023 when the Members of the LRB agreed that they had sufficient information before them and the meeting was continued until today, to allow time for the Members to seek advice from Officers on the preparation of a competent Motion to approve this proposal.

Mr Jackson advised that following the meeting on 14 August 2023, an email was received on 15 August 2023 and circulated by Mr Mark Knowles, Objector, to all Members of the LRB. Mr Knowles had asked that the LRB take his comments into consideration.

Mr Jackson advised the Members of the LRB that if they wished to take these comments into the process the meeting would need to be adjourned to another day in order to give all interested parties the opportunity of commenting on the contents of this email. He pointed out that there would be no opportunity for anyone to comment further on any comments received from the interested parties. At the conclusion of this process arrangements would be made to hold a further meeting of the LRB.

Councillor Kain advised that he had sufficient information before him to proceed with determining the application today. He advised that he had a Motion that he would like to put forward at the appropriate time.

Councillor Hardie also advised that he had sufficient information. He referred to comments submitted by the Objector not raising any new information. Councillor Hardie

confirmed that he remained of the view that as long as Transport Scotland objected he was minded to reject this application.

Councillor Hampsey noted the comments from Councillors Kain and Hardie and agreed that she too had sufficient information to proceed to determine the case. The Members of the LRB agreed to take the comments submitted by the Objector into consideration and Councillor Hampsey invited Councillor Kain to present his Motion.

## **Motion**

Having considered all the information before me today and at the earlier callings of this LRB I would like to put the following motion forward to enable the granting of this application.

This particular planning application (20/01901/PPP) has been on the books since 20/10/2020 with a decision to refuse on 17/02/2023 a full two years and four months. Transport Scotland has objected to this application on grounds of road safety in relation to access/egress onto/from the main road (A83) in particular, when travelling north, when vehicles may be waiting to right turn from the main carriageway. However, they did not object to the granting of the permission given for commercial works, forestry and extraction, for heavy slow vehicles without road/access improvements other than temporary signage.

I believe that there sufficient grounds to approve this application in this case through, SG LDP TRAN 4 New and Existing, Public Roads and Private Access Regimes; and there is clear, objective and substantive reasoning to overrule Transport Scotland's objection in that a precedent was set where Transport Scotland did not object to permission being granted for heavy goods vehicles to use the access/egress to/from main road, albeit for a limited number of journeys.

That permission was also granted without the need for any upgrading of the access road up to the properties which I find surprising due to the type of vehicles that were to be used during that process, which would in my view have been likely to cause more damage to the road than vehicles that are likely to be going to a house.

In Transport Scotland's letter of 13th June it refers to an increase of 5 – 6 two way trips per day. This is a figure taken from the TRICS database but there is no context as to what type of development these figures apply. The applicant suggests 2 – 2.5 trips per day.

The objections from Transport Scotland suggest the proposed development would result in increased vehicle flows at junction and an intensification of waiting and right turning from the trunk road. However, the existing junction as configured already serves a settlement of 5 residential properties and has done so without incident.

Transport Scotland has also previously not objected to the use of the junction for large slow moving vehicles, citing that this only applied to 10 low-loader trips. However, the applicant's agents Pell Frischmann points to the large number of supporting vehicles that would have additionally accessed the junction on a daily basis.

Most significant in relation to flows of traffic on A83, Pell Frischmann point out the nearest traffic count site (ATC08055), operated by Transport Scotland, is approximately 4 km north of the junction.

The most recent traffic data available is for 2019 (pre-Covid) and shows average daily traffic to be 2,817 two-way movements per day. They also state that, based on the Design

Manual for Roads and Bridges (DMRB) Vol 15 part 5, the theoretical capacity for A83 is 43,200 two-way vehicle movements per day.

Based on above and while the likely daily additional number of movements at junction is disputed, even 6 extra movements per day in the context of this situation is not excessive and does not in my opinion pose significant extra risk to road safety at the access.

On balance therefore, I don't think that there will be an intensification in the use of the junction which will have any impact on the safety of the road, at the location and as such there is no need for the requirement of the 215m visibility to the South of the junction being necessary and the current visibility is sufficient.

For the same reason, I also consider that the upgrading of the private access road is not necessary as proposed in condition 5.

