

Public Document Pack

Argyll and Bute Council

Comhairle Earra-Ghàidheal Agus Bhòid

Executive Director: Douglas Hendry



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DX 599700 LOCHGILPHEAD

23 October 2023

NOTICE OF MEETING

A meeting of the **ARGYLL AND BUTE LOCAL REVIEW BODY** will be held **BY MICROSOFT TEAMS** on **MONDAY, 30 OCTOBER 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: BROOM HILL, ARDCONNELL HILL, OBAN (REF: 23/0007/LRB)**
 - (a) Notice of Review and Supporting Documentation (Pages 3 - 82)
 - (b) Comments from Interested Parties (Pages 83 - 100)
 - (c) Comments from Applicant (Pages 101 - 104)

Argyll and Bute Local Review Body

Councillor Jan Brown
Councillor Dougie Philand

Councillor Kieron Green (Chair)

Contact: Lynsey Innis Tel: 01546 604338

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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 100643047-001

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: Fair Planning & Design

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

First Name: * Stephen Building Name: Lios Mhoire

Last Name: * Fair Building Number:

Telephone Number: * Address 1 (Street): * Ardconnel Terrace

Extension Number: Address 2:

Mobile Number: Town/City: * Oban

Fax Number: Country: * United Kingdom

Postcode: * PA34 5DJ

Email Address: *

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

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Other"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text" value="Mr & Mrs"/>	Building Name:	<input type="text" value="Broom Hill"/>
First Name: *	<input type="text" value="Martin & Arlene"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text" value="McLeod"/>	Address 1 (Street): *	<input type="text" value="Ardconnel Hill"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Oban"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="United Kingdom"/>
Mobile Number:	<input type="text" value="██████████"/>	Postcode: *	<input type="text" value="PA34 5DY"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="██"/>		

Site Address Details

Planning Authority:

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

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Northing	<input type="text" value="730042"/>	Easting	<input type="text" value="186405"/>
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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)

Notice of Review against refusal of planning application 22/01001/PP: Use of land for the siting of a glamping pod

Type of Application

What type of application did you submit to the planning authority? *

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? *

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

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

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

See attached Statement of Case and appendices

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)

Statement of case Appendix 1 application form Appendix 2 Roads Authority consultation response Appendix 3 Planning officer email confirming acceptability of proposal (other than access) Appendix 4 Report of Handling Appendix 5 Decision notice Appendix 6 Refused application plans Appendix 7 Local Review Body decision letter on planning application 20/01542/PP (LRB ref 21/0005/LRB)

Application Details

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

22/01001/PP

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

17/05/2022

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

18/07/2023

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

If there are reasons why you think the local Review Body would be unable to undertake an unaccompanied site inspection, please explain here. (Max 500 characters)

The site is within the appellants garden ground and can not be seen from outside the property. Any site visit that may occur would be best and most suitably undertaken as an accompanied site visit.

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 Stephen Fair

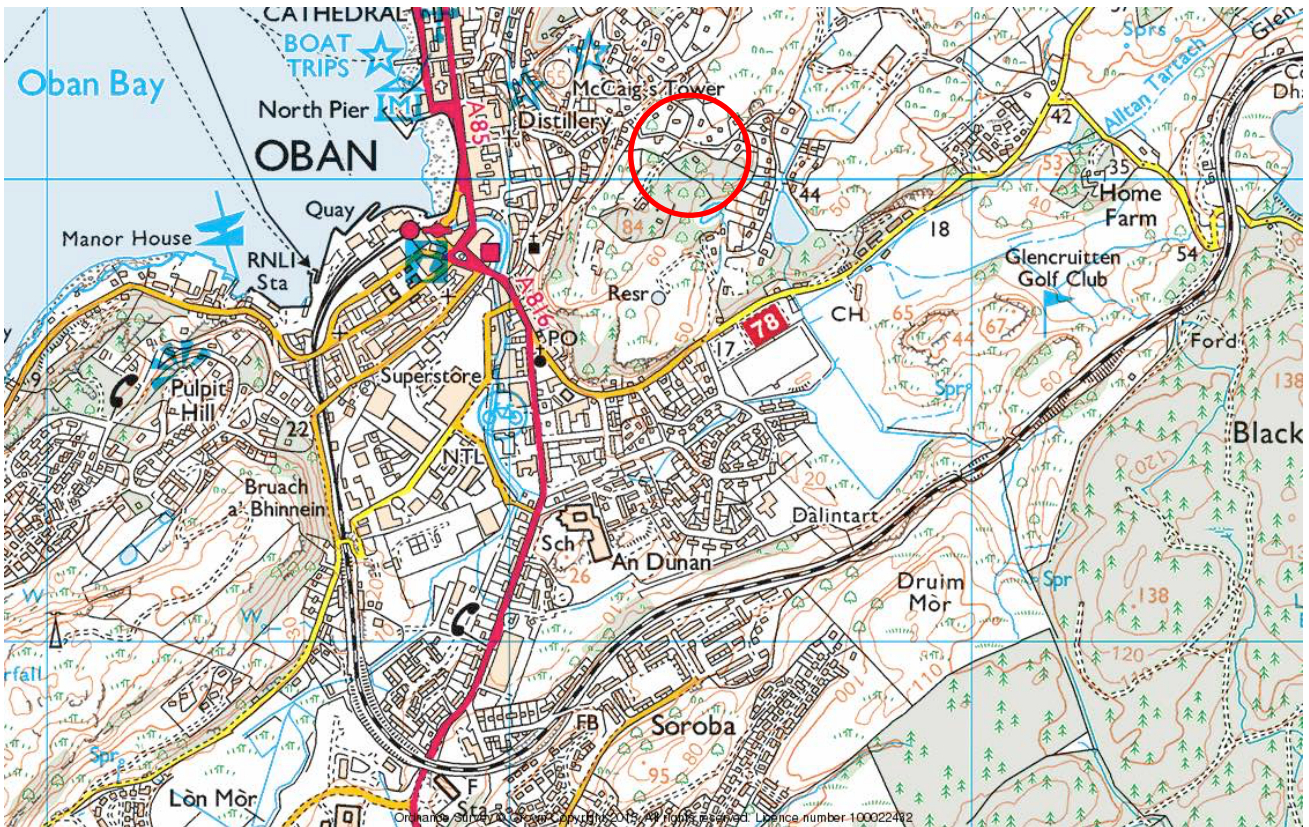
Declaration Date: 12/09/2023

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Written statement for Notice of Review to
Argyll and Bute Council – Local Review Body

- Appellant:** Martin & Arlene McLeod
- Project Ref:** 2023002
- Development:** Refusal of planning application 22/01001/PP:
Use of land for the siting of a glamping pod
- Site:** Garden ground of Broom Hill, Ardconnel Hill, Oban, PA34 5DY
- Scale:** Local development



Introduction

Planning application 22/01001/PP, submitted on 17 May 2022 by Great Glen Designs on behalf of Martin and Arlene McLeod, sought planning permission for the siting of one glamping pod within the grounds of Broom Hill, Ardconnel Hill, Oban.

The application was refused under delegated powers on 18 July 2023 for the following reason:

1. The proposed development conflicts with NPF4 Policy 13, and Policies LDP 11 and SG LDP TRAN 4 of the adopted 'Argyll and Bute Local Plan' 2015 and Policy 37 of emerging proposed 'Local Development Plan 2' as the proposed development would result in the intensification in vehicular use of a sub-standard private road with no delineation between pedestrian or vehicular use.

The proposed development constitutes a material intensification of the use of an existing and constrained access regime and would be capable of support only if compliance with various highway safety concerns could be demonstrated through the submission, examination and acceptance of competent detail.

The land necessary for the upgrade of the existing private road, if achievable, does not form part of the planning application site and is not within the acknowledged legal ownership/control of the Applicant.

During the planning application process, and within the delegated report of handling, planning officers confirm that they find the development acceptable in all terms other than concerns regarding the existing shared private access to the site. The proposal is confirmed as appropriate in all other planning respects. This Notice of Review therefore focusses on the single issue of concern as reflected in the reason for refusal.

Mr & Mrs McLeod submit this Notice of Review for the reasons set out in below and respectfully invite the Local Review Body to grant planning permission.

Discussion

As confirmed throughout the planning report of handling, the application is considered acceptable in all terms other than access. The planning service assessment confirms that the design, siting, water supply, drainage, biodiversity and other matters are all satisfactory or can be controlled by planning conditions.

The essential question on which the planning decision rests is whether the existing private access is sufficient to serve the proposed glamping pod or not.

The Roads Engineer considers that there would be a material intensification of use of an existing sub-standard private access and has accordingly objected to the application. A single objection from a member of the public also raises concern over the existing shared access.

The applicants, through their former agent, confirmed that the existing house was used for the letting of two bedrooms for B&B purposes* and that such usage would be modified to achieve a glamping pod within the garden grounds. Limiting B&B accommodation within the main family home and enabling a self-contained pod in the garden grounds would facilitate privacy for guests and to the McLeods and their children.

Swapping B&B rights to one bedroom within the house for a glamping pod within the garden ground ensures that there would be no additional traffic nor any intensification of use of the existing access arising from the development as proposed. The pod would be let to a couple or family arriving in a single vehicle. Accordingly, the existing access does not require any improvements that may otherwise be necessary to enable the development of a holiday pod.

Planning officers' resistance to this logic focusses on a perceived inability to retain control over B&B activity within the main house, and therefore that an additional glamping pod must involve some intensification of use of the existing access.

A recent Local Review Body decision considered a near identical scenario in another location within Oban last year. The LRB's decision in that case is of critical importance as it provides a direct precedent to the current appeal case.

Planning application 20/01542/PP proposed two holiday pods within the garden ground of Soroba Lodge, which is served via a shared private access. Soroba Lodge had the ability to operate two bedrooms for B&B purposes within the main house. The Planning Service and Roads Engineer were concerned about traffic levels on the shared private access and ultimately the application was refused under delegated powers. An appeal against the refusal was however successful. When issuing planning permission in May 2022 under ref 21/0005/LRB, the Local Review Body attached planning condition 3 to prohibit occupation of the two approved pods at any time when B&B activity was occurring within the house.

The planning condition attached to the Soroba Lodge decision is an effective way of guaranteeing that there can be no increase above existing traffic levels, whilst maintaining flexibility to the householder in terms of B&B activity. That balanced and tailored approach to the circumstances allowed the Planning Authority to support an otherwise acceptable development whilst retaining ongoing control in an entirely legitimate and enforceable way. The specific wording in the planning condition avoids the apparent pitfall of seeking

to restrict the applicant's right to operate B&B within the house (as had been of concern to planning officers in that case) by controlling the use of the holiday pods instead.

It is unfortunate that the OLI Area Team Leader/individual planning officers have difficulty in accepting Members' decision in the Soroba Lodge case (20/01542/PP), as evidenced in the following paragraph from the report of handling for Broom Hill (22/01001/PP):

“Whilst officers have to accept the previous decision by the LRB on planning permission 20/01542/PP, they maintain their professional opinion that the approach adopted by the LRB at that time was wrong. Officers cannot, therefore, accept that a substantial precedent has been set.”

In cases where any individual officer of the council disagrees with, or has difficulty accepting, a decision of elected Members, or indeed any decision taken by a higher authority, it is professionally appropriate for that officer to stand aside and request that another officer issues future decisions that are consistent with earlier council decisions. Continuing to adjudicate on a new application whilst clearly refusing to accept the validity of a contemporaneous precedent decision by Members of the Local Review Body, creates conflicting and inconsistent decision making.

The report of handling for 22/01001/PP also seeks to distinguish between the Soroba Lodge example and the Broom Hill application on the basis that Soroba Lodge was actively in use for B&B and Broom Hill was previously used for B&B. It is however of no consequence whether B&B activity is active or latent. Limited B&B activity is a prescribed right for householders with properties of certain sizes up to certain thresholds without needing planning permission.* Indeed, it is this very ability to exercise that right without needing planning permission that led to planning officer concerns about the inability to prevent B&B usage in the future in both the Soroba Lodge and Broom Hill examples. As discussed above, this difficulty is neatly overcome by the wording of the planning condition imposed by the Local Review Body when they granted planning permission for the two Soroba Lodge pods (20/01542/PP & 21/0005/LRB).

The Short-Term Letting Licence requirements have also taken effect within the last year, and these make it more straightforward for the Planning Authority to monitor B&B activity within houses going forward.

The outcome of the Notice of Review at Soroba Lodge under 21/0005/LRB provides a direct precedent example which can be readily compared to the planning application at Broom Hill. That the two matters were before the Planning Authority in such close succession merely serves to strengthen the connection between the two decisions.

* NOTE: the use of one bedroom for B&B within a house containing three bedrooms, or two bedrooms for B&B within houses containing four or more bedrooms, is explicitly provided for within Class 9 (houses) of the Use Classes Order - and has been so since 1999.

Assessment of access usage and proposed vehicular/pedestrian activity

The existing private access serving Ardconnel Hill joins Longsdale Road (public road) north of the application site, near its junction with Laurel Road.

The shared access travels up Ardconnel Hill serving 12 residential properties at present. Broom Hill is the 3rd last property to be reached, with just two houses further along the private access.

Broom Hill comprises a detached four-bedroom house, two of which have the ability to provide B&B accommodation without comprising a change of use of the house. Planning application 22/01001/PP would see a single glamping pod provided within the extensive garden grounds (partially outlined black in the image below) of Broom Hill in lieu of one B&B bedroom inside the house.

Traffic levels generated at the site would be unchanged.



There are two existing footpath connections immediately north of the application site (shown highlighted red in the image above), providing safe pedestrian linkages to Polvinister Road to the east and Rockfield Road/Ardconnel Road to the west. Proximity to these existing footpath routes enhances the ability of the development to be walkable to different parts of the town, including the nearest bus routes.

Considering the context of Oban, where large sections of the town utilise shared surface spaces for pedestrians and vehicles, it is considered that the proposed single glamping pod would be safely accessed and suitably served in terms of transport connections.

Summary

Mr & Mrs McLeod wish to provide a single glamping pod within the garden ground of their existing home, Broom Hill. The design, siting and layout proposed has been confirmed as acceptable in all respects by planning officers, except for concerns over the existing shared access regime serving the site. Those concerns are reflected in the single reason for refusal detailed above.

The decision to refuse overstates the anticipated vehicular demands associated with the development, pays insufficient regard to existing traffic levels at the site, and ignores a precedent case of direct relevance.

Application 22/01001/PP proposes a small glamping pod within the garden ground of an existing house which would attract a single vehicle when being accessed by car. This is the type of development that is commonly approved by the Planning Authority without any concerns over increase in vehicular demand.

The proposed pod would not generate a material intensification in traffic at this shared access. Traffic generation can be controlled by a similar planning condition to that which was imposed by the Local Review Body in granting planning permission for two pods at Soroba Lodge. Such an approach allows a positive decision to be taken consistently with the LRB decision in 2022. Planning condition wording could potentially read:

Condition - Notwithstanding the provisions of Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 as amended, the new glamping pod hereby approved must not be occupied during any period when two bedrooms within the principal dwellinghouse are operating as [or being occupied as] bed and breakfast or guest house accommodation.

Reason - In the interests of road safety, to ensure that vehicle numbers using the private access do not increase beyond current levels.

In policy terms, the proposal represents a small-scale development on an appropriate site, in accordance with relevant national and local policy and supplementary planning guidance. As there is no material increase in traffic generated by the proposal, there is by default no conflict with NPF4, LDP11, SG LDP TRAN 4 of the adopted LDP or with Policy 37 of the Proposed LDP2. Ongoing monitoring of B&B activity within the Broom Hill can readily be achieved by cross referencing to Short Term Letting Licence applications.

The Local Review Body is asked to support this Notice of Review and enable a small positive contribution towards tourist accommodation to be provided in a way that accords with local and national planning policy and raises no unacceptable impacts.



.....
Stephen Fair MRTPI MURP
fair planning & design

11 September 2023

List of appendices

- 1) Application form
- 2) Roads Authority consultation response
- 3) Planning officer email confirming acceptability of proposal (other than access)
- 4) Report of Handling
- 5) Decision Notice
- 6) Refused application plans
- 7) Local Review Body decision at Soroba Lodge
(Planning Authority application ref 20/01542/PP)
(Local Review Body Notice of Review ref 21/0005/LRB)

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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 100566285-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Type of Application

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

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

Description of Proposal

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

PROPOSED GLAMPING POD INSTALLATION AND ASSOCIATED DRAINAGE

Is this a temporary permission? *

Yes No

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

Yes No

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

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

No Yes – Started Yes - Completed

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	Great Glen Designs - Architectural Services		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	William	Building Name:	<input type="text"/>
Last Name: *	Lees	Building Number:	22
Telephone Number: *	07983636192	Address 1 (Street): *	Old School Court
Extension Number:	<input type="text"/>	Address 2:	Lochyside
Mobile Number:	<input type="text"/>	Town/City: *	Fort William
Fax Number:	<input type="text"/>	Country: *	Inverness Shire
		Postcode: *	PH33 7DG
Email Address: *	great.glen.designs@gmail.com		

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:	BROOMHILL
First Name: *	M	Building Number:	<input type="text"/>
Last Name: *	MACLEOD	Address 1 (Street): *	ARDCONNEL HILL
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	OBAN
Extension Number:	<input type="text"/>	Country: *	ARGYLL
Mobile Number:	<input type="text"/>	Postcode: *	PA34 5DY
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

Site Address Details

Planning Authority:

Argyll and Bute Council

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

Address 1:

BROOM HILL

Address 2:

ARDCONNEL HILL

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

OBAN

Post Code:

PA34 5DY

Please identify/describe the location of the site or sites

Northing

730042

Easting

186405

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

Yes No

Site Area

Please state the site area:

9450.00

Please state the measurement type used:

Hectares (ha) Square Metres (sq.m)

Existing Use

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

VACANT / GARDEN GROUND

Access and Parking

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

Yes No

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

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

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

How many vehicle parking spaces (garaging and open parking) currently exist on the application Site?

