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Argyll and Bute Council
Comhairle Earra Ghaidheal agus Bhoid

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9 August 2010

NOTICE OF MEETING

A meeting of the **ARGYLL AND BUTE LOCAL REVIEW BODY** will be held in the **MEMBERS ROOM, KILMORY, LOCHGILPHEAD** on **THURSDAY, 17 JUNE 2010** at **10:30 AM**, which you are requested to attend.

Douglas Hendry
Executive Director - Customer Services

BUSINESS

1. **APOLOGIES FOR ABSENCE**

2. **DECLARATIONS OF INTEREST (IF ANY)**

3. **CONSIDER NOTICE OF REVIEW REQUEST: LAND TO SOUTHWEST OF COTTAGE 3, BALLOCHYLE FARM PA23 8RD**

3. (a) **Notice of Review and Supporting Documents (Pages 1 - 44)**

3. (b) **Responses from Interested Parties (Pages 45 - 102)**

3. (c) **Applicant Response to Comments from Interested Parties (Pages 103 - 150)**

3. (d) **Further Written Submissions received from the Planning Section (Pages 151 - 160)**

3. (e) **Information received from Interested Parties in response to further Written Submissions (Pages 161 - 164)**

ARGYLL AND BUTE LOCAL REVIEW BODY

Councillor Daniel Kelly
Councillor David Kinniburgh
Councillor Neil MacKay

Contact: Hazel Kelly, Senior Committee Assistant Tel: 01546 604269

Agenda Item 3a

Ref:
AB1

ARGYLL AND BUTE COUNCIL

WWW.ARGYLL-BUTE.GOV.UK/**

OFFICIAL USE

23/4/2010

Date Received

NOTICE OF REVIEW

Notice of Request for Review under Section 43(a)8 of the Town and Country Planning (Scotland) Act 1997 and the Town and Country Planning (Schemes of Delegation and Local Review Procedures (Scotland) Regulations 2008

Important – Please read the notes on how to complete this form and use Block Capitals. Further information is available on the Council's Website. You should, if you wish, seek advice from a Professional Advisor on how to complete this form.

(1) APPLICANT FOR REVIEW	
Name	FIONA BOYD
Address	COTTAGE 3
	BALLOCHYLE FARM
	SANDBANK
Postcode	PA23 8RD
Tel. No.	01369 707007
Email	FIONA.BOYD@GOOGLEMAIL.COM

(2) AGENT (if any)	
Name	LINEARCHITECTURE
Address	1-1
	37 HOLLAND ST
	GLASGOW
Postcode	G12 8BP
Tel. No.	0141 334 8024
Email	dc@LINEARCHITECTURE-NET

(3) Do you wish correspondence to be sent to you ☐ or your agent ☑

(4) (a) Reference Number of Planning Application 09/01308/PP

(b) Date of Submission 3rd SEPT. 2009

(c) Date of Decision Notice (if applicable) 25TH JAN 2010

(5) Address of Appeal Property LAND TO SOUTHWEST OF COTTAGE 3, BALLOCHYLE FARM, PA23 8RD

(6) Description of Proposal

ERECTION OF DWELLINGHOUSE
FORMATION OF CAR PARKING
INSTALLATION OF SEPTIC TANK
& CREATION OF PRIVATE WATER
SUPPLY

(7) Please set out the detailed reasons for requesting the review:-

SEE ATTATCHED

If insufficient space please continue on a separate page. Is this is attached? ☑ (Please tick to confirm)

Reason for requesting review

1. Decision is contrary to pre planning advice
2. Decision is contrary to council consultee recommendations
3. No opportunity was given to submitted additional technical information later specified in refusal reasons.
4. Proposal is locate in an area with a presumption in favour of development and untenable reasoning offered to refusal of permission
5. Planning officer's conclusions regarding siting and clustering are disputed

An enclosed report deals with all of these points in greater detail. We feel that this application for review requires an accompanied site visit to establish the character of the surrounding area, to appreciate the existing and proposed topography and to assess the opportunity for development.

regards

Darran A Crawford BArch ARB
Architect

for linearchitecture

(8) If the Local Review Body determines that it requires further information on "specified matters" please indicate which of the following procedure you would prefer to provide such information :-

(a) Dealt with by written submission ☐

(b) Dealt with by Local Hearing ☐

(c) Dealt with by written submission and site inspection ☑

(d) Dealt with by local hearing and site inspection ☐

NB It is a matter solely for the Local Review Body to determine if further information is required and, if so, how it should be obtained.