I therefore move, for the reasons stated above that 'Planning permission in principle is granted as a minor departure from NPF4 Policy 13, and Policy LDP 11 and SG LDP TRAN 4 of the adopted Argyll and Bute Local Plan 2015 and the advice of Transport Scotland subject to the conditions and reasons detailed on page 226 and the additional conditions and reasons numbered 1, 2, 3, 6, 7, 8, 9, 10 and 11 detailed at pages 227 to 232 of the pack for today's meeting of the LRB, along with the following amendments,

Firstly, to condition 4 but retaining the note to applicant

Condition 4

Junction with the A83 (T) Trunk Road

Visibility splays as currently existing shall be maintained on each side of the access to the satisfaction of the local Planning Authority, and

Secondly to condition 5

Condition 5

PPP - Private Road & Parking Provision

Pursuant to Condition 1 – no development shall commence until plans and particulars of the parking/turning arrangements to serve the development have been submitted to and approved by the Planning Authority. Such details shall incorporate:

- i) Provision of a turning head for a commercial vehicle within the development site;
- ii) The provision of parking and turning in accordance with the requirements of policy LP TRAN 6 and Appendix C of the Argyll and Bute Local Plan 2015;

The approved parking and turning layout shall be implemented in full prior to the development first being occupied and shall thereafter be maintained clear of obstruction for the parking and manoeuvring of vehicles.

Reason: In the interests of road safety.

And finally that the intention of the Council to grant planning permission in principle for this development be notified to Scottish Government Ministers in terms the Town And Country Planning (Notification Of Applications) (Scotland) Direction 2009.

Mr Jackson confirmed that this was a competent Motion.

Councillor Hardie commented that he had been on the Planning, Protective Services and Licensing Committee for 6 years. He said that alarm bells rang for him when a statutory consultee objected to an application. He said he was not convinced by the Motion and was still minded to reject this application.

Councillor Hampsey advised that having read all the information submitted and heard all that had been said, she said that Councillor Kain had articulated very well his thorough consideration of this application. She confirmed that she would be happy to second this Motion.

### **Decision**

The Argyll and Bute Local Review Body, having considered the merits of the case de novo, agreed by a majority that the Scottish Government Ministers be notified, in terms of the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009, of the Council's intention to grant planning permission in principle for this development subject to the following conditions and reasons:

#### **PPP - Standard Time Limit Condition (as prescribed by regulation):**

This consent constitutes a Planning Permission in Principle under Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended and as such does not authorise the commencement of development until matters requiring the further consent of the Planning Authority, as specified in Condition 1 (within the list of Additional Conditions below), have been satisfied.

Application(s) for Approval of Matters Specified in Conditions must be made in accordance with the provisions of Regulation 12 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 within the time limits specified below.

Any application for Approval of Matters Specified in Conditions must be submitted to the Planning Authority no later than three years from the date of this permission in principle.

Any elements of the Planning Permission in Principle for which further approval of the Planning Authority has not been sought within the prescribed three year time period will no longer be capable of being implemented within the terms of this permission.

The development to which this planning permission in principle relates must commence no later than five years from the date of this permission, or within the expiration of two years from the final approval of all Approval of Matters Specified in Conditions, whichever is the later. If the development has not commenced within this period, then this planning permission in principle shall lapse.

Reason: To accord with Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended.

## Standard Condition on Soil Management During Construction

Where the development involves ground breaking works, soil management should be undertaken in compliance with the established best practice set out in the DEFRA publication "[Construction Code of Practice for the Sustainable Use of Soils on Construction Sites 2009](#)", unless an alternative methodology for sustainable management of soil is submitted to and approved in writing by the Planning Authority.

Reason: In order to ensure that sustainable management of soils and compliance with the requirements of NPF4 Policy 5A.

### Additional Conditions

#### 1. PPP – Matters Requiring AMSC Submission

Plans and particulars of the matters specified in conditions 3, 5, 6, 7, 8, 9, and 10 below shall be submitted by way of application(s) for Approval of Matters Specified in Conditions in accordance with the timescales and other limitations in Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended. Thereafter the development shall be completed wholly in accordance with the approved details.

Reason: To accord with Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended.

#### 2. PPP - Approved Details

The development shall be implemented in accordance with the details specified on the application form dated 19/10/2020 supporting information and, the approved drawings listed in the table below.