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? *

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).

Water Supply and Drainage Arrangements

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

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

- Yes – connecting to public drainage network
 No – proposing to make private drainage arrangements
 Not Applicable – only arrangements for water supply required

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

Note:-

Please include details of SUDS arrangements on your plans

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

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

- Yes
 No, using a private water supply
 No connection required

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

Assessment of Flood Risk

Is the site within an area of known risk of flooding? * Yes No Don't Know

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

Do you think your proposal may increase the flood risk elsewhere? * Yes No Don't Know

Trees

Are there any trees on or adjacent to the application site? * Yes No

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

Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? * Yes No

If Yes or No, please provide further details: * (Max 500 characters)

PUBLIC COLLECTION - ROAD END

Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? *

Yes No

All Types of Non Housing Development – Proposed New Floorspace

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

Yes No

Schedule 3 Development

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

Yes No Don't Know

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

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

Planning Service Employee/Elected Member Interest

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

Yes No

Certificates and Notices

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

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

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

Yes No

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

Yes No

Certificate Required

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

Certificate A

Land Ownership Certificate

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

Certificate A

I hereby certify that –

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

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

Signed: William Lees

On behalf of: MR & MRS M MACLEOD

Date: 16/05/2022

Please tick here to certify this Certificate. *

Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

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

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

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

Yes No Not applicable to this application

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

Yes No Not applicable to this application

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

Yes No Not applicable to this application

Town and Country Planning (Scotland) Act 1997

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

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

Yes No Not applicable to this application

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

Yes No Not applicable to this application

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

Yes No Not applicable to this application

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

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

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

Provide copies of the following documents if applicable:

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

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

Declare – For Application to Planning Authority

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

Declaration Name: Mr William Lees

Declaration Date: 16/05/2022

Payment Details

Pay Direct

Created: 16/05/2022 12:23

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Operational Services
Oban, Lorn and the Isles Area

OBSERVATIONS ON PLANNING APPLICATION

Our Ref: 22/01001/PP
Contact: James Jackson
Tel: 01631 567983

Planning Application No: 22/01001PP Dated: 7th October 2022 Received:
Applicant: Mr And Mrs M Macleod.
Proposed Development: Use of land for the siting of a glamping pod.
Location: Garden Ground Of Broom Hill Ardconnel Hill Oban Argyll And Bute.
Type of consent: Planning Permission
Ref. No(s) of Drg(s) submitted: Series of drawings.

RECOMMENDATION: Refuse.

Proposals Acceptable	Y	Proposals Acceptable	Y/N	Proposals Acceptable	Y/N
1. General		3. New Roads		4. Servicing and Car Parking	
(a) General Impact of development	Y	(a) Widths		(a) Drainage	Y
(b) Safety Audit Required	N	(b) Pedestrian Provision		(b) Car parking Provision	Y
(c) Traffic Impact Analysis Required	N	(c) Layout (Horizontal/Vertical alignment)		(c) Layout of Parking bays/Garages	Y
(d) Drainage Impact/Flooding Assessment Required	N	(d) Turning Facilities (Circles/Hammerheads)		(d) Servicing Arrangements/Driveways	Y
(e) Sustainable Drainage System (SUDS) Provision	N	(e) Junction Details (Locations/radii/sightlines)			
2. Existing Roads		(f) Provision for P.U. Services		5. Signing Y	
(a) Type of connection (Road Junction/Footway Crossing)	Y			(a) Location	
(b) Location(s) of Connection(s)	Y			(b) Illumination	
(b) Sight-lines. 42m x 2.4m	Y				
(d) Pedestrian Provision	Y				

Item Ref.	COMMENTS
1	The proposal is served by a private road (Ardconnel Hill) situated off the UC009 Longsdale Road within an urban 20mph speed restriction. Visibility splays may not be achievable at junction with private road and Longsdale Road. Ardconnel Hill also makes up part of the UO10 Longsdale Footpath. Ardconnel Hill has poor forward visibility, serves numerous properties, the private road has limited passing places, has a steep gradient, has limited level step off verges for pedestrians and has generally poor geometry. Ardconnel Hill is unsuitable for further development and intensification of use.

Item Ref.	CONDITIONS/ REASONS
	Refuse.

Notes for intimation to Applicant

(i) Construction Consent (S21)*	Not Required
(ii) Road Bond (S17)*	Not Required
(iii) Road openings Permit (S56)*	Not Required

*Relevant Section of the Roads (Scotland) Act 1984

Signed: James Jackson
Technical Officer

Date: 15/11/2022

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Classification: OFFICIAL

Good morning Billy

Thank you for your e-mail.

The principle of the glamping pod is acceptable, it is the access arrangements which are causing the issue.

Please let me know how you wish to proceed.

Kind regards,

Fiona

Fiona Scott
Planning Officer – Oban, Lorn and the Isles
Development Management
Development and Economic Growth
Argyll and Bute Council

t: 01631 567968

e: fiona.scott@argyll-bute.gov.uk

w: www.argyll-bute.gov.uk

Work Pattern: Monday to Thursday: 07:45 – 17:00 – Friday: Off

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From: Great Glen Designs - Fort William. <great.glen.designs@gmail.com>
Sent: 17 February 2023 10:11
To: Scott, Fiona <Fiona.Scott@argyll-bute.gov.uk>
Subject: Re: FW: 22/01001/PP - Broom Hill, Ardconnel Hill, Oban [OFFICIAL]

Thank you for your email.

I will discuss this with the applicants and come back to you as soon as we have considered the access matter together.

In the meantime, could you please confirm whether you are otherwise content with the proposal, i.e. is road access the only point of concern?

Specifically, I have noted the third party comments regarding ancient woodland, but you will have seen from your site visit that the pod could be accommodated without removing any trees or adversely affecting the existing woodland setting. Planning conditions requiring the retention of trees within the site would be sufficient to protect the trees and woodland in this case.

On Tue, 31 Jan 2023 at 15:01, Scott, Fiona <Fiona.Scott@argyll-bute.gov.uk> wrote:

Classification: OFFICIAL

Good afternoon Billy

Thank you for your e-mail and please accept my apologies for the delay in coming back to you.

I have been discussing the points set out in your e-mail of 12 January 2022 with the Roads Authority and my Team Leader.

The Roads Authority have advised that, notwithstanding the points set out in your e-mail, they maintain their objection to the proposal.

I have also discussed the matter with my Team Leader and we have agreed that we cannot lawfully use a planning condition to curtail something that is not considered to be 'development' in the first place i.e. the use of two bedrooms within the dwellinghouse for bed and breakfast purposes.

In light of the above I must advise that the Planning Authority cannot support the proposal and I would suggest that you arrange to withdraw the application.

Alternatively, should you wish the application to be determined, it will be recommended for refusal for road safety reasons as set out in the consultation response from the Roads Authority.

I look forward to hearing how you wish to proceed.

Kind regards,

Fiona



Fiona Scott

Planning Officer – Oban, Lorn and the Isles
Development Management
Development and Economic Growth
Argyll and Bute Council

t: 01631 567968

e: fiona.scott@argyll-bute.gov.uk

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From: Great Glen Designs - Fort William. <great.glen.designs@gmail.com>
Sent: 30 January 2023 11:42
To: Scott, Fiona <Fiona.Scott@argyll-bute.gov.uk>
Subject: Re: FW: 22/01001/PP - Broom Hill, Ardconnel Hill, Oban [OFFICIAL]

Hi Fiona,

I've just checked the portal and I see this one is "awaiting decision". Has a decision been made? If so, is it positive?

On Thu, 12 Jan 2023 at 11:37, Scott, Fiona <Fiona.Scott@argyll-bute.gov.uk> wrote:

Classification: OFFICIAL

Hi Billy

That's something that I will discuss with my Team Leader.

Kind regards,

Fiona



Fiona Scott
Planning Officer – Oban, Lorn and the Isles
Development Management

Development and Economic Growth
Argyll and Bute Council

t: 01631 567968

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From: Great Glen Designs - Fort William. <great.glen.designs@gmail.com>

Sent: 12 January 2023 11:32

To: Scott, Fiona <Fiona.Scott@argyll-bute.gov.uk>

Subject: Re: FW: 22/01001/PP - Broom Hill, Ardconnel Hill, Oban [OFFICIAL]

I appreciate that point. Could it be a planning condition that no Bed and Breakfast accommodation can be provided in the existing house?

On Thu, 12 Jan 2023 at 10:55, Scott, Fiona <Fiona.Scott@argyll-bute.gov.uk> wrote:

Classification: OFFICIAL

Good morning Billy

Thank you for your e-mail submitting supporting information.

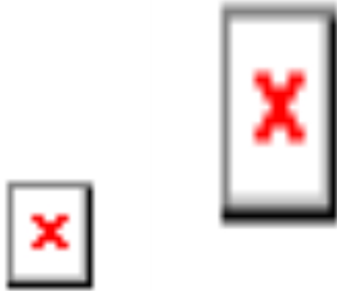
I will discuss the points raised with the the Roads Authority, however, the dwellinghouse is still capable of being used as a bed and breakfast without planning permission depending on the number of rooms being let out which the Planning Authority has no control over.

I will come back to you once I have discussed the matter further with the Roads Authority and my Team Leader.

There is no need to upload via the portal, I'll arrange for it to be done.

Kind regards,

Fiona



Fiona Scott

Planning Officer – Oban, Lorn and the Isles
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From: Great Glen Designs - Fort William. <great.glen.designs@gmail.com>

Sent: 12 January 2023 10:08

To: Scott, Fiona <Fiona.Scott@argyll-bute.gov.uk>

Subject: Re: 22/01001/PP - Broom Hill, Ardconnel Hill, Oban [OFFICIAL]

Hi Fiona,

Response letter attached. Do you need this uploaded to the portal?

On Mon, 9 Jan 2023 at 09:19, Scott, Fiona <Fiona.Scott@argyll-bute.gov.uk> wrote:

Classification: OFFICIAL

Good morning William

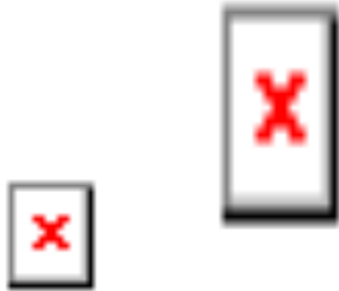
I refer to the above application currently with the Planning Authority for consideration.

I have now received the consultation response from the Council's Roads Authority who are recommending refusal of the application. I have attached a copy of the response which sets out their reasons for refusal. Please note that whilst this is dated 15/11/22 it was only received by the Planning Authority on 05/01/23.

In light of the comments from the Roads Authority the Planning Authority is unable to support the current application and would suggest that you withdraw the application otherwise it will be recommended for refusal for the road and pedestrian safety reasons set out by the Roads Authority.

I would be grateful for your comments on how you wish to proceed.

Kind Regards



Fiona Scott

Planning Officer – Oban, Lorn and the Isles
Development Management
Development and Economic Growth
Argyll and Bute Council

t: 01631 567968

e: fiona.scott@argyll-bute.gov.uk

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If you have any comments or wish to make a suggestion, please fill in our online [Customer Satisfaction Questionnaire](#)

Argyll and Bute Council
Development & Economic Growth

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: 22/01001/PP
Planning Hierarchy: Local
Applicant: Mr and Mrs M. MacLeod
Proposal: Use of Land for the Siting of a Glamping Pod
Site Address: Garden Ground of Broom Hill, Ardconnel Hill, Oban

DECISION ROUTE

- Delegated - Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997
- Committee - Local Government Scotland Act 1973
-

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Siting of glamping pod

(ii) Other specified operations

- Utilisation of existing vehicular access
 - 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 REFUSED for the reasons appended to this report.

(C) CONSULTATIONS:

Roads Authority

Report dated 15/11/22 recommending refusal of the proposed development as it would result in the intensification of use of a sub-standard access regime contrary to the interests of road safety and there is no scope for any commensurate road improvements sufficient to mitigate the harm caused.

Scottish Water

Letter dated 13/10/22 advising no objection to the proposed development which would be serviced from the Tullich Water Treatment Works and the Oban Waste Water Treatment Works. Scottish Water do however advise that further investigations may be required once applications for formal connection are submitted to them for consideration.

Access Officer

No response at time of report and no request for an extension of time.

Woodland Trust

Letter dated 28 October 2022 objecting to the proposed development due to the direct loss and damage to an area of Ancient Woodland.

Officer Comment: *The Woodland Trust is based in Perth with no local or regional base and no knowledge of the application site. Whilst the Ancient Woodland designation covers the garden ground of the dwellinghouse, the proposal does not propose the felling of any trees of merit, with mainly scrub being cleared to provide a view out from the proposed pod.*

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:

No relevant planning history.

(E) PUBLICITY:

The proposal has been advertised in terms of Regulation 20 and Neighbour Notification procedures, overall closing date 10/11/22.

(F) REPRESENTATIONS:

(i) Two representations received from:

Mr Ronald MacMillan, Larchfield, Ardconnel Hill, Oban, PA34 5DY (26/10/22)
Oban District Access Panel (ODAP) by e-mail (16/10/22)

Representations are published in full on the planning application file and are available to view via the [Public Access](#) section of the Council's website.

(ii) Summary of issues raised:

- Concerns regarding the increase in traffic on the private road and the impact on pedestrian safety.
- The granting of permission will set a precedent for other similar developments.

Officer Comment: *The road safety issues are discussed in more detail in the assessment at Section P below.*

Each planning application is considered on its own merits against the relevant plan and policies in place at the time taking into account comments from third parties and consultees. The granting of permission for one development in no way infers that further development will be supported.

- The ODAP outline that their remit is to encourage developers and designers to create accessible buildings and environments that provide disabled people with equal access and facilities and enable them to participate and to thrive.

In this respect the ODAP encourage the Applicant to consult with their Agent with a view to redesigning the pod on *Inclusive Design* principles to enable it to be used and enjoyed by a disabled person. Essentially this would involve extending the size of shower room/toilet, widening its door to 700mm and setting it to open outwards, widening one of the bedroom doors, and replacing the steps onto the balcony with a gentle ramp set at 1:12 grade and widened to at least 1200mm. The surfacing in the parking bay and the pathway linking the parking bay to the pod entrance should be finished in a bound nonslip material.

Officer Comment: *The comments by the ODAP are noted and will be passed to the Applicant for information/action should permission be granted.*

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) **Environmental Impact Assessment Report:** Yes No
- (ii) **An Appropriate Assessment under the Conservation (Natural Habitats) Regulations 1994:** Yes No
- (iii) **A Design or Design/Access statement:** Yes No
- (iv) **A report on the impact of the proposed development e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** Yes No

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: Yes No

-
- (I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:** Yes 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.**

[National Planning Framework 4 \(Adopted 13th February 2023\)](#)

Part 2 – National Planning Policy

Sustainable Places

NPF4 Policy 1 – Tackling the Climate and Nature Crises

NPF4 Policy 2 – Climate Mitigation and Adaption

NPF4 Policy 3 – Biodiversity

NPF4 Policy 4 – Natural Places

NPF4 Policy 9 – Brownfield, Vacant and Derelict Land and Empty Buildings (*includes provisions relevant to Greenfield Sites*)

NPF4 Policy 12 – Zero Waste

NPF4 Policy 13 – Sustainable Transport

Liveable Places

NPF4 Policy 18 – Infrastructure First

NPF4 Policy 22 – Flood Risk and Water Management

Productive Places

NPF4 Policy 30 – Tourism

[‘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 5 – Supporting the Sustainable Growth of our Economy

LDP 6 – Supporting the Sustainable Growth of Renewables

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’ \(Adopted March 2016 & December 2016\)](#)

Natural Environment

SG LDP ENV 1 – Impact on Habitats, Species and our Biodiversity

Landscape and Design

SG LDP ENV 14 – Landscape

Support for Business & Industry: Main Potential Growth Sector: Tourism

SG LDP TOUR 1 – Tourist Facilities and Accommodation, including Static and Touring Caravans

Bad Neighbour Development

SG LDP BAD 1 – Bad Neighbour Development

Sustainable Siting and Design

SG LDP Sustainable – Sustainable Siting and Design Principles

Resources and Consumption

SG LDP SERV 2 – Incorporation of Natural Features / SuDS

SG LDP SERV 5(b) – Provision of Waste Storage & Collection Facilities within New Development

Addressing Climate Change

SG LDP Sust Check – Sustainability Checklist

Transport (Including Core Paths)

SG LDP TRAN 2 – Development and Public Transport Accessibility

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.

- [ABC Technical Note – Biodiversity \(Feb 2017\)](#)
- Argyll and Bute Sustainable Design Guidance, 2006
- Consultation Responses
- Third Party Responses

[Argyll and Bute proposed Local Development Plan 2 \(November 2019\)](#) – The Examination by Scottish Government Reporters to the Argyll and Bute Local Development Plan 2 has now concluded and the [Examination Report](#) has been published (13th June 2023). The Examination Report is a material consideration of significant weight and may be used as such until the conclusion of the LDP2 Adoption Process. Consequently, the Proposed Local Development Plan 2 as recommended to be modified by the Examination Report and the published Non Notifiable Modifications is a material consideration in the determination of all planning and related applications.

Spatial and Settlement Strategy

Policy 01 – Settlement Areas

Policy 04 – Sustainable Development

High Quality Places

Policy 05 – Design and Placemaking

Policy 08 – Sustainable Siting
Policy 09 – Sustainable Design
Policy 10 – Design – All Development
Policy 14 – Bad Neighbour Development

Diverse and Sustainable Economy

Policy 22 – Economic Development
Policy 23 – Tourism Development, Accommodation, Infrastructure and Facilities

Connected Places

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 40 – Vehicle Parking Provision

Sustainable Communities

Policy 59 – Water Quality and the Environment
Policy 61 – Sustainable Urban Drainage Systems (SUDS)
Policy 63 – Waste Related Development and Waste Management

High Quality Environment

Policy 73 – Development Impact on Habitats, Species and Biodiversity

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

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

(M) Has a Sustainability Checklist been submitted: Yes No

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

(O) Requirement for a pre-determination hearing: Yes No

(P)(i) Key Constraints/Designations Affected by the Development:

- Ancient Woodland Inventory

(P)(ii) Soils

[Agricultural Land Classification:](#)

Built Up Area

[Peatland/Carbon Rich Soils Classification:](#)

Class 1

Class 2

- Class 3
- Not Classified
- N/A

Peat Depth Classification:

- Does the development relate to croft land? Yes No
- Would the development restrict access to croft or better quality agricultural land? Yes No
- Would the development result in fragmentation of croft / better quality agricultural land? Yes No

(P)(iii) Woodland

- Will the proposal result in loss of trees/woodland? Yes No
(If yes, detail in summary assessment)
- Does the proposal include any replacement or compensatory planting? Yes No details to be secured by condition Not applicable

(P)(iv) Land Status / LDP Settlement Strategy

- Status of Land within the Application Brownfield Brownfield Reclaimed Greenfield
(tick all relevant boxes)

ABC LDP 2015 Settlement Strategy
LDP DM 1 (tick all relevant boxes)

- Main Town Settlement Area
- Key Rural Settlement Area
- Village/Minor Settlement Area
- Rural Opportunity Area
- Countryside Zone
- Very Sensitive Countryside Zone
- Greenbelt

ABC pLDP2 Settlement Strategy
(tick all relevant boxes)

- Settlement Area
- Countryside Area
- Remote Countryside Area
- Helensburgh & Lomond Greenbelt

ABC LDP 2015 Allocations/PDAs/AFAs etc:

N/A

ABC pLDP2 Allocations/PDAs/AFAs etc:

N/A

(P)(v) Summary assessment and summary of determining issues and material considerations

Planning permission is sought for the siting of a glamping pod within the garden ground of Broom Hill, Ardconnel Hill, Oban.

The site is within the garden ground of the dwellinghouse, Broom Hill, comprising an area of land situated between the dwellinghouse and the private access track which runs along the western boundary of the dwellinghouse. The site is elevated above the level of the dwellinghouse and private access track and, due to the significant

tree and vegetation cover within the extensive garden ground of the dwellinghouse, is not readily visible from any public vantage points.

The application proposes to site a modest, single storey, mono-pitched glamping pod on the site with finishing materials comprising horizontal timber cladding with a corrugated metal roofing. The proposed pod is accessed via a set of stairs leading from a newly formed parking area sited adjacent to the existing driveway serving the dwellinghouse. The stairs are existing but overgrown and will require to be cleared to serve the proposed pod. Whilst of no particular architectural merit, the proposed pod is similar in scale and design to other garden structures which could be constructed on the site under permitted development rights where the Planning Authority would have no control over their design or finishes. Furthermore, the natural finishing materials proposed, together with the proposed pod being well contained within the garden ground of the dwellinghouse, would ensure that it would not result in an incongruous feature within the site or wider landscape and, due to the distance from neighbouring properties, would not give rise to any adverse privacy or amenity issues should permission be granted.

NPF4 Policy 1 seeks to prioritise the climate and nature crises in all decisions; it requires to be applied together with other policies in NPF4. Guidance from the Scottish Government advises that it is for the decision maker to determine whether the significant weight to be applied tips the balance in favour for, or against a proposal on the basis of its positive or negative contribution to climate and nature crises. In this case, given the small scale nature of the development proposed and its alignment with all other relevant policies in NPF4 and those supporting policies in the adopted LDP, it is considered that the development proposed would be in accordance with the broad aims of NPF4 Policy 1 as underpinned by LDP Policies STRAT 1, LDP DM 1 and the adopted Sustainability Checklist and Policies 01 and 04 of pLDP2.

NPF4 Policy 2 seeks to ensure that new development proposals will be sited to minimise lifecycle greenhouse gas emissions as far as possible, and that proposals will be sited and designed to adapt to current and future risks from climate change. Guidance from the Scottish Government confirms that at present there is no single accepted methodology for calculating and / or minimising emissions. The emphasis is on minimising emissions as far as possible, rather than eliminating emissions. It is noted that the provisions of the Settlement Strategy set out within Policy LDP DM 1 of the LDP promotes sustainable levels of growth by steering significant development to our Main Towns and Settlements, rural growth is supported through identification of Key Rural Settlements and safeguards more sensitive and vulnerable areas within its various countryside designations. It is considered that the proposed development would be consistent with Policy 2 of NPF4 having had due regard to the specifics of the development proposed and to the overarching planning policy strategy outlined within the adopted LDP, notably policies STRAT 1, LDP DM 1, LDP DM 10 and the adopted Sustainability Checklist and Policies 01 and 04 of pLDP2.

NPF4 Policy 3 seeks to protect biodiversity, reverse biodiversity loss and deliver positive effects from development and strengthen nature networks.

In the case of the development proposed by this application, it is considered that there are no issues of compliance with Policy 3. No material biodiversity impacts have been identified in the assessment of this application by the Planning Authority and whilst no specific proposals for biodiversity improvements have been submitted it is considered that in the event that planning permission were to be granted,

adequate and proportionate measures for biodiversity enhancement and protection could be delivered by planning condition. Such measures would be in compliance with NPF4 Policy 3 as underpinned by LDP Policy LDP 3 and SG LDP ENV 1 and Policy 73 of pLDP2.

NPF4 Policy 4 seeks to protect, restore and enhance natural assets making best use of nature-based solutions.

The development proposed by the current planning application is considered appropriate in terms of its type, location and scale such that it will have no unacceptable impact on the natural environment. The proposed development is not within any designated European site of natural environment conservation or protection, it is not located within a National Park, a National Scenic Area a SSSI or RAMSAR site, or a National Nature Reserve nor is it within an area identified as Wild Land. The proposal is considered to be in accordance with NPF4 Policy 4 as underpinned by LDP Policies LDP 3 and SG LDP ENV 1 and Policy 73 of pLDP2.

NPF4 Policy 9 seeks to encourage, promote and facilitate the reuse of brownfield, vacant and derelict land and empty buildings, and to help reduce the need for greenfield development.

The development proposed by this application is considered to be on a brownfield site by virtue of the fact that it is within the established residential curtilage of the property representing the sustainable reuse of brownfield land supported by NPF4 Policy 9(a) and underpinned by LDP policies STRAT 1, LDP DM 1 and SG LDP TOUR 1 and Policies 22 and 23 of pLDP2.

NPF4 Policy 12 seeks to encourage, promote and facilitate development that is consistent with the waste hierarchy as defined within the policy document.

The development the subject of this planning application seeks to establish the principle of a new holiday letting unit. Whilst this is a development likely to generate waste when operational, it would benefit from regular waste uplifts by the Council and would be expected to comply with our adopted and enforced recycling and reuse strategy. Policy 12(b) of NPF4 aligns with LDP Policies LDP 10 and SG LDP SERV 5 and 5(b) and Policy 63 of pLDP2 and the current development proposal would raise no issue of conflict should permission be granted.

NPF4 Policy 13 seeks to encourage, promote and facilitate developments that prioritise walking, wheeling, cycling and public transport for everyday travel and reduce the need to travel unsustainably.

The application proposes to utilise Ardconnel Hill, a private road, which spurs from the public Longsdale Road to serve the proposed glamping pod.

Part (b) of Policy 13 sets out that development proposals will be supported where it can be demonstrated that the transport requirements generated have been considered in line with the sustainable travel and investment hierarchies and where appropriate they:

- i. Provide direct, easy, segregated and safe links to local facilities via walking, wheeling and cycling networks before occupation;
- ii. Will be accessible by public transport, ideally supporting the use of existing services;
- iii. Integrate transport modes;

- iv. Provide low or zero-emission vehicle and cycle charging points in safe and convenient locations, in alignment with building standards;
- v. Supply safe, secure and convenient cycle parking to meet the needs of users and which is more conveniently located than car parking;
- vi. Are designed to incorporate safety measures including safe crossings for walking and wheeling and reducing the number and speed of vehicles;
- vii. Have taken into account, at the earliest stage of design, the transport needs of diverse groups including users with protected characteristics to ensure the safety, ease and needs of all users; and
- viii. Adequately mitigate any impact on local public access routes.

NPF4 Policy 13 is underpinned by LDP Policy LDP 11 which sets out a requirement that an appropriate standard of access is delivered to serve new developments, including off-site highway improvements where appropriate. This requirement is specified in more detail within LDP Policy SG LDP TRAN 4 (2) and Policy 37 of pLDP2 which sets out that further development that utilises an existing private access or private road will only be accepted if:

- i) The access is capable of commensurate improvements considered by the Roads Authority to be appropriate to the scale and nature of the proposed new development and that takes into account the current access issues (informed by an assessment of useage); AND the applicant can;
- ii) Secure ownership of the private road or access to allow for commensurate improvements to be made to the satisfaction of the Planning Authority; OR,
- iii) Demonstrate that an appropriate agreement has been concluded with the existing owner to allow for commensurate improvements to be made to the satisfaction of the Planning Authority.

The current application has been subject to objection from the Roads Authority who advised that the existing private road (Ardconnel Hill) has poor forward visibility; serves numerous properties; has limited passing places; has a steep gradient; has limited level step off verges for pedestrian refuge; and has generally poor geometry. The Road Authority concluded by stating that Ardconnel Hill is unsuitable for further development or intensification of use.

In response to the consultation response from the Roads Authority the Agent advised that the property has previously been used as bed and breakfast accommodation (under permitted development rights) with two large en-suite letting bedrooms and it is the intention of the Applicant to install the glamping pod to replace the bed and breakfast use to provide the dwellinghouse and occupiers of the pod with greater privacy thereby resulting in a reduction of potential traffic using the road.

However, the Planning Authority advised the Agent that the use of a planning condition to curtail something that is not considered to be 'development' in the first place i.e. the use of two bedrooms within the dwellinghouse for bed and breakfast purposes would not work and would result in a condition being imposed on a planning permission which would be unenforceable and would fail the six tests set out in Circular 4/1998.

The Agent then referenced planning permission 20/01542/PP which proposed two holiday pods within its garden ground which was refused by the Planning Authority due to an unsuitable access regime. However, the refusal was subject of an appeal to the Local Review Body (LRB) using the same argument set out by the Agent above which was accepted by Members of the LRB and permission granted. .

Whilst officers have to accept the previous decision by the LRB on planning permission 20/01542/PP, they maintain their professional opinion that the approach adopted by the LRB at that time was wrong. Officers cannot, therefore, accept that a substantial precedent has been set.

Notwithstanding this, at the time when the LRB upheld the Review, and granted planning permission, the property in question was actively being advertised and used for bed and breakfast purposes.

As a comparison, as confirmed by the Agent, the donor dwellinghouse involved in the current application has not been used for bed and breakfast purposes since the Applicant purchased the property in 2010, some 13 years ago. Accordingly, the current proposal is considered to be very different in that it is proposing a purpose built glamping pod utilising a sub-standard access regime which is not currently servicing any existing bed and breakfast development. Therefore there is nothing to reasonably 'offset' even if such an approach were to be considered appropriate.

In summary, the Applicant's Agent is seeking to relinquish a currently non-existing and limited incidental bed and breakfast accommodation which does not constitute 'development' within the control of the Planning Authority. The Planning Authority has no legal control over works or uses of land/buildings that do not constitute 'development'. Therefore, there is no effective legal method to constrain the use or the occupancy of the donor dwellinghouse in the way suggested by the applicant's Agent (or, indeed, by any other way). Even if the use of two of the bedrooms within the donor dwellinghouse to provide bed and breakfast accommodation could be relinquished through Legal Agreement, such a mechanism could not remove the right to use those bedrooms as other forms of accommodation for a single large family grouping or to prevent the conversion of other existing rooms in the dwellinghouse into new bedrooms.

The potential capacity of any single dwellinghouse is constrained only by its size and the only way to prevent the existing dwellinghouse being utilised to its full capacity of occupancy would be to physically reduce its size and that is not being offered.

The proposed development of an additional building to be used for tourism accommodation must, therefore, represent an intensification in the residential occupancy of the site and, therefore, an intensification of the use of the existing constrained access regime.

The development constitutes a material intensification of the use of an existing and constrained access regime and would be capable of support only if compliance with various highway safety concerns could be demonstrated through the submission, examination and acceptance of competent detail. The land necessary for the upgrade of the existing private road, if achievable, is located outwith the application site boundary and outwith the land in the control of the Applicant. The proposed development is consequently, in view of the above, considered likely to have a significant adverse impact upon highway safety. The proposal is considered to be contrary to the NPF4 Policy 13(g) as underpinned by LDP Policies LDP 11 and SG LDP TRAN 4(2) and Policy 37 of pLDP2.

Officers have tried to negotiate a solution with the area roads engineers but they are maintaining their objection. The Development Manager has, in accordance with the Council's agreed protocol, reviewed the roads advice offered and has determined, in

this instance, that the stated position of the roads engineers is the correct one given the specific circumstances of the case.

NPF4 Policy 18 seeks to encourage, promote and facilitate an infrastructure first approach to land use planning, which puts infrastructure considerations at the heart of placemaking.

The development the subject of this planning application proposes connection to the public water supply and drainage infrastructure in the control of Scottish Water. In their response to the application Scottish Water raised no objection to the proposed development which would be serviced by the Tullich Water Treatment Works and Oban Waste Water Treatment Works. Policy 18 aligns with LDP Policy LDP DM 11 and Policies 05 and 08 of pLDP2 which seek to ensure suitable infrastructure is available to serve proposed developments and the current proposal would raise no issue of conflict should permission be granted.

NPF4 Policy 22 seeks to strengthen resilience to flood risk and to ensure that water resources are used efficiently and sustainably.

As detailed above the development proposes connection to the public water supply to which Scottish Water has not objected to. With regards to the management of rain and surface water at the site, this could be controlled through a condition to secure a suitable sustainable drainage system for the site should permission be granted.

The proposal is considered to be consistent with NPF4 Policy 22 as underpinned by LDP Policies LDP 10 and SG LDP SERV 2 and Policy 61 of pLDP2.

NPF4 Policy 30 seeks to encourage, promote and facilitate sustainable tourism development which benefits local people, is consistent with our net zero and nature commitments, and inspires people to visit Scotland.

Policy 30(a) supports tourism development in locations identified in the LDP with a requirement in Part (b) of this policy for developments to take into account various criteria. However, in this instance, as appropriate infrastructure cannot be demonstrated to serve the proposed development, a statement addressing the provisions of NPF4 Policy 30 was not sought by the Planning Authority.

Accordingly, notwithstanding the above assessment that the proposed glamping pod could be accommodated within the site without any significant adverse visual impact on the site or the wider landscape within which it is proposed, a suitable access regime to serve the proposed development cannot be achieved. The proposed development constitutes a material intensification of the use of an existing and constrained access regime and would be capable of support only if compliance with various highway safety concerns could be demonstrated through the submission, examination and acceptance of competent detail. The land necessary for the upgrade of the existing private road, if achievable, is located outwith the application site boundary and the land in the control of the Applicant as submitted and the proposed development is consequently, in view of the above, considered likely to have a significant adverse impact upon highway safety contrary to the provisions of NPF4 Policy 13(f) as underpinned by LDP Policies LDP 11 as underpinned by SG LDP TRAN 4(2) and Policy 37 of pLDP2 and it is recommended that planning permission is refused.

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

(R) Reasons why Planning Permission Should be Refused:

See reasons for refusal below.

(S) Reasoned justification for a departure to the provisions of the Development Plan

N/A

(T) Need for notification to Scottish Ministers or Historic Environment Scotland:

Yes No

Author of Report: Fiona Scott **Date:** 17/07/23

Reviewing Officer: Tim Williams **Date:** 18/07/23

Fergus Murray
Head of Development & Economic Growth

REASONS FOR REFUSAL RELATIVE TO APPLICATION REF. NO. 22/01001/PP

1. The proposed development conflicts with NPF4 Policy 13, and Policies LDP 11 and SG LDP TRAN 4 of the adopted 'Argyll and Bute Local Plan' 2015 and Policy 37 of emerging proposed 'Local Development Plan 2' as the proposed development would result in the intensification in vehicular use of a sub-standard private road with no delineation between pedestrian or vehicular use.

The proposed development constitutes a material intensification of the use of an existing and constrained access regime and would be capable of support only if compliance with various highway safety concerns could be demonstrated through the submission, examination and acceptance of competent detail.