Plan Title.	Plan Ref. No.	Version	Date Received
Location Plan	0927/300/B		16.12.2020
Site Plan	0927/301/A		09.12.2020

Reason: To accord with Regulation 28 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.

#### 3. PPP – Archaeological Watching Brief

Pursuant to Condition 1 - no development or ground breaking works shall commence until a method statement for an archaeological watching brief has been submitted to and approved by the Planning Authority in consultation with the West of Scotland Archaeology Service.

The method statement shall be prepared by a suitably qualified person and shall provide for the recording, recovery and reporting of items of interest or finds within the application site.

Thereafter the development shall be implemented in accordance with the duly approved details with the suitably qualified person being afforded access at all reasonable times during ground disturbance works.

Reason: In order to protect archaeological resources.

Note to Applicant:

Regard should be had to the West of Scotland Archaeology Service's consultation comments in respect of the proposed development.

#### **4. Junction with the A83 (T) Trunk Road**

Visibility splays as currently existing shall be maintained on each side of the access to the satisfaction of the local Planning Authority

Note to Applicant:

- The applicant should be informed that the granting of planning consent does not carry with it the right to carry out works within the trunk road boundary and that permission must be granted by Transport Scotland Roads Directorate . Where any works are required on the trunk road, contact details are provided on Transport Scotland's response to the planning authority which is available on the Council's planning portal.
- Trunk road modification works shall, in all respects, comply with the Design Manual for Roads and Bridges and the Specification for Highway Works published by HMSO. The developer shall issue a certificate to that effect, signed by the design organisation.
- Trunk road modifications shall, in all respects, be designed and constructed to arrangements that comply with the Disability Discrimination Act: Good Practice Guide for Roads published by Transport Scotland. The developer shall provide written confirmation of this, signed by the design organisation.
- The road works which are required due to the above Conditions will require a Road Safety Audit as specified by the Design Manual for Roads and Bridges.
- Any trunk road works will necessitate a Minute of Agreement with the Trunk Roads Authority prior to commencement.

#### **5. PPP - Private Road & Parking Provision**

Pursuant to Condition 1 – no development shall commence until plans and particulars of the parking/turning arrangements to serve the development have been submitted to and approved by the Planning Authority. Such details shall incorporate:

- (i) Provision of a turning head for a commercial vehicle within the development site;
- (ii) The provision of parking and turning in accordance with the requirements of policy LP TRAN 6 and Appendix C of the Argyll and Bute Local Plan 2015.

The approved parking and turning layout shall be implemented in full prior to the development first being occupied and shall thereafter be maintained clear of obstruction for the parking and manoeuvring of vehicles.

Reason: In the interests of road safety.

## **6. PPP – Details of New Private Foul Drainage System**

Pursuant to Condition 1 – no development shall commence until details of the proposed means of private foul drainage to serve the development have been submitted to and approved by the Planning Authority.

The duly approved scheme shall be implemented in full concurrently with the development that it is intended to serve and shall be operational prior to the occupation of the development.

Reason: To ensure that an adequate means of foul drainage is available to serve the development.

Note to Applicant:

Private drainage arrangements are also subject to separate regulation by Building Standards and SEPA.

## **7. PPP – Surface Water Drainage – No detail required for approval**

Notwithstanding the provisions of Condition 2, 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. 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](http://www.sepa.org.uk)

## **8. PPP – Full Landscaping Scheme**

Pursuant to Condition 1 – no development shall commence until a scheme of boundary treatment, surface treatment and landscaping has been submitted to and approved by the Planning Authority. The scheme shall comprise a planting plan and schedule which shall include details of:

- i) Existing and proposed ground levels in relation to an identified fixed datum;
- ii) Existing landscaping features and vegetation to be retained;
- iii) Location design and materials of proposed walls, fences and gates;
- iv) Proposed soft and hard landscaping works including the location, species and size of every tree/shrub to be planted;
- v) A biodiversity statement demonstrating how the proposal will contribute to conservation/restoration/enhancement of biodiversity, and how these benefits will be maintained for the lifetime of the development;
- vi) A programme for the timing, method of implementation, completion and subsequent on-going maintenance.

All of the hard and soft landscaping works shall be carried out in accordance with the approved scheme unless otherwise approved in writing by the Planning Authority.