The land necessary for the upgrade of the existing private road, if achievable, does not form part of the planning application site and is not within the acknowledged legal ownership/control of the Applicant.

APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **22/01001/PP**

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

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

See reasons for refusal set out above.

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Municipal Buildings Albany Street Oban PA34 4AW

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

REFUSAL OF PLANNING PERMISSION

REFERENCE NUMBER: 22/01001/PP

**Mr And Mrs M Macleod
Great Glen Designs - Architectural Services
22 Old School Court
Lochyside
Fort William
Inverness Shire
PH33 7DG**

I refer to your application dated 17th May 2022 for planning permission in respect of the following development:

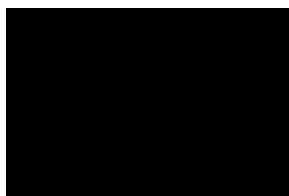
Use of land for the siting of a glamping pod

AT:

Garden Ground Of Broom Hill Ardconnel Hill Oban Argyll And Bute

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

Dated: 18 July 2023



Fergus Murray
Head of Development and Economic Growth

REASONS FOR REFUSAL RELATIVE TO APPLICATION NUMBER: 22/01001/PP

1. The proposed development conflicts with NPF4 Policy 13, and Policies LDP 11 and SG LDP TRAN 4 of the adopted 'Argyll and Bute Local Plan' 2015 and Policy 37 of emerging proposed 'Local Development Plan 2' as the proposed development would result in the intensification in vehicular use of a sub-standard private road with no delineation between pedestrian or vehicular use.

The proposed development constitutes a material intensification of the use of an existing and constrained access regime and would be capable of support only if compliance with various highway safety concerns could be demonstrated through the submission, examination and acceptance of competent detail.

The land necessary for the upgrade of the existing private road, if achievable, does not form part of the planning application site and is not within the acknowledged legal ownership/control of the Applicant.

NOTES TO APPLICANT (1) RELATIVE TO APPLICATION NUMBER 22/01001/PP

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

APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application: 22/01001/PP

A. Has the application been the subject of any “non-material” amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing.

No

B. Is the proposal a departure from the Development Plan:

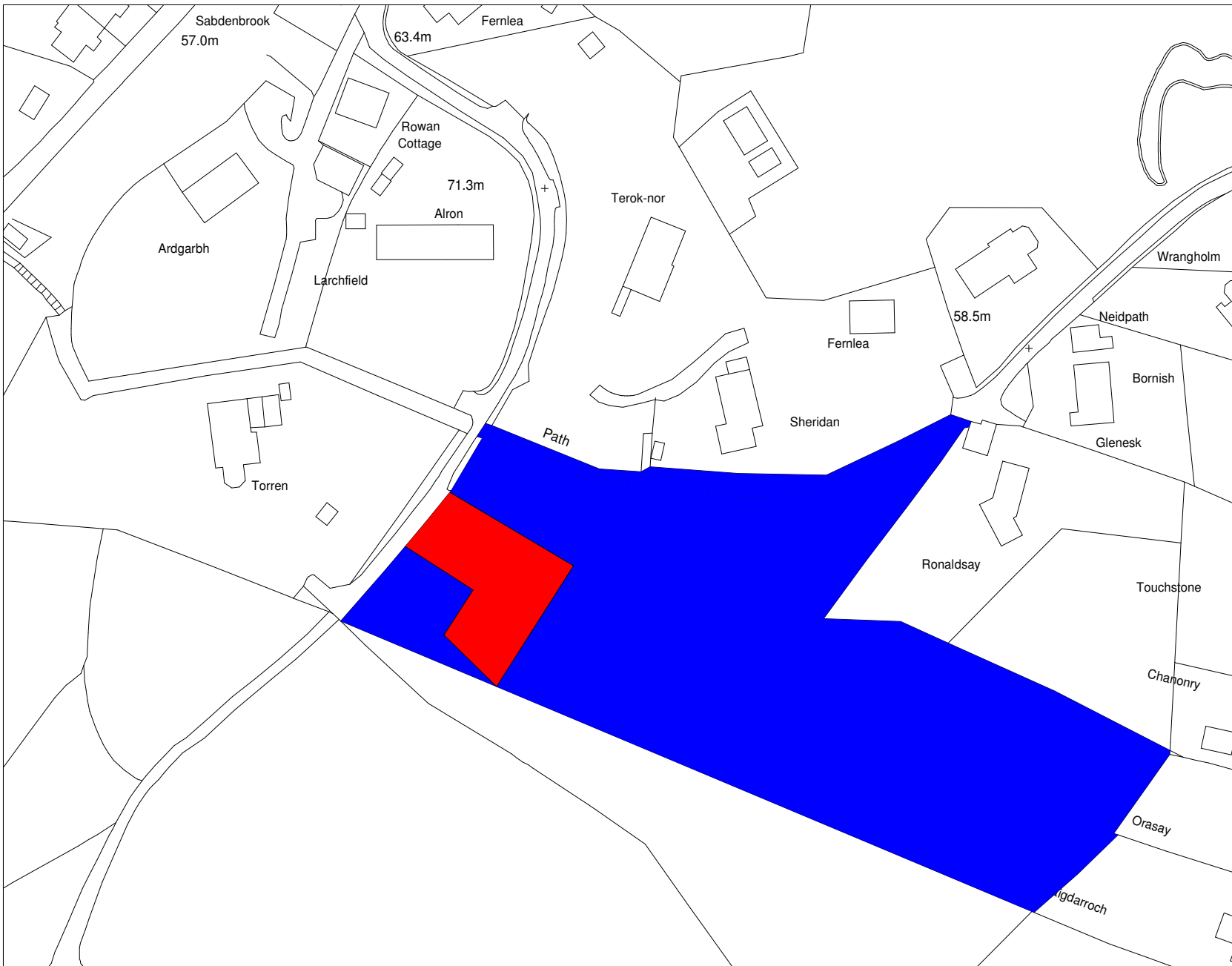
No

If yes, state level of departure:

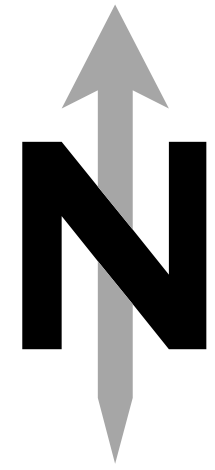
No Departure

C. Summary justification statement for refusal of planning permission

The proposed development conflicts with NPF4 Policy 13, and Policies LDP 11 and SG LDP TRAN 4 of the adopted 'Argyll and Bute Local Plan' 2015 and Policy 37 of emerging proposed 'Local Development Plan 2' as the proposed development would result in the intensification in vehicular use of a sub-standard private road with no delineation between pedestrian or vehicular use.

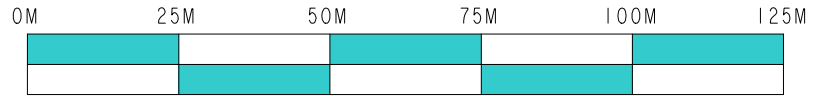


GREAT GLEN DESIGNS.
ARCHITECTURAL SOLUTIONS
SCOTTISH HIGHLANDS & BEYOND



PROPOSED GLAMPING POD INSTALLATION
AT BROOMHILL, ARDCONNELL HILL, OBAN
SCALE - 1 : 1250
DATE - 12 . 05 . 2022

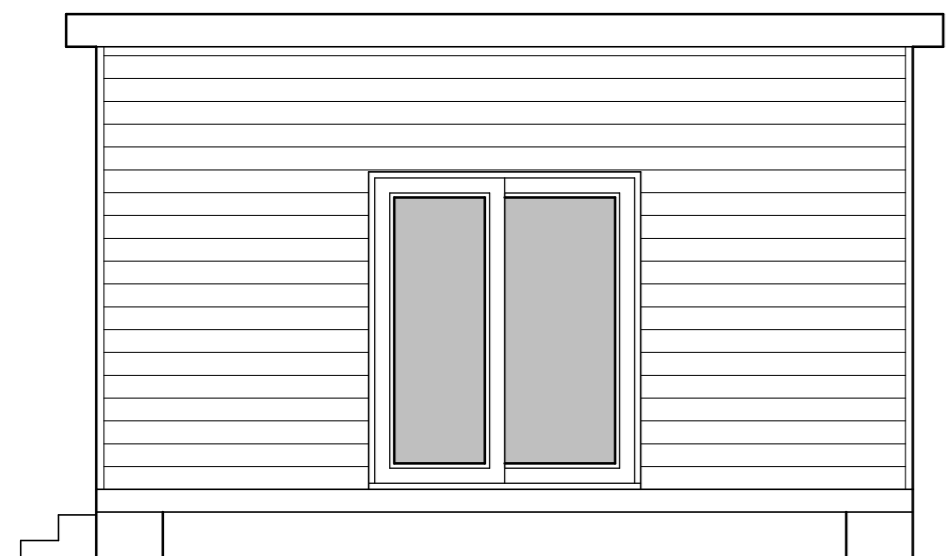
LOCATION PLAN



SCALE BAR

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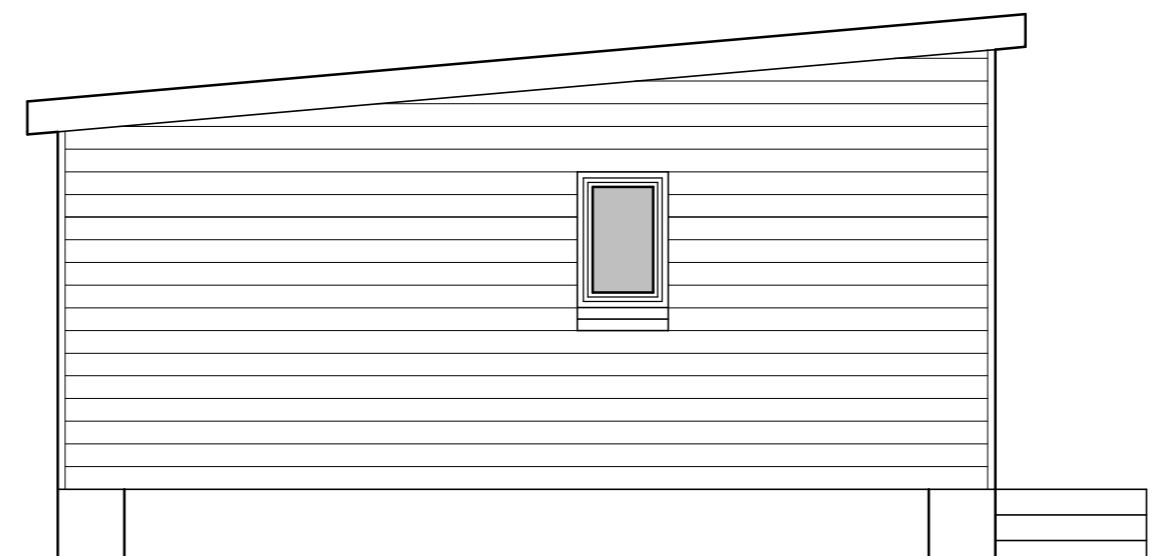


RED PINE BARGE BOARDS

HORIZONTAL TIMBER (OR UPVC TIMBER EFFECT) LINING BOARD FINISH TO EXTERNAL WALLS

DOUBLE GLAZED WHITE UPVC EXTERNAL DOORS

DECKING AREA TO FRONT ELEVATION



SIDE ELEVATION

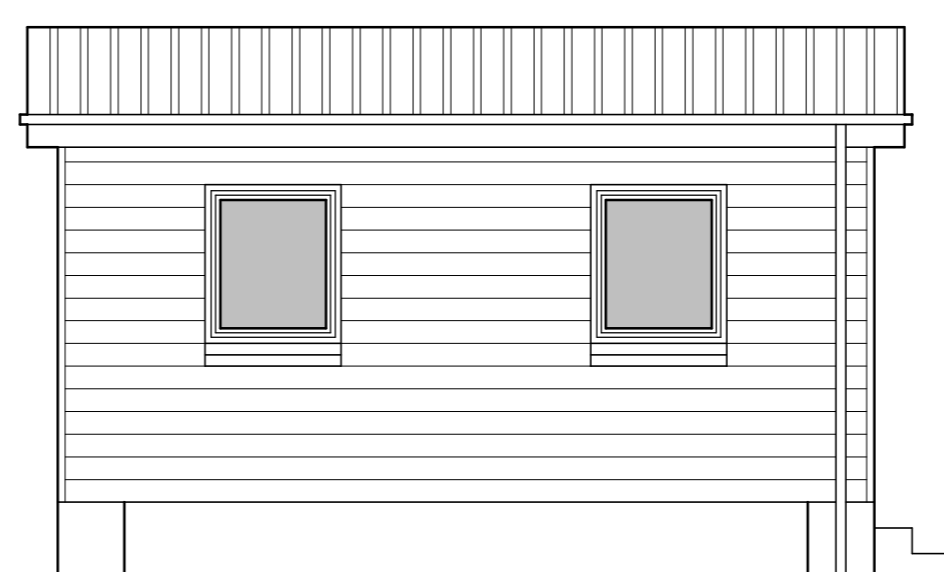
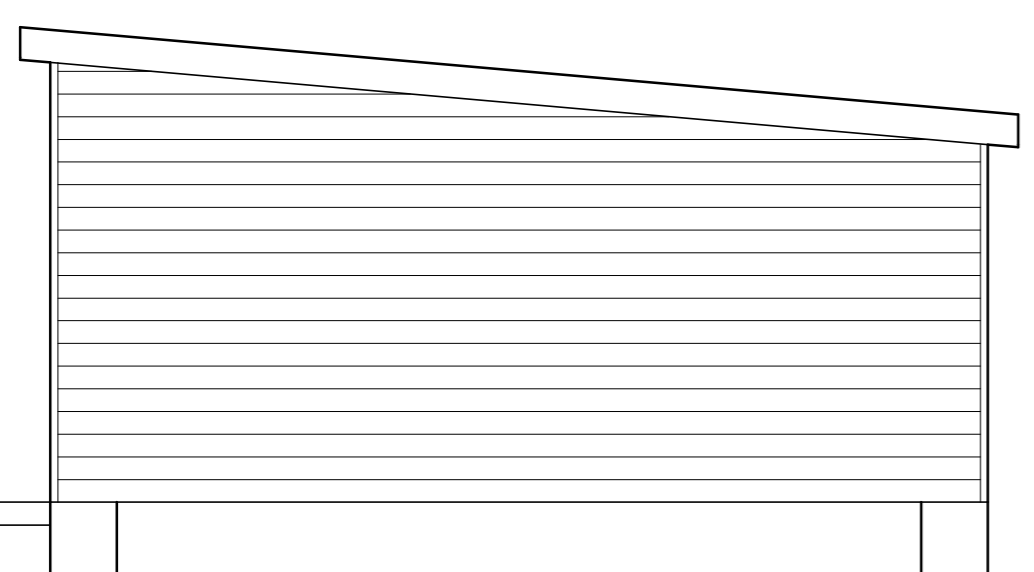
Note -

The contractor will be held to have checked all dimensions before commencing with any works and, in the event of discrepancies, is to refer them directly to the producer of this document for clarification prior to commencement of any works.

Written dimensions are to be taken in all cases. Drawings should not be scaled for dimensions. In case of doubt refer to this office.

Any discrepancies between this drawing and Structural Engineers drawings to be reported to this office for clarification, generally Structural Engineers drawings / details to take precedence.

FRONT ELEVATION

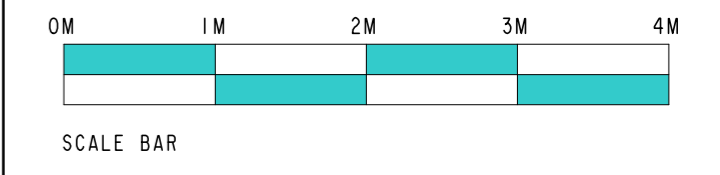


VERTICAL CORRUGATED SHEETING FINISH TO ROOF

UPVC GUTTERING
RED PINE BARGE BOARDS

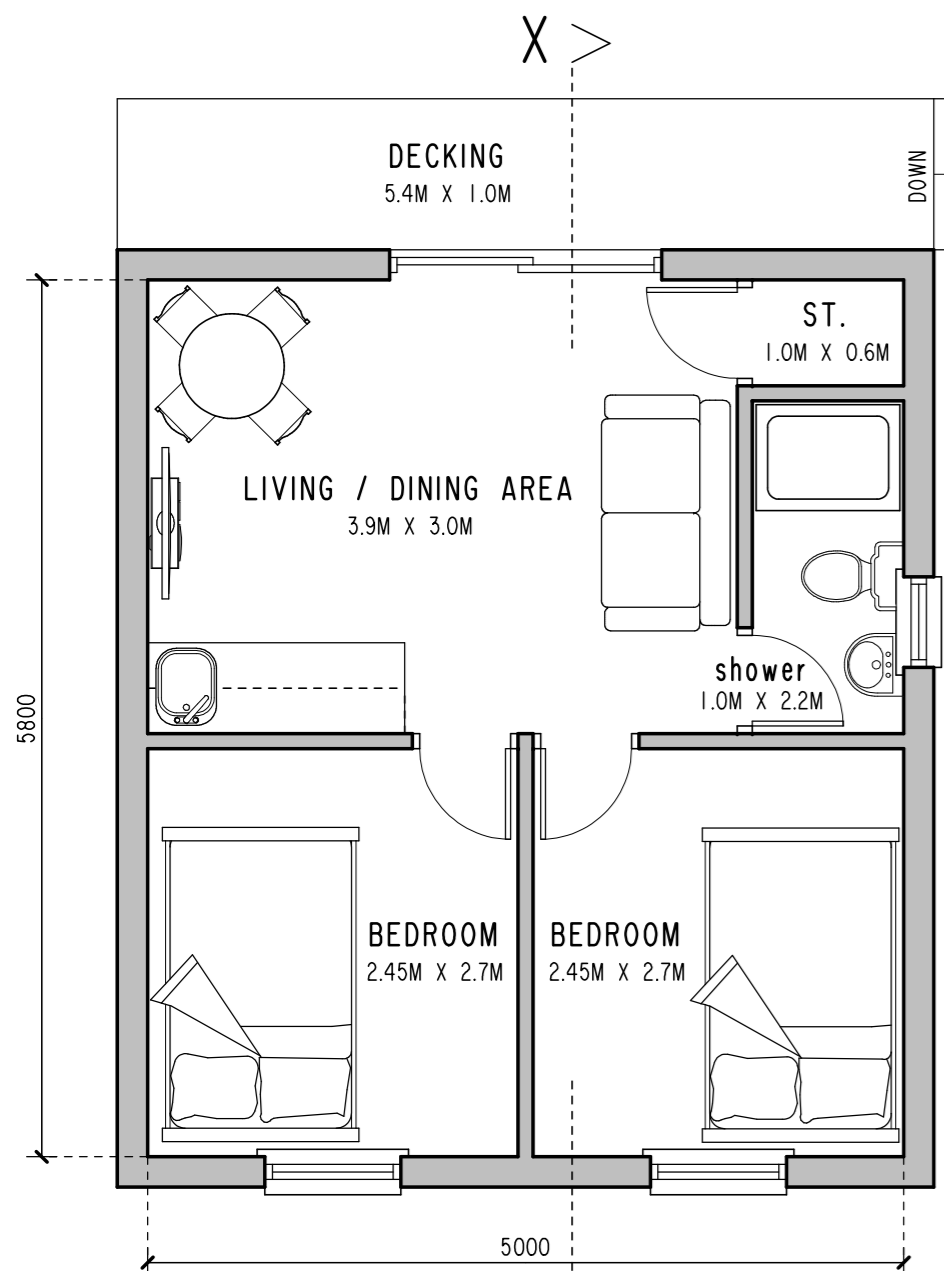
DOUBLE GLAZED WHITE UPVC WINDOWS

HORIZONTAL TIMBER (OR UPVC TIMBER EFFECT) LINING BOARD FINISH TO EXTERNAL WALLS



SIDE ELEVATION

SIDE ELEVATION



NOTES -

STRUCTURE TO COMPLY FULLY WITH THE CARAVAN ACT.

SECTION 29 (1) OF THE CARAVAN SITES AND CONTROL OF DEVELOPMENT ACT 1960 DEFINED A CARAVAN AS -

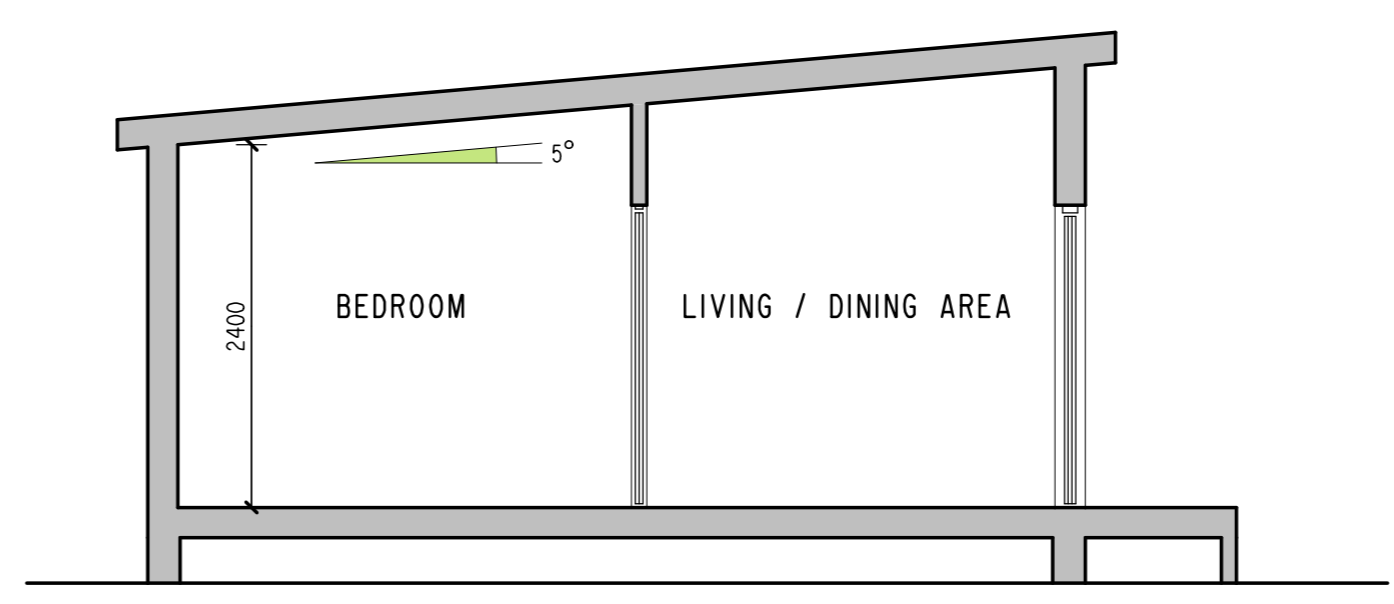
ANY STRUCTURE DESIGNED OR ADAPTED FOR HUMAN HABITATION WHICH IS CAPABLE OF BEING MOVED FROM ONE PLACE TO ANOTHER (WHETHER BEING TOWED, OR BY BEING TRANSPORTED ON A MOTOR VEHICLE OR TRAILER) AND ANY MOTOR VEHICLE SO DESIGNED OR ADAPTED BUT DOES NOT INCLUDE

A STRUCTURE DESIGNED OR ADAPTED FOR HUMAN HABITATION WHICH IS COMPOSED OF NOT MORE THAN TWO SECTIONS SEPARATELY CONSTRUCTED AND DESIGNED TO BE ASSEMBLED ON A SITE BY MEANS OF BOLTS, CLAMPS AND OTHER DEVICES; AND IS, WHEN ASSEMBLED, PHYSICALLY CAPABLE OF BEING MOVED BY ROAD FROM ONE PLACE TO ANOTHER (WHETHER BEING TOWED, OR BY BEING TRANSPORTED ON A MOTOR VEHICLE OR TRAILER), SHALL NOT BE TREATED AS NOT BEING (OR HAVE BEEN) A CARAVAN WITHIN THE MEANS OF PART 1 OF THE CARAVAN SITES CONTROL OF DEVELOPMENT ACT 1960 BY REASON ONLY THAT IT CANNOT LAWFULLY BE MOVED ON A HIGHWAY WHEN ASSEMBLED .

STRUCTURE ALSO COMPLIES WITH THE 2006 AMENDED DEFINITION OF CARAVAN,

- A) LENGTH (EXCLUSIVE OF ANY DRAWBAR) DOESNT EXCEED 20M
- B) WIDTH DOESNT EXCEED 6.8M
- C) OVERALL HEIGHT (MEASURED INTERNALLY FROM THE FLOOR AT THE LOWEST LEVEL TO THE CEILING AT THE HIGHEST LEVEL) 3.05M (10FT)

FLOOR PLAN



SECTION XX

PROJECT
PROPOSED GLAMPING POD INSTALLATION AT BROOMHILL, ARDCONNELL HILL, OBAN.

CLIENT
MR. & MRS. MACLEOD.

DETAIL
DESIGN SKETCH



E-MAIL - GREAT.GLEN.DESIGNS@GMAIL.COM
TELEPHONE - 0798 3636 192

SCALE 1 : 50	DATE 12 . 05 . 2022
JOB NO. 22-023	DRG NO. 101

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ARGYLL AND BUTE LOCAL REVIEW BODY



DECISION NOTICE

Details of Review Case: 21/0005/LRB

Address of Appeal Property:	Soroba Lodge, Oban PA34 4SB
Description of Proposal:	Operational development consisting of the erection of two holiday units and the installation of a septic tank
Applicant for Review:	Mr Michael and Mrs Rowan Acey
Agent:	Mr Stephen Fair
Date Review Validated:	7 October 2021
Drawings referred to:	Site and Location Plans No 101; site plan showing aerial image No 102; Proposed holiday pod no 1 Plans, sections and elevations No 103; and Proposed holiday pod no 2 Plans, sections and elevations No 104.
Method by which case determined:	Written submissions

1	The Review Application
1.1	<p>Planning permission – 20/01542/PP for erection of land to form yard for erection of two holiday units and the installation of a septic tank at Garden Ground of Soroba Lodge, Oban, was refused under delegated powers on 7 September 2021 for the following reasons:</p> <ol style="list-style-type: none"> 1. Policy LDP 11 and SG LDP TRAN 4 of the adopted 'Argyll and Bute Local Development Plan' 2015 and Policy 37 of the proposed 'Local Development Plan 2' 2019 state that the use of an existing private access will only be accepted if that access is either safe and appropriate in its current form or else is capable of commensurate improvements considered by the Roads Authority to be appropriate and necessary to the scale and nature of the proposed new development, and that it takes into account any current access issues (informed by an assessment of usage). <p>The proposed development would result in the intensification of use of a private access regime where there are known constraints and it has not been demonstrated, through lack of structural details of the existing bridge, that the private access track is capable of serving the proposed development, either in its current state or else by any reasonable and necessary commensurate improvements to that access as informed by the submission and assessment of information necessary for the planning authority to properly assess this part of the proposed development.</p> <p>Furthermore the requested Safety Audit/Risk Assessment/Traffic</p>

		<p>Management Plan to ascertain and mitigate any implications caused by the proposed development both during the construction phase and on completion of the development due to the fact that the proposed access is situated on a primary school/link path/cycle path which forms part of the Core Path Network has not been forthcoming.</p> <p>In addition, no part of the existing access forms part of the planning application site or within the acknowledged legal ownership/control of the developer. It is therefore concluded that it would be inappropriate in this case to attempt to resolve these matters through the use of suspensive planning conditions given the fundamental nature of the highway/pedestrian/cyclist safety issues raised by the development and the uncertainty as to the ability of the developer to bring about any necessary improvements.</p> <p>In this regard, and in the absence of the submission and professional assessment of this necessary information, the proposal is considered contrary to the provisions of SG LDP 11 and SG LDP TRAN 4 of the adopted 'Argyll and Bute Local Development Plan' 2015 and Policy 37 of the proposed 'Argyll and Bute Local Development Plan 2'.</p>
2	Outline Reasons for Review	
	2.1	A Notice of Review submitted by the applicant's agent was received on 7 October 2021 and validated on 7 October 2021.
	2.2	The applicant's agent outlined the reasons for review as contained within the supporting documentation attached at appendix one to this decision notice.
3	Deliberation	
	3.1	A meeting of the Argyll and Bute Local Review Body (which consisted of a panel of three – Councillor David Kinniburgh (Chair), Councillor Audrey Forrest and Councillor Alastair Redman took place virtually on 26 November 2021 by Microsoft Teams.
	3.2	The Chair advised that his first task would be to establish if the Members of the Local Review Body felt that they had sufficient information before them to come to a decision on the Review.
	3.3	At this meeting the Local Review Body agreed that they did not have sufficient information to come to a decision on the Review.
	3.4	<p>The Argyll and Bute Local Review Body –</p> <ol style="list-style-type: none"> 1. Agreed to request the following further written information from the Planning Officer – <ul style="list-style-type: none"> • Clarification on whether there could be a planning condition attached to an approval that required completion of a construction method

		<p>statement and if this could include a weight restriction on vehicles using the bridge during the construction period.</p> <ul style="list-style-type: none"> • A view in relation to the two pods being used instead of the two rooms in the house as B&B; and whether there could be a Condition or Section 75 Agreement put in place to manage that. • Clarification on the reasoning for the view that the development would result in intensification of use of the access; and if this was due to the fact that the bedrooms could still be used by friends and family members even if there was a condition in place that prevented their use as a B&B. <p>2. Agreed to adjourn the meeting and to reconvene once this further information had been received and interested parties had been given the opportunity to comment on it.</p>
	3.5	The Argyll and Bute Local Review Body reconvened on Monday 7 February 2022 to consider the further information that had been requested.
	3.6	At this meeting the Local Review Body agreed that they did not have sufficient information to come to a decision on the review.
	3.7	<p>The Argyll and Bute Local Review Body agreed to -</p> <ol style="list-style-type: none"> 1. Request the following further written information from the Planning Officer – <ul style="list-style-type: none"> • A summary of the legal advice Planning have received in respect of a separate application, around a similar proposal, referred to in their submission. • Appropriate conditions and reasons to attach to any consent should the Members of the LRB be minded to approve this application; and 2. Adjourn the meeting and to reconvene once this further information had been received and interested parties had been given the opportunity to comment on it.
	3.8	The Argyll and Bute Local Review Body reconvened on Wednesday 6 April 2022 to consider the further information that had been requested.
	3.9	At this meeting the Argyll and Bute Local Review Body agreed by a majority to continue consideration of this meeting until Thursday 28 April 2022 to give Councillor Forrest time to seek a competent Motion to approve the Application.
	3.10	The Argyll and Bute Local Review Body reconvened on Thursday 28 April 2022 to resume consideration of this review.

3.11	<p>At this meeting Councillor Kinniburgh referred to the previous meeting which was continued to allow Councillor Forrest time to seek a competent Motion to approve the application, and invited Councillor Forrest to address the LRB at this point.</p> <p>Motion</p> <p>I have noted previously that other than the road safety issues that the planners have asked us to consider which in their view means that the application doesn't comply with Policy LDP 11 and SG LDP TRAN 4 of the current LDP and Policy 37 of the proposed LDP2 this application complies with all other relevant policies in the current LDP and the proposed LDP2.</p> <p>Having had the opportunity of reading the further representations from the planners and the applicants' agent and all other information provided to the LRB, I am of the view that this application can be approved.</p> <p>I've noted the details of the legal advice received by the Council, albeit in relation to another application and while it is clear that a condition that ensures that only the pods are used for B&B accommodation and not the dwellinghouse could be challenged and may be difficult to enforce, it is a condition that can be applied to an approval of the application.</p> <p>I am prepared to take the applicant and their agent at their word, where they have said that the whole driver behind the project is to provide self-contained accommodation that will provide B&B guests and the applicants' high levels of privacy and that they will not let the rooms in the house that they currently use for B&B. I would not expect them to renege on that.</p> <p>Turning to the road safety issues identified by the planners/roads department, ie, in relation to the shared access and potential implications for members of the public due to the fact that the access is situated on a primary school/link path/cycle path.</p> <p>In my view these are subjective matters and while I understand the concerns of the planners/roads department, the shared access over the bridge is used by vans delivering to Soroba House Hotel and customers of the hotel, post office vans and others delivering to the properties behind the hotel and to the existing guest house along with customers of the guest house and I cannot see how the exchange of 2 rooms within the house to the 2 pods for B&B would mean that there would be a material increase in traffic that would require the commensurate improvements required by the roads department/planners in relation to this shared access or cause any issues for members of the public.</p> <p>The conditions to be attached to the approval, which in effect restrict the use of the pods for B&B, if at any point the principal house is being used for B&B and the submission by the applicant of a 'construction method statement' that requires to be approved by the planners will in my view be sufficient to manage these concerns.</p>
------	---

	<p>I would therefore move that the application is approved subject to the conditions provided by the applicants' agent and detailed on pages 12 and 13 of the papers considered by the LRB at the meeting on 6 April with an amendment to condition 3 as follows</p> <p><i>Notwithstanding the provisions of Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 as amended, the new letting units are not to be occupied during any period when the principal dwellinghouse is operating as [or being occupied as] a bed and breakfast or guest house.</i></p> <p><i>Reason – in the interests of road safety to ensure that vehicle numbers do not increase from their existing levels.</i></p> <p>Moved by Councillor Audrey Forrest, seconded by Councillor Alastair Redman.</p> <p>Councillor Kinniburgh advised that he did not support this Motion and, having moved an Amendment which failed to find a seconder, he asked for his dissent from the following decision to be recorded.</p>																				
4.	Decision																				
	<p>The Argyll and Bute Local Review Body, having considered the merits of the Application de novo, agreed by a majority to grant planning permission subject to the following conditions and reasons:</p> <p>1. The development shall be implemented in accordance with the details specified on the application form dated 31/08/20; 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.</p> <table border="1" data-bbox="391 1496 1503 2047"> <thead> <tr> <th><i>Plan Title.</i></th> <th><i>Plan Ref. No.</i></th> <th><i>Version</i></th> <th><i>Date Received</i></th> </tr> </thead> <tbody> <tr> <td><i>Site and Location Plans</i></td> <td><i>101</i></td> <td></td> <td><i>01/09/20</i></td> </tr> <tr> <td><i>Site Plan Showing Aerial Image</i></td> <td><i>102</i></td> <td></td> <td><i>01/09/20</i></td> </tr> <tr> <td><i>Proposed Holiday Pod No. 1 – Plans, Sections & Elevations</i></td> <td><i>103 a</i></td> <td></td> <td><i>01/09/20</i></td> </tr> <tr> <td><i>Proposed Holiday Pod No. 2 – Plans, Sections & Elevations</i></td> <td><i>104 a</i></td> <td></td> <td><i>01/09/20</i></td> </tr> </tbody> </table>	<i>Plan Title.</i>	<i>Plan Ref. No.</i>	<i>Version</i>	<i>Date Received</i>	<i>Site and Location Plans</i>	<i>101</i>		<i>01/09/20</i>	<i>Site Plan Showing Aerial Image</i>	<i>102</i>		<i>01/09/20</i>	<i>Proposed Holiday Pod No. 1 – Plans, Sections & Elevations</i>	<i>103 a</i>		<i>01/09/20</i>	<i>Proposed Holiday Pod No. 2 – Plans, Sections & Elevations</i>	<i>104 a</i>		<i>01/09/20</i>
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Supporting Statement (7 Pages)			01/09/20
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Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.