Any trees/shrubs which within a period of five years from the completion of the approved landscaping scheme fail to become established, die, become seriously diseased, or are removed or damaged shall be replaced in the following planting season with equivalent numbers, sizes and species as those originally required to be planted unless otherwise approved in writing by the Planning Authority.

The biodiversity statement should refer to [Developing with Nature guidance | NatureScot](#) as appropriate.

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

## **9. PPP – Tree Survey, Retention and Protection**

Pursuant to Condition 1 – no development shall commence until a scheme for the retention and safeguarding of trees during construction has been submitted to and approved by the Planning Authority. The scheme shall comprise:

- i) A survey of trees on and overhanging the site indicating the location, species, height, canopy spread and condition of each tree;
- ii) An assessment of the amenity and nature conservation value of tree groups and individual trees which shall inform the layout of the development proposed;
- iii) Details of all trees to be removed and the location and canopy spread of trees to be retained as part of the development;
- iv) A programme of measures for the protection of trees during construction works which shall include fencing at least one metre beyond the canopy spread of each tree in accordance with BS 5837:2005 “Trees in Relation to Construction”.

Tree protection measures shall be implemented for the full duration of construction works in accordance with the duly approved scheme. No trees shall be lopped, topped or felled other than in accordance with the details of the approved scheme unless otherwise approved in writing by the Planning Authority.

Reason: In order to retain trees as part of the development in the interests of amenity and nature conservation.

## **10. PPP BUILDING SITING, DESIGN & FINISHES – INDIVIDUAL BUILDING**

Pursuant to Condition 1 – no development shall commence until plans and particulars of the site layout, design and external finishes of the development have been submitted to and approved by the Planning Authority. These details shall incorporate:

- i) A statement addressing the Action Checklist for developing design contained within the Argyll and Bute Sustainable Design Guide 2006;
- ii) Local vernacular design;
- iii) Maximum of 1 ½ storeys in design;



- iv) Symmetrically pitched roof angled between 37 and 42 degrees finished in natural slate or good quality artificial slate;
- v) External walls finished in natural stone, timber cladding, or wet dash render or, a combination of these elements;
- vi) Details of finished ground floor levels relative to an identifiable fixed datum located outwith the application site;
- vii) Window openings with a vertical emphasis;

Reason: To accord with Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended, and in order to integrate the proposed dwellinghouse with its surrounds.

#### **11. PP/PPP – Further investigation of potential for land contaminants from historic use required**

Unless otherwise agreed in writing and in advance by the Planning Authority, no development shall commence until a scheme has been submitted by the Developer (at their expense) to identify and assess potential contamination on site.

***No construction work shall commence until the scheme has been submitted to, and approved, by the Planning Authority, and is thereafter implemented in accordance with the scheme so approved.***

*The scheme shall be undertaken by a competent person or persons in accordance with relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the most up-to-date version(s) of any subsequent revision(s) of, and/or supplement(s) to, these documents. This scheme should contain details of proposals to investigate and remediate potential contamination to the satisfaction of the Planning Authority, and must include:-*

*a) A desk study and development of a conceptual site model including (where necessary) a detailed site investigation strategy. The desk study and the scope and method of recommended further investigations shall be agreed with the Council **prior to** addressing parts b, c, and d of this condition. Should the desk study show the need for further assessment this will be undertaken in the following sequence:*

*b) A detailed investigation of the nature and extent of contamination on site, and assessment of the risks such contamination presents.*

*c) Development and agreement of a remedial strategy (if required) to treat/ remove contamination ensuring the site is made suitable for its proposed use (this shall include a method statement, programme of works, and proposed verification plan).*

*d) Submission of a verification report for any agreed remedial actions detailing and evidencing the completion of these works.*

***Written confirmation from the Planning Authority, that the scheme has been implemented and completed shall be required by the Developer before any***

**development hereby approved commences.** *Where remedial measures are required as part of the development construction detail, commencement must be agreed in writing with the Planning Authority.*

Reason: To ensure that the potential risks to human health, the water environment, property, and, ecological systems arising from any identified land contamination have been adequately addressed.

(Reference: Notice of Review and Supporting Documents, and all other information presented to previous meetings on 10 May, 19 June and 14 August 2023, submitted)