Note to Applicant:

- *This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).]*
- *In order to comply with Sections 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start. Failure to comply with this requirement constitutes a breach of planning control under Section 123(1) of the Act.*
- *In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.*

Both the Notification of Initiation and Notification of Completion forms referred to above are available via the following link on the Council's website:

<https://www.argyll-bute.gov.uk/planning-and-environment/make-planning-application>

2. Notwithstanding the provisions of Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 as amended the residential accommodation hereby approved shall be used for short term holiday occupancy only and not as a main residence and shall not be occupied by any family, group or individual for a cumulative period of more than three calendar months in any one year. A register showing dates of arrivals and departures shall be maintained at the premises and shall be available at all reasonable times for inspection by the Planning Authority.

Reason: In order to define the permitted occupancy having regard to the fact that the premises are unsuitable for occupation as a permanent dwelling due to their size and construction, and having regard to the relevant provisions of the Development Plan.

Note to Applicant:

	<p>For the avoidance of doubt this permission only provides for the occupation of the premises on a short term basis on the grounds that the development is unsuited to full time residential occupation. Specifically the occupation of the premises as a dwellinghouse or dwellinghouses shall require the benefit of a separate planning permission.</p> <p>3. Notwithstanding the provisions of Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 as amended, the new letting units are not to be occupied during any period when the principal dwellinghouse is operating as [or being occupied as] a bed and breakfast or guest house. <i>Reason – in the interests of road safety to ensure that vehicle numbers do not increase from their existing levels.</i></p> <p>4. 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. The requisite surface water drainage shall be operational prior to the development being brought into use and shall be maintained as such thereafter. <i>Reason: To ensure the provision of an adequate surface water drainage system and to prevent flooding.</i></p> <p>5. No development shall commence or is hereby authorised until a Construction Method Statement (CMS) has been submitted to and approved in writing by the Planning Authority. The CMS shall include a full description of material delivery methods, construction vehicle size, vehicle numbers and vehicle weights proposed for use during construction phases, as well as defined hours during which all construction vehicle movements will be confined having regard to the nearby primary school campus term time opening hours. Thereafter, the development shall only be undertaken in strict accordance with such details as are approved. <i>Reason: In the interests of road and pedestrian safety.</i></p>
5.	Reason for Decision
5.1	<p>Having reviewed all the information received, the Argyll and Bute Local Review Body noted that the Planning Officer had considered the application was contrary to SG LDP 11 and SG LDP TRAN 4 of the adopted 'Argyll and Bute Local Development Plan' 2015 and Policy 37 of the proposed 'Argyll and Bute Local Development Plan 2', and concluded that other than the road safety issues, this application complied will all other relevant policies in the current LDP and the proposed LDP2.</p>
5.2	<p>It was the view of the LRB that the roads issues identified by the planners/roads department ie, in relation to the shared access and potential implications for members of the public due to the fact that the access was situated on a primary school/link path/cycle path, were subjective, and they did not agree that the exchange of two rooms within the house to the 2 pods for bed and breakfast</p>

	accommodation, would mean there would be a material increase in traffic that would require the commensurate improvements to the shared access.
5.3	It was the view of the LRB that the conditions attached to the approval, restricting the use of the pods for bed and breakfast and requiring the submission of construction method statement would be sufficient to manage the concerns relating to potential implications for members of the public due to the fact that the access was situated on a primary school/link path/cycle path.

This decision notice is issued by the Head of Legal and Regulatory Support by authorisation of the Argyll and Bute Local Review Body on 12th May 2022



David Logan
Head of Legal and Regulatory Support

**NOTICE TO ACCOMPANY REFUSAL ETC.
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8)

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.



fair planning & design

chartered planning and architectural services

Written statement for Notice of Review to
Argyll and Bute Council – Local Review Body

Appellant: Michael & Rowan Acey

Project Ref: 2020034

Development: Refusal of planning application 20/01542/PP:
Erection of 2 holiday pods and installation of septic tank

Site: Grounds of Soroba Lodge, Oban, PA34 4SB

Scale: Local development



Introduction

Planning application 20/01542/PP, submitted by Fair Planning & Design on behalf of Michael and Rowan Acey, sought planning permission for the erection of two holiday pods and a shared septic tank within the grounds of Soroba Lodge. The application was refused under delegated powers on 7 September 2021 for a single reason:

"1. Policy LDP 11 and SG LDP TRAN 4 of the adopted 'Argyll and Bute Local Development Plan' 2015 and Policy 37 of the proposed 'Local Development Plan 2' 2019 state that the use of an existing private access will only be accepted if that access is either safe and appropriate in its current form or else is capable of commensurate improvements considered by the Roads Authority to be appropriate and necessary to the scale and nature of the proposed new development, and that it takes into account any current access issues (informed by an assessment of usage).

The proposed development would result in the intensification of use of a private access regime where there are known constraints and it has not been demonstrated, through lack of structural details of the existing bridge, that the private access track is capable of serving the proposed development, either in its current state or else by any reasonable and necessary commensurate improvements to that access as informed by the submission and assessment of information necessary for the planning authority to properly assess this part of the proposed development.

Furthermore the requested Safety Audit/Risk Assessment/Traffic Management Plan to ascertain and mitigate any implications caused by the proposed development both during the construction phase and on completion of the development due to the fact that the proposed access is situated on a primary school/link path/cycle path which forms part of the Core Path Network has not been forthcoming.

In addition, no part of the existing access forms part of the planning application site or within the acknowledged legal ownership/control of the developer. It is therefore concluded that it would be inappropriate in this case to attempt to resolve these matters through the use of suspensive planning conditions given the fundamental nature of the highway/pedestrian/cyclist safety issues raised by the development and the uncertainty as to the ability of the developer to bring about any necessary improvements.

In this regard, and in the absence of the submission and professional assessment of this necessary information, the proposal is considered contrary to the provisions of SG LDP 11 and SG LDP TRAN 4 of the adopted 'Argyll and Bute Local Development Plan' 2015 and Policy 37 of the proposed 'Argyll and Bute Local Development Plan 2'."

During the planning application process, and within the delegated report of handling, planning officers confirm that they find the development acceptable in all terms other than access. The proposal is confirmed as appropriate in other planning respects. This Notice of Review therefore focusses solely on the single issue of concern as reflected in the reason for refusal.

Mr & Mrs Acey submit this Notice of Review for the reasons set out in below and respectfully invite the Local Review Body to grant planning permission.

Background

Planning application 20/01542/PP was registered valid on 10 September 2020.

The original supporting statement and submissions made to planning officers during application 20/01542/PP are not repeated here but remain relevant to the case. LRB members are invited to read the appendices to this statement within their deliberations.

Fence lines around Soroba Lodge had been realigned to correctly reflect the boundaries of the title plan following a change in ownership but prior to planning application 20/01542/PP being advanced. Planning officers highlighted that changing the curtilage required planning permission. The pods application was placed on hold in December 2020 whilst a second planning application was submitted to regularise the adjusted garden fence positions. Planning permission 20/02185/PP (garden) was granted on 16 April 2021, and assessment of planning application 21/01542/PP (pods) recommenced shortly thereafter.

Concurrently with our applications, a nearby proposal for two house plots (advanced by a separate landowner/applicant) served by the same shared access, was being handled by the Planning Authority. Planning application 19/02562/PPP was refused in August 2020 for reasons relating to site access. An appeal against that decision was then submitted to the Scottish Government DPEA, who granted planning permission in principle subject to conditions on 5 August 2021.

Following the adjacent appeal decision, planning officers indicated that application 20/01542/PP would also be granted planning permission subject to the same conditions, but a refusal was instead issued on 7 September 2021.

Prior to a decision being issued, two letters of objection from four signatories were submitted against application 20/01542/PP, expressing concerns over site access - identical in nature to concerns that had been raised by 18 parties against application 19/02562/PPP.

The single reason for refusal on planning application 20/01542/PP relates to concerns regarding the shared site access.

Discussion

The report of handling and reason for refusal on 20/01542/PP are virtually identical to that which applied to the refusal of planning application 19/02562/PPP for two house plots served by the same access, but with planning officers taking a view that suspensive conditions would not be appropriate in this case despite them being applied by the DPEA in that successful appeal. (Although we assert that suspensive conditions could legally have been applied in this case, for the reasons set out below we do not consider conditions relating to site access to be necessary.)

It appears that the assessment of Mr & Mrs Acey's application was influenced by its timing and proximity to the application for two house plots using the same private access spur. In both the Roads Authority consultation response and subsequent Planning Officer assessment of vehicular activities arising from the development, Mr & Mrs Acey's proposal has been considered on an identical basis as that which applied to 19/02562/PPP.

Whilst consistency in decision making is of course important, there is a major flaw in the assessment that occurred in this case. Two different projects, with different traffic impacts have been evaluated in an identical manner. More appropriate consistency of approach would have been evidenced by comparing precedent decisions on similar development types, or in similar situations, rather than taking different development types in proximity to each other and treating them as identical in road safety terms.

Considering the two applications on the same basis is unfortunately a fundamental misdirection. The circumstances, nature of usage, and total traffic generated between the proposals is not the same. On the one hand, you have two ancillary holiday pods within the grounds of an existing house. On the other hand, two new house plots were proposed in principle, each reasonably with the capacity to accommodate a 3 or 4-bedroom house with one or two bedrooms suitable for B&B under Class 9 residential occupation*. Further, the existing house within the appeal site already operates two double bedrooms for B&B purposes and the applicants wish to switch that holiday letting allowance over to detached pods within their garden ground rather than having guests within the main house. The two planning applications do not bear direct comparison and the proposals should never have been considered on an equivalent basis.

The premise underpinning the entire road safety assessment of application 20/01542/PP is that it would generate a material increase in vehicular traffic. That simply is not the case.

* NOTE: the use of one bedroom for B&B within a house containing three bedrooms, or two bedrooms for B&B within houses containing four or more bedrooms, is explicitly provided for within Class 9 (houses) of the Use Classes Order - and has been so since 1999.

Assessment of access usage and proposed vehicular activity

The shared existing private access joins the A816 Oban to Lochgilphead public road near the southern edge of Oban, opposite the entrance to the Oban Primary Campus.

An access spur leads immediately north-west to serve four houses before a bridge crossing the Soroba Burn then serves Soroba House (restaurant) plus eleven houses and four flats via its main southern spur, and Elderslie (8-bedroom guest house plus owners flat) two approved house plots and Soroba Lodge via its western spur.

Total current usage of the access crossing the bridge is: 1 x guest house, 1 x restaurant, 16 residences, and 2 x approved house plots yet to be constructed.

Within the application site itself, Soroba Lodge comprises a detached five-bedroom house, two of which provide B&B accommodation.

Planning application 20/01542/PP would see two B&B double bedrooms within Soroba Lodge switched to two dedicated one bedroom holiday pods within the curtilage of the house.

Traffic levels generated at the site would be unchanged.

Precedent decisions

Although we understand why comparisons were drawn between our application and two nearby house plots proposed by a different applicant, that does not alter the fact that officers have departed from their normal assessment process for holiday pods in this case.

In evidence of the council's normal assessment process for holiday pods, we have identified the following comparative decisions:

21/00709/PP – two holiday pods within the grounds of a house at Crossapol, Isle of Tiree. Planning permission granted 28 May 2021. Single parking space per pod required. No Roads concerns over intensification of use of access, nor Planning concerns over total vehicle numbers accessing the site.

21/00429/PP – one holiday pod within the grounds of a 3-bedroom house at Taynuilt. Planning permission granted 28 May 2021. Single parking space required. No Roads concerns over intensification of use of access, nor Planning concerns over total vehicle numbers accessing the site.

21/00206/PP – five holiday pods on land adjacent to a house at Pennyghael, Isle of Mull. Planning permission granted 29 September 2021. Six parking spaces and an access spur provided from the existing access serving the house.

20/02312/PP – venison processing building and one holiday pod in countryside zone, Keils, Isle of Jura. Planning permission granted 9 June 2020. Site accessed via a shared private road serving multiple properties. No Roads concerns regarding intensification of use.

20/02189/PP – two holiday pods on croft land alongside a house at Taynuilt. Planning permission granted 18 March 2021. Site accessed via shared private road serving multiple properties. No Roads concerns regarding intensification of use of access.

20/01740/PP – two holiday pods alongside existing house at Dunoon. Although withdrawn to allow water and drainage details to be formulated, the Roads Engineer had already commented that an adoptive standard road would not be required because the application was for recreational/leisure use holiday pods.

20/01468/PP – ten holiday lodges and five holiday pods alongside existing house at Benderloch. Planning permission granted 30 April 2021. Site served by a shared access. No Roads concerns about intensification of use of access.

20/01263/PP – two holiday pods in a countryside setting, but near to and sharing a private access regime with several houses at Craighouse, Isle of Jura. Planning permission granted 17 November 2020. No Roads concerns about intensification of use of access.

20/01218/PP – six holiday pods at Portavadie Marina. Although withdrawn prior to determination, the Roads Engineer had already confirmed having no objections, despite a 26T weight limit on the approach road.

20/00759/PP – one holiday pod within grounds of an existing 3-bedroom house at Glencruitten, Oban. Planning permission granted 10 July 2020. No Roads concerns over intensification of use of access, nor Planning concerns over total vehicle numbers accessing the site.

20/00652/PP – two holiday pods within grounds of an existing 3-bedroom house at North Connel. Planning permission granted 17 July 2020. No Roads concerns over intensification of use of access, nor Planning concerns over total vehicle numbers accessing the site.

20/00091/PP – two holiday pods at Davaar Island, Campbeltown. Planning permission granted 17 September 2020. No Roads concerns about the project, despite remote parking being proposed due to lack of direct vehicular access.

19/02513/PP – one holiday pod in grounds of 2-bedroom house, Kilmichael Glassary, Lochgilphead. Planning permission granted 26 February 2020. No Roads concerns over intensification of use of access, nor Planning concerns over total vehicle numbers accessing the site.

18/01664/PP – one holiday pod within grounds of existing house, Port Ellen, Isle of Islay. Planning permission granted 2 October 2018, despite Roads request for deferral to allow details on access and parking to be provided. No Planning concerns over total vehicle numbers accessing the site.

17/03309/PP – three holiday pods in grounds of an existing house (of unknown size) plus 2-bedroom cottage, Barcaldine. Planning permission granted 7 March 2018. No Roads concerns over intensification of use of access, nor Planning concerns over total vehicle numbers accessing the site.

16/02825/PP – two holiday pods within garden ground of 2-bedroom house, Bridge of Orchy. Planning permission granted 7 March 2017. No Roads concerns regarding increased use of shared access, despite parking being on-street close to the railway station, nor any Planning concerns regarding vehicular traffic generated by proposal.

16/02762/PP – proposal for a detached house plus two ancillary bedroom pods, Isle of Coll. Planning permission granted 3 March 2017. No Roads of Planning concerns regarding total vehicular use of access to site with previous approval for a single house only.

Appraisal

Whether an existing private access has a known constraint does not alter the way in which vehicular demand should be assessed for any particular development type. An existing house proposing two holiday pods within its grounds in one location will generate the same vehicular demand as the same proposal would in an alternative location (unless there is a specific geographical limitation such as an island location with no road network for example). The acceptability of any increase in traffic does of course differ depending on specific access regimes, but the level of demand does not vary between locations.

It is commonplace within Argyll and Bute Council (indeed the same is true for other Planning Authorities in Scotland), that a dedicated parking bay is sought for each proposed holiday pod, but that total traffic generation arising from holiday pods ancillary to houses is accepted as broadly similar to that which arises from the pre-existing house. Holiday pods ancillary to houses are generally accepted as not generating a material increase or intensification of use of the existing access regime – as evidenced by the pattern of approvals listed in the previous section of this statement of case.

Nonetheless, being aware of concerns about the bridge crossing at the access serving Soroba Lodge, we have highlighted from the outset that Class 9 rights to operate two bedrooms within the house for B&B were to be sacrificed concurrently with achieving two holiday pods within the grounds of the house.

It is regrettable that the Roads Authority consultation input and subsequent planning assessment focussed on concerns relating to the specific access in this case (that issue having been highlighted during consideration of adjacent application 19/02562/PPP), rather than considering traffic generated by the specific development type compared against existing traffic levels in line with how such proposals are generally assessed across the council area.

Planning concerns centre around a belief that if the pods were approved, Soroba Lodge would contain a five-bedroom house plus two holiday pods, and that the main house would be capable of accommodating a family with adult dependents. (The house currently contains a married couple and one child, though we accept that individual details are not directly relevant to the assessment.)

In the presumed worst-case scenario: a maximum of seven bedrooms would exist each with capacity for vehicular demand on a day to day basis - based on an owner/couple in a master bedroom, adult dependents in each of the four other bedrooms, plus two sets of guests in the pods - all with a car each. However unlikely that scenario is, it is worthwhile comparing it to what would have been the case had we proposed a two-bedroom extension to the existing house. In that scenario, with Class 9 B&B usage continuing within the main house, we could still end up with an owner/couple in a master bedroom, adult dependents in four other bedrooms and two sets of guests – all with a car each. It is inconceivable that the Roads Authority would have expressed any concerns, or that the Planning Authority would have refused a two-bedroom extension to the house based on road safety concerns regarding increased use of the existing site access. It therefore follows that their position on the proposed pods vis-à-vis total vehicular demand arising from ongoing use of the house in addition to two pods does not stand up to scrutiny.

The truth of course, is that larger houses rarely function that way. They rarely operate at full

capacity, with four sets of adult dependents. So rarely in fact, that SG LDP TRAN 6 does not require additional parking once a house goes above four bedrooms in total. Neither the Planning Authority nor Roads Authority are expected to control every eventuality, as verified by the relevant policy provisions.

Further, in looking for additional context at this specific access regime, it is also noteworthy that when Elderslie was proposed to change to a nine bedroom guest house plus owner's accommodation (planning permission 07/01798/COU), the planning officer's report states:

"...it is not considered that the change to a guest house will have a significant impact with regard to intensification of use and the dwellinghouse has sufficient ground to accommodate the required parking."

Going from a ten bedroom house requiring parking for three cars, to a guest house with nine bedrooms plus an owners flat requiring eleven car parking spaces, was considered by the Planning Authority and is clearly stated within the report of handling as not having a significant impact on the intensity of use of the existing access. This point alone demonstrates beyond doubt that adding a small element of holiday accommodation ancillary to an existing house does not comprise an intensification of use of the existing access. That the example relates to the very same shared access is especially poignant.

The first principle when looking at road safety considerations is to identify whether a project generates a material increase in traffic - and only then to identify what commensurate improvements might be required as a result. In the case of our proposed development, increased traffic generation has been assumed when a detailed evaluation of the facts demonstrates that there simply is no material increase in vehicular demand. Accordingly, there is absolutely no justification to require any investigation of, or enhancement to, the existing shared private access regime.

Finally, turning to construction traffic:

We acknowledge that there is the potential for individual heavy vehicle loads to be involved in construction projects. However, has never been the intention in this case. The appellants have sole use of a long section of the existing access. Avoiding heavy vehicle loads would both preserve the existing bridge and avoid expensive repairs to the long track for which they are solely responsible. The project will be built without the use of heavy vehicles or machinery crossing the bridge or using the existing shared access. Both proposed holiday pods can be formed as stick built timber frame structures constructed on site, or as individual wall panels off-site within the applicant's yard or another premises nearby, before being delivered using a comparatively lightweight van and trailer. A planning condition requiring the completion of a Construction Method Statement before development commences is an entirely normal and satisfactory way to control the impacts arising from construction traffic and/or set specific limits on construction vehicles and material deliveries. Although normally applied to larger scale projects, we would be willing to accept such a condition in this case if one is deemed necessary.

Summary

Mr & Mrs Acey wish to provide two detached one-bedroom holiday pods within the garden ground of their existing home, Soroba Lodge. The siting and layout proposed has been confirmed as acceptable in all respects by planning officers, except for concerns over the existing shared access regime serving the site. Those concerns are reflected in the single reason for refusal detailed above.

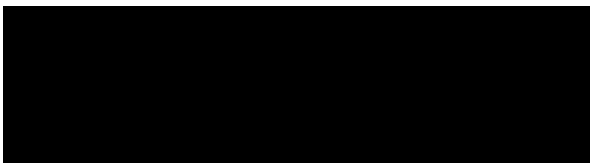
The decision to refuse overstates the anticipated vehicular demands associated with the development and pays insufficient regard to existing traffic levels at the site. That process runs contrary to that which is evidenced in numerous precedent cases for holiday pods on shared accesses, or within the garden ground of existing houses, detailed above.

Application 20/01542/PP seeks two small one-bedroom holiday pods within the garden ground of an existing house. This is the type of development that is commonly approved by the Planning Authority without any concerns over increase in vehicular demand. To allay fears specific to the shared access serving this site, we confirm that the pods will substitute for existing Class 9 B&B letting provisions within the main house - forming a quid pro quo. Control could be exerted over this aspect via planning conditions or by Section 75 Agreement/Obligation if that is deemed necessary – but we note that no such controls were applied in any of the precedent cases cited above.

The proposal does not generate any increase in traffic, much less a material increase in traffic that would require commensurate improvements, in the circumstances at this shared access.

In policy terms, the proposal represents a small-scale development on an appropriate site, in accordance with relevant local development plan policy and supplementary planning guidance. As there is no material increase in traffic generated by the proposal, there is by default no conflict with LDP11, SG LDP TRAN 4 of the adopted LDP or with Policy 37 of the Proposed LDP2.

The Local Review Body is asked to support this Notice of Review and enable a small positive contribution towards tourist accommodation to be provided in a way that accords with local and national planning policy and raises no unacceptable impacts.



.....
Stephen Fair MRTPI MURP
fair planning & design

6 October 2021

List of appendices

- 1) Application form
- 2) Original supporting statement
- 3) Roads Authority consultation response
- 4) Email to planning officers regarding access
- 5) Planning officer email confirming acceptability of proposal (other than access)
- 6) Report of Handling
- 7) Decision Notice
- 8) Refused site and location plan 101
- 9) Refused site plan showing aerial image 102
- 10) Refused POD 1 drawing 103 REV A
- 11) Refused POD 2 drawing 104 REV A

STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

22/0007/LRB

REFUSAL OF PLANNING PERMISSION 22/01001/PP

USE OF LAND FOR THE SITING OF A GLAMPING POD

GARDEN GROUND OF BROOM HILL, ARDCONNELL HILL, OBAN

19 September 2023

STATEMENT OF CASE

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

Planning permission 22/01001/PP for the use of land for the siting of a glamping pod within the garden ground of Broom Hill, Ardconnel Hill, Oban ("the appeal site") was refused by the Planning Service under delegated powers on 18 July 2023.

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

DESCRIPTION OF SITE

The site is within the garden ground of the dwellinghouse, Broom Hill, comprising an area of land situated between the dwellinghouse and the private access track which runs along the western boundary of the dwellinghouse. The site is elevated above the level of the dwellinghouse and private access track and, due to the significant tree and vegetation cover within the extensive garden ground of the dwellinghouse, is not readily visible from any public vantage points.

Whilst it is accepted that the proposed glamping pod could be accommodated within the site without any significant adverse visual impact on the site or the wider landscape within which it is proposed, a suitable access regime to serve the proposed development cannot be achieved.

The proposed development constitutes a material intensification of the use of an existing and constrained access regime and would be capable of support only if compliance with various highway safety concerns could be demonstrated through the submission, examination and acceptance of competent detail. The land necessary for the upgrade of the existing private road, if achievable, is located outwith the application site boundary and the land in the control of the Applicant as submitted.

Consequently, it was considered likely that the proposed development would have a significant adverse impact upon highway safety and therefore planning permission was refused.

STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED

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

STATEMENT OF CASE

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

- *Whether the proposed development constitutes a material intensification of the vehicular use of a sub-standard private road with no delineation between pedestrian*

or vehicular use and whether the upgrade of the private access can be achieved on land within the ownership/control of the Applicant.

The Report of Handling (Appendix 1) sets out the Council's full assessment of the application in terms of Development Plan policy and other material considerations.

REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING

It is not considered that any additional information is required in light of the appellant's submission. The issues raised were assessed in the Report of Handling which is contained in Appendix 1. As such it is considered that Members have all the information they need to determine the case. Given the above and that the proposal is small-scale, has no complex or challenging issues, and has not been the subject of any significant public representation, it is not considered that a Hearing is required.

COMMENT ON APPELLANT'S SUBMISSION

The case from the Planning Service is set out in the Report of Handling appended to this statement.

The Planning Service has no comment to make on the Appellant's submission.

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.

As set out above, it remains the view of the Planning Service, as set out in the Report of Handling appended to this statement, that the proposed development constitutes a material intensification of the use of an existing and constrained access regime and would be capable of support only if compliance with various highway safety concerns could be demonstrated through the submission, examination and acceptance of competent detail.

The land necessary for the upgrade of the existing private road, if achievable, does not form part of the planning application site and is not within the acknowledged legal ownership/control of the Applicant.

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

APPENDIX 1

Report of Handling Relative to 22/01001/PP

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

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: 22/01001/PP
Planning Hierarchy: Local
Applicant: Mr and Mrs M. MacLeod
Proposal: Use of Land for the Siting of a Glamping Pod
Site Address: Garden Ground of Broom Hill, Ardconnel Hill, Oban

DECISION ROUTE

- Delegated - Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997
- Committee - Local Government Scotland Act 1973
-

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Siting of glamping pod

(ii) Other specified operations

- Utilisation of existing vehicular access
 - 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 REFUSED for the reasons appended to this report.

(C) CONSULTATIONS:

Roads Authority

Report dated 15/11/22 recommending refusal of the proposed development as it would result in the intensification of use of a sub-standard access regime contrary to the interests of road safety and there is no scope for any commensurate road

improvements sufficient to mitigate the harm caused.

Scottish Water

Letter dated 13/10/22 advising no objection to the proposed development which would be serviced from the Tullich Water Treatment Works and the Oban Waste Water Treatment Works. Scottish Water do however advise that further investigations may be required once applications for formal connection are submitted to them for consideration.

Access Officer

No response at time of report and no request for an extension of time.

Woodland Trust

Letter dated 28 October 2022 objecting to the proposed development due to the direct loss and damage to an area of Ancient Woodland.

Officer Comment: *The Woodland Trust is based in Perth with no local or regional base and no knowledge of the application site. Whilst the Ancient Woodland designation covers the garden ground of the dwellinghouse, the proposal does not propose the felling of any trees of merit, with mainly scrub being cleared to provide a view out from the proposed pod.*

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:

No relevant planning history.

(E) PUBLICITY:

The proposal has been advertised in terms of Regulation 20 and Neighbour Notification procedures, overall closing date 10/11/22.

(F) REPRESENTATIONS:

(i) Two representations received from:

Mr Ronald MacMillan, Larchfield, Ardconnel Hill, Oban, PA34 5DY (26/10/22)
Oban District Access Panel (ODAP) by e-mail (16/10/22)

Representations are published in full on the planning application file and are available to view via the [Public Access](#) section of the Council's website.

(ii) Summary of issues raised:

- Concerns regarding the increase in traffic on the private road and the impact on pedestrian safety.
- The granting of permission will set a precedent for other similar

developments.

Officer Comment: *The road safety issues are discussed in more detail in the assessment at Section P below.*

Each planning application is considered on its own merits against the relevant plan and policies in place at the time taking into account comments from third parties and consultees. The granting of permission for one development in no way infers that further development will be supported.

- The ODAP outline that their remit is to encourage developers and designers to create accessible buildings and environments that provide disabled people with equal access and facilities and enable them to participate and to thrive.

In this respect the ODAP encourage the Applicant to consult with their Agent with a view to redesigning the pod on *Inclusive Design* principles to enable it to be used and enjoyed by a disabled person. Essentially this would involve extending the size of shower room/toilet, widening its door to 700mm and setting it to open outwards, widening one of the bedroom doors, and replacing the steps onto the balcony with a gentle ramp set at 1:12 grade and widened to at least 1200mm. The surfacing in the parking bay and the pathway linking the parking bay to the pod entrance should be finished in a bound nonslip material.

Officer Comment: *The comments by the ODAP are noted and will be passed to the Applicant for information/action should permission be granted.*

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) **Environmental Impact Assessment Report:** Yes No
- (ii) **An Appropriate Assessment under the Conservation (Natural Habitats) Regulations 1994:** Yes No
- (iii) **A Design or Design/Access statement:** Yes No
- (iv) **A report on the impact of the proposed development e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** Yes No

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: Yes No

- (I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: Yes 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.

[National Planning Framework 4 \(Adopted 13th February 2023\)](#)

Part 2 – National Planning Policy

Sustainable Places

NPF4 Policy 1 – Tackling the Climate and Nature Crises

NPF4 Policy 2 – Climate Mitigation and Adaption

NPF4 Policy 3 – Biodiversity

NPF4 Policy 4 – Natural Places

NPF4 Policy 9 – Brownfield, Vacant and Derelict Land and Empty Buildings
(includes provisions relevant to Greenfield Sites)

NPF4 Policy 12 – Zero Waste

NPF4 Policy 13 – Sustainable Transport

Liveable Places

NPF4 Policy 18 – Infrastructure First

NPF4 Policy 22 – Flood Risk and Water Management

Productive Places

NPF4 Policy 30 – Tourism

[‘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 5 – Supporting the Sustainable Growth of our Economy

LDP 6 – Supporting the Sustainable Growth of Renewables

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’ \(Adopted March 2016 & December 2016\)](#)

Natural Environment

SG LDP ENV 1 – Impact on Habitats, Species and our Biodiversity

Landscape and Design

SG LDP ENV 14 – Landscape

Support for Business & Industry: Main Potential Growth Sector: Tourism

SG LDP TOUR 1 – Tourist Facilities and Accommodation, including Static and Touring Caravans

Bad Neighbour Development

SG LDP BAD 1 – Bad Neighbour Development

Sustainable Siting and Design

SG LDP Sustainable – Sustainable Siting and Design Principles

Resources and Consumption

SG LDP SERV 2 – Incorporation of Natural Features / SuDS

SG LDP SERV 5(b) – Provision of Waste Storage & Collection Facilities within New Development

Addressing Climate Change

SG LDP Sust Check – Sustainability Checklist

Transport (Including Core Paths)

SG LDP TRAN 2 – Development and Public Transport Accessibility

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.

- [ABC Technical Note – Biodiversity \(Feb 2017\)](#)
- Argyll and Bute Sustainable Design Guidance, 2006
- Consultation Responses
- Third Party Responses

[Argyll and Bute proposed Local Development Plan 2 \(November 2019\)](#) – The Examination by Scottish Government Reporters to the Argyll and Bute Local Development Plan 2 has now concluded and the [Examination Report](#) has been published (13th June 2023). The Examination Report is a material consideration of significant weight and may be used as such until the conclusion of the LDP2 Adoption Process. Consequently, the Proposed Local Development Plan 2 as recommended to be modified by the Examination Report and the published Non Notifiable Modifications is a material consideration in the determination of all planning and related applications.

Spatial and Settlement Strategy

Policy 01 – Settlement Areas

Policy 04 – Sustainable Development

High Quality Places

Policy 05 – Design and Placemaking
Policy 08 – Sustainable Siting
Policy 09 – Sustainable Design
Policy 10 – Design – All Development
Policy 14 – Bad Neighbour Development

Diverse and Sustainable Economy

Policy 22 – Economic Development
Policy 23 – Tourism Development, Accommodation, Infrastructure and Facilities

Connected Places

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 40 – Vehicle Parking Provision

Sustainable Communities

Policy 59 – Water Quality and the Environment
Policy 61 – Sustainable Urban Drainage Systems (SUDS)
Policy 63 – Waste Related Development and Waste Management

High Quality Environment

Policy 73 – Development Impact on Habitats, Species and Biodiversity

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

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

(M) Has a Sustainability Checklist been submitted: Yes No

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

(O) Requirement for a pre-determination hearing: Yes No

(P)(i) Key Constraints/Designations Affected by the Development:

- Ancient Woodland Inventory

(P)(ii) Soils

[Agricultural Land Classification:](#)

Built Up Area

[Peatland/Carbon Rich Soils Classification:](#)

Class 1

- Class 2
- Class 3
- Not Classified
- N/A

Peat Depth Classification:

- Does the development relate to croft land? Yes No
- Would the development restrict access to croft or better quality agricultural land? Yes No
- Would the development result in fragmentation of croft / better quality agricultural land? Yes No

(P)(iii) Woodland

- Will the proposal result in loss of trees/woodland? Yes No
(If yes, detail in summary assessment)
- Does the proposal include any replacement or compensatory planting? Yes No details to be secured by condition Not applicable

(P)(iv) Land Status / LDP Settlement Strategy

- Status of Land within the Application Brownfield Brownfield Reclaimed Greenfield
(tick all relevant boxes)

ABC LDP 2015 Settlement Strategy
LDP DM 1 (tick all relevant boxes)

- Main Town Settlement Area
- Key Rural Settlement Area
- Village/Minor Settlement Area
- Rural Opportunity Area
- Countryside Zone
- Very Sensitive Countryside Zone
- Greenbelt

ABC pLDP2 Settlement Strategy
(tick all relevant boxes)

- Settlement Area
- Countryside Area
- Remote Countryside Area
- Helensburgh & Lomond Greenbelt

ABC LDP 2015 Allocations/PDAs/AFAs etc:

N/A

ABC pLDP2 Allocations/PDAs/AFAs etc:

N/A

(P)(v) Summary assessment and summary of determining issues and material considerations

Planning permission is sought for the siting of a glamping pod within the garden ground of Broom Hill, Ardconnel Hill, Oban.

The site is within the garden ground of the dwellinghouse, Broom Hill, comprising an area of land situated between the dwellinghouse and the private access track which runs along the western boundary of the dwellinghouse. The site is elevated above the level of the dwellinghouse and private access track and, due to the

significant tree and vegetation cover within the extensive garden ground of the dwellinghouse, is not readily visible from any public vantage points.

The application proposes to site a modest, single storey, mono-pitched glamping pod on the site with finishing materials comprising horizontal timber cladding with a corrugated metal roofing. The proposed pod is accessed via a set of stairs leading from a newly formed parking area sited adjacent to the existing driveway serving the dwellinghouse. The stairs are existing but overgrown and will require to be cleared to serve the proposed pod. Whilst of no particular architectural merit, the proposed pod is similar in scale and design to other garden structures which could be constructed on the site under permitted development rights where the Planning Authority would have no control over their design or finishes. Furthermore, the natural finishing materials proposed, together with the proposed pod being well contained within the garden ground of the dwellinghouse, would ensure that it would not result in an incongruous feature within the site or wider landscape and, due to the distance from neighbouring properties, would not give rise to any adverse privacy or amenity issues should permission be granted.

NPF4 Policy 1 seeks to prioritise the climate and nature crises in all decisions; it requires to be applied together with other policies in NPF4. Guidance from the Scottish Government advises that it is for the decision maker to determine whether the significant weight to be applied tips the balance in favour for, or against a proposal on the basis of its positive or negative contribution to climate and nature crises. In this case, given the small scale nature of the development proposed and its alignment with all other relevant policies in NPF4 and those supporting policies in the adopted LDP, it is considered that the development proposed would be in accordance with the broad aims of NPF4 Policy 1 as underpinned by LDP Policies STRAT 1, LDP DM 1 and the adopted Sustainability Checklist and Policies 01 and 04 of pLDP2.

NPF4 Policy 2 seeks to ensure that new development proposals will be sited to minimise lifecycle greenhouse gas emissions as far as possible, and that proposals will be sited and designed to adapt to current and future risks from climate change. Guidance from the Scottish Government confirms that at present there is no single accepted methodology for calculating and / or minimising emissions. The emphasis is on minimising emissions as far as possible, rather than eliminating emissions. It is noted that the provisions of the Settlement Strategy set out within Policy LDP DM 1 of the LDP promotes sustainable levels of growth by steering significant development to our Main Towns and Settlements, rural growth is supported through identification of Key Rural Settlements and safeguards more sensitive and vulnerable areas within its various countryside designations. It is considered that the proposed development would be consistent with Policy 2 of NPF4 having had due regard to the specifics of the development proposed and to the overarching planning policy strategy outlined within the adopted LDP, notably policies STRAT 1, LDP DM 1, LDP DM 10 and the adopted Sustainability Checklist and Policies 01 and 04 of pLDP2.

NPF4 Policy 3 seeks to protect biodiversity, reverse biodiversity loss and deliver positive effects from development and strengthen nature networks.

In the case of the development proposed by this application, it is considered that there are no issues of compliance with Policy 3. No material biodiversity impacts have been identified in the assessment of this application by the Planning Authority and whilst no specific proposals for biodiversity improvements have been submitted

it is considered that in the event that planning permission were to be granted, adequate and proportionate measures for biodiversity enhancement and protection could be delivered by planning condition. Such measures would be in compliance with NPF4 Policy 3 as underpinned by LDP Policy LDP 3 and SG LDP ENV 1 and Policy 73 of pLDP2.

NPF4 Policy 4 seeks to protect, restore and enhance natural assets making best use of nature-based solutions.

The development proposed by the current planning application is considered appropriate in terms of its type, location and scale such that it will have no unacceptable impact on the natural environment. The proposed development is not within any designated European site of natural environment conservation or protection, it is not located within a National Park, a National Scenic Area a SSSI or RAMSAR site, or a National Nature Reserve nor is it within an area identified as Wild Land. The proposal is considered to be in accordance with NPF4 Policy 4 as underpinned by LDP Policies LDP 3 and SG LDP ENV 1 and Policy 73 of pLDP2.

NPF4 Policy 9 seeks to encourage, promote and facilitate the reuse of brownfield, vacant and derelict land and empty buildings, and to help reduce the need for greenfield development.

The development proposed by this application is considered to be on a brownfield site by virtue of the fact that it is within the established residential curtilage of the property representing the sustainable reuse of brownfield land supported by NPF4 Policy 9(a) and underpinned by LDP policies STRAT 1, LDP DM 1 and SG LDP TOUR 1 and Policies 22 and 23 of pLDP2.

NPF4 Policy 12 seeks to encourage, promote and facilitate development that is consistent with the waste hierarchy as defined within the policy document.

The development the subject of this planning application seeks to establish the principle of a new holiday letting unit. Whilst this is a development likely to generate waste when operational, it would benefit from regular waste uplifts by the Council and would be expected to comply with our adopted and enforced recycling and reuse strategy. Policy 12(b) of NPF4 aligns with LDP Policies LDP 10 and SG LDP SERV 5 and 5(b) and Policy 63 of pLDP2 and the current development proposal would raise no issue of conflict should permission be granted.

NPF4 Policy 13 seeks to encourage, promote and facilitate developments that prioritise walking, wheeling, cycling and public transport for everyday travel and reduce the need to travel unsustainably.

The application proposes to utilise Ardconnel Hill, a private road, which spurs from the public Longsdale Road to serve the proposed glamping pod.

Part (b) of Policy 13 sets out that development proposals will be supported where it can be demonstrated that the transport requirements generated have been considered in line with the sustainable travel and investment hierarchies and where appropriate they:

- i. Provide direct, easy, segregated and safe links to local facilities via walking, wheeling and cycling networks before occupation;
- ii. Will be accessible by public transport, ideally supporting the use of existing services;

- iii. Integrate transport modes;
- iv. Provide low or zero-emission vehicle and cycle charging points in safe and convenient locations, in alignment with building standards;
- v. Supply safe, secure and convenient cycle parking to meet the needs of users and which is more conveniently located than car parking;
- vi. Are designed to incorporate safety measures including safe crossings for walking and wheeling and reducing the number and speed of vehicles;
- vii. Have taken into account, at the earliest stage of design, the transport needs of diverse groups including users with protected characteristics to ensure the safety, ease and needs of all users; and
- viii. Adequately mitigate any impact on local public access routes.

NPF4 Policy 13 is underpinned by LDP Policy LDP 11 which sets out a requirement that an appropriate standard of access is delivered to serve new developments, including off-site highway improvements where appropriate. This requirement is specified in more detail within LDP Policy SG LDP TRAN 4 (2) and Policy 37 of pLDP2 which sets out that further development that utilises an existing private access or private road will only be accepted if:

- i) The access is capable of commensurate improvements considered by the Roads Authority to be appropriate to the scale and nature of the proposed new development and that takes into account the current access issues (informed by an assessment of useage); AND the applicant can;
- ii) Secure ownership of the private road or access to allow for commensurate improvements to be made to the satisfaction of the Planning Authority; OR,
- iii) Demonstrate that an appropriate agreement has been concluded with the existing owner to allow for commensurate improvements to be made to the satisfaction of the Planning Authority.

The current application has been subject to objection from the Roads Authority who advised that the existing private road (Ardconnel Hill) has poor forward visibility; serves numerous properties; has limited passing places; has a steep gradient; has limited level step off verges for pedestrian refuge; and has generally poor geometry. The Road Authority concluded by stating that Ardconnel Hill is unsuitable for further development or intensification of use.

In response to the consultation response from the Roads Authority the Agent advised that the property has previously been used as bed and breakfast accommodation (under permitted development rights) with two large en-suite letting bedrooms and it is the intention of the Applicant to install the glamping pod to replace the bed and breakfast use to provide the dwellinghouse and occupiers of the pod with greater privacy thereby resulting in a reduction of potential traffic using the road.

However, the Planning Authority advised the Agent that the use of a planning condition to curtail something that is not considered to be 'development' in the first place i.e. the use of two bedrooms within the dwellinghouse for bed and breakfast purposes would not work and would result in a condition being imposed on a planning permission which would be unenforceable and would fail the six tests set out in Circular 4/1998.

The Agent then referenced planning permission 20/01542/PP which proposed two holiday pods within its garden ground which was refused by the Planning Authority due to an unsuitable access regime. However, the refusal was subject of an appeal to the Local Review Body (LRB) using the same argument set out by the

Agent above which was accepted by Members of the LRB and permission granted.

Whilst officers have to accept the previous decision by the LRB on planning permission 20/01542/PP, they maintain their professional opinion that the approach adopted by the LRB at that time was wrong. Officers cannot, therefore, accept that a substantial precedent has been set.

Notwithstanding this, at the time when the LRB upheld the Review, and granted planning permission, the property in question was actively being advertised and used for bed and breakfast purposes.

As a comparison, as confirmed by the Agent, the donor dwellinghouse involved in the current application has not been used for bed and breakfast purposes since the Applicant purchased the property in 2010, some 13 years ago. Accordingly, the current proposal is considered to be very different in that it is proposing a purpose built glamping pod utilising a sub-standard access regime which is not currently servicing any existing bed and breakfast development. Therefore there is nothing to reasonably 'offset' even if such an approach were to be considered appropriate.

In summary, the Applicant's Agent is seeking to relinquish a currently non-existing and limited incidental bed and breakfast accommodation which does not constitute 'development' within the control of the Planning Authority. The Planning Authority has no legal control over works or uses of land/buildings that do not constitute 'development'. Therefore, there is no effective legal method to constrain the use or the occupancy of the donor dwellinghouse in the way suggested by the applicant's Agent (or, indeed, by any other way). Even if the use of two of the bedrooms within the donor dwellinghouse to provide bed and breakfast accommodation could be relinquished through Legal Agreement, such a mechanism could not remove the right to use those bedrooms as other forms of accommodation for a single large family grouping or to prevent the conversion of other existing rooms in the dwellinghouse into new bedrooms.

The potential capacity of any single dwellinghouse is constrained only by its size and the only way to prevent the existing dwellinghouse being utilised to its full capacity of occupancy would be to physically reduce its size and that is not being offered.

The proposed development of an additional building to be used for tourism accommodation must, therefore, represent an intensification in the residential occupancy of the site and, therefore, an intensification of the use of the existing constrained access regime.

The development constitutes a material intensification of the use of an existing and constrained access regime and would be capable of support only if compliance with various highway safety concerns could be demonstrated through the submission, examination and acceptance of competent detail. The land necessary for the upgrade of the existing private road, if achievable, is located outwith the application site boundary and outwith the land in the control of the Applicant. The proposed development is consequently, in view of the above, considered likely to have a significant adverse impact upon highway safety. The proposal is considered to be contrary to the NPF4 Policy 13(g) as underpinned by LDP Policies LDP 11 and SG LDP TRAN 4(2) and Policy 37 of pLDP2.

Officers have tried to negotiate a solution with the area roads engineers but they

are maintaining their objection. The Development Manager has, in accordance with the Council's agreed protocol, reviewed the roads advice offered and has determined, in this instance, that the stated position of the roads engineers is the correct one given the specific circumstances of the case.

NPF4 Policy 18 seeks to encourage, promote and facilitate an infrastructure first approach to land use planning, which puts infrastructure considerations at the heart of placemaking.

The development the subject of this planning application proposes connection to the public water supply and drainage infrastructure in the control of Scottish Water. In their response to the application Scottish Water raised no objection to the proposed development which would be serviced by the Tullich Water Treatment Works and Oban Waste Water Treatment Works. Policy 18 aligns with LDP Policy LDP DM 11 and Policies 05 and 08 of pLDP2 which seek to ensure suitable infrastructure is available to serve proposed developments and the current proposal would raise no issue of conflict should permission be granted.

NPF4 Policy 22 seeks to strengthen resilience to flood risk and to ensure that water resources are used efficiently and sustainably.

As detailed above the development proposes connection to the public water supply to which Scottish Water has not objected to. With regards to the management of rain and surface water at the site, this could be controlled through a condition to secure a suitable sustainable drainage system for the site should permission be granted.

The proposal is considered to be consistent with NPF4 Policy 22 as underpinned by LDP Policies LDP 10 and SG LDP SERV 2 and Policy 61 of pLDP2.

NPF4 Policy 30 seeks to encourage, promote and facilitate sustainable tourism development which benefits local people, is consistent with our net zero and nature commitments, and inspires people to visit Scotland.

Policy 30(a) supports tourism development in locations identified in the LDP with a requirement in Part (b) of this policy for developments to take into account various criteria. However, in this instance, as appropriate infrastructure cannot be demonstrated to serve the proposed development, a statement addressing the provisions of NPF4 Policy 30 was not sought by the Planning Authority.

Accordingly, notwithstanding the above assessment that the proposed glamping pod could be accommodated within the site without any significant adverse visual impact on the site or the wider landscape within which it is proposed, a suitable access regime to serve the proposed development cannot be achieved. The proposed development constitutes a material intensification of the use of an existing and constrained access regime and would be capable of support only if compliance with various highway safety concerns could be demonstrated through the submission, examination and acceptance of competent detail. The land necessary for the upgrade of the existing private road, if achievable, is located outwith the application site boundary and the land in the control of the Applicant as submitted and the proposed development is consequently, in view of the above, considered likely to have a significant adverse impact upon highway safety contrary to the provisions of

NPF4 Policy 13(f) as underpinned by LDP Policies LDP 11 as underpinned by SG LDP TRAN 4(2) and Policy 37 of pLDP2 and it is recommended that planning

permission is refused.

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

(R) Reasons why Planning Permission Should be Refused:

See reasons for refusal below.

(S) Reasoned justification for a departure to the provisions of the Development Plan

N/A

(T) Need for notification to Scottish Ministers or Historic Environment Scotland:
 Yes No

Author of Report: Fiona Scott

Date: 17/07/23

Reviewing Officer: Tim Williams

Date: 18/07/23

Fergus Murray
Head of Development & Economic Growth

REASONS FOR REFUSAL RELATIVE TO APPLICATION REF. NO. 22/01001/PP

1. The proposed development conflicts with NPF4 Policy 13, and Policies LDP 11 and SG LDP TRAN 4 of the adopted 'Argyll and Bute Local Plan' 2015 and Policy 37 of emerging proposed 'Local Development Plan 2' as the proposed development would result in the intensification in vehicular use of a sub-standard private road with no delineation between pedestrian or vehicular use.

The proposed development constitutes a material intensification of the use of an existing and constrained access regime and would be capable of support only if compliance with various highway safety concerns could be demonstrated through the submission, examination and acceptance of competent detail.

The land necessary for the upgrade of the existing private road, if achievable, does not form part of the planning application site and is not within the acknowledged legal ownership/control of the Applicant.

APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **22/01001/PP**

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

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

See reasons for refusal set out above.



fair planning & design

chartered planning and architectural services

Response to representations submitted relative to Notice of Review 23/0007/LRB Argyll and Bute Council – Local Review Body

Appellant: Martin & Arlene McLeod

Project Ref: 2023002

Development: Refusal of planning application 22/01001/PP:
Use of land for the siting of a glamping pod

Site: Garden ground of Broom Hill, Ardconnel Hill, Oban, PA34 5DY

Scale: Local development

Response

Thank you for the opportunity to respond to representations submitted relative to Notice of Review 23/0007/LRB.

We note the Planning Authority response to the Notice of Review. Our response is listed below for brevity. Please read this document in conjunction with our original statement of case for completeness:

- We welcome the Planning Authority's further confirmation that they consider the proposed glamping pod to be acceptable in all respects other than access.
- We note that no specific response or comments have been provided to the matters raised in our comprehensive appeal statement.
- The Planning Authority's resistance to the application was founded on the belief that the pod would generate a material intensification of use of an existing sub-standard shared access, and whereas they felt unable to support the pod in the absence of a range of off-site improvements to the existing access.
- The Planning Authority's assessment seeks to set aside a direct precedent decision made by Members of the Local Review Body in May 2022 – even going so far as to claim that the LRB's decision was 'wrong'.
- Planning officers have regrettably missed the significance of the planning condition attached to the LRB's decision when granting planning permission at Soroba Lodge, Oban (under planning application ref 20/01542/PP and LRB case ref 21/0005/LRB). Planning officers maintain that because they cannot restrict B&B usage within the house via planning conditions, they cannot avoid an intensification of use of the existing access. Whereas the Soroba Lodge planning condition actually controls the timing of use of the holiday pod – a subtle but critical distinction – which is entirely legitimate, enforceable and defensible.
- In considering the Soroba Lodge case in 2022, Members of the LRB were provided with legal advice and corporate guidance throughout. They considered the case carefully and in-depth before resolving to grant planning permission. Their decision in that case is robust. It must be accepted as a direct precedent of relevance to the current appeal case at Broom Hill.
- A similarly worded planning condition can readily be attached to the Broom Hill case which would prevent the pod from being occupied at any time when two bedrooms in the existing house may be operating for B&B purposes. (The new short term letting licence provisions making this even easier to monitor and enforce than was the case last year.)
- Such a planning condition would absolutely prohibit any intensification of use of the existing access. Two footpath connections already exist immediately alongside the site entrance (as shown in original appeal statement), providing pedestrian routes that are separate from the private access. There is therefore no justification or requirement to seek improvements to the existing access regime outwith the site. There is no reason to refuse the application.

Summary

The Local Review Body is again asked to support this Notice of Review and enable a small positive contribution towards tourist accommodation to be provided in a way that accords with local and national planning policy and raises no unacceptable impacts.



.....
Stephen Fair MRTPI MURP
fair planning & design

3 October 2023

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