(9) Please list in the schedule all documentation submitted as part of the application for review ensuring that each document corresponds to the numbering in the sections below:-

Schedule of documents submitted with Notice of Review **(Note 3 paper copies of each of the documents referred to in the schedule below must be attached)**:

No.	Detail
1	SEE ATTACHED PAGE
2	
3	
4	
5	
6	
7	
8	
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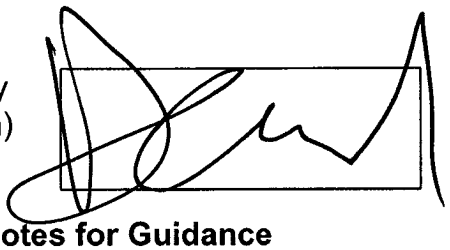
10	

If insufficient space please continue on a separate page. Is this is attached? ☑ (Please tick to confirm)

Submitted by (Please Sign)



Dated 21/04/2010

Important Notes for Guidance

1. **All matters which the applicant intends to raise in the review must be set out in or accompany this Notice of Review**
2. **All documents, materials and evidence which the applicant intends to rely on in the Review must accompany the Notice of Review UNLESS further information is required under Regulation 15 or by authority of the Hearing Session Rules.**
3. **Guidance on the procedures can be found on the Council's website – www.argyll-bute.gov.uk/**
4. **If in doubt how to proceed please contact 01546 604331 or email localreviewprocess@argyll-bute.gov.uk**
5. **Once completed this form can be either emailed to localreviewprocess@argyll-bute.gov.uk or returned by post to *Committee Services (Local Review Board), Kilmory, Lochgilphead, Argyll, PA31 8RT***
6. **You will receive an acknowledgement of this form, usually by electronic mail (if applicable), within 14 days of the receipt of your form and supporting documentation.**

If you have any queries relating to the completion of this form please contact Committee Services on 01546 604331 or email localreviewprocess@argyll-bute.gov.uk

For official use only

Date form issued 2/2/10

Issued by (please sign)

Schedule of Documents:

Agent's Statement of Appeal

Statement from Applicant

Letter from Applicant

Design Report (as submitted)

Drawings (as submitted)
Nos:

- 0704/DPP/01 Rev A,
- 0704/DPP/004 Rev A,
- 0704/DPP/005/200 Rev B,
- 0704/DPP/006 Rev A,
- 0704/DPP/008 Rev A,
- 0704/DPP/008-R1 Rev A,
- 0704/DPP/009 Rev A,
- 0704/DPP/010 Rev A,
- 0704/DPP/012 Rev A,
- 0704/DPP/014 Rev A

linearchitecture

Agent's Statement of Appeal

Introduction

This statement is intended to be brief and to reinforce certain key points as we believe that the application package itself i.e. the drawings and reports that were submitted as the original application in conjunction with the consultee responses from SEPA and the like thoroughly deal with all points subsequently cited by the planning officer in his refusal notice.

I have included a letter from the applicant regarding her personal circumstances and her feelings towards both the proposed dwelling and the application process. I hope that the review panel will understand the rather emotive nature of this correspondence and the fact that the opinions contained therein represent the personal feelings of someone directly affected by the refusal of this application.

I have also included a letter from the applicants husband where he raises a few other pints that I feel are best conveyed by him rather than the agents.

At the core of this request for review is the belief that the planning department have been unduly harsh and negative when considering this application and have been lacking in transparency and communication during the process. As agents we have conducted this application with what we believe is the utmost thoroughness and professionalism. We started with a full digital topographical survey to give us very precise level information. We attended pre application meeting with the planning officer and the applicant and we seemed to establish the principle of development on this site. We commissioned a water supply and engineering report for a new private water supply; we proposed a BioDisc septic treatment facility and noted an outline SuDs drainage scheme. We designed a dwellinghouse in strict accordance with the published Argyll and Bute design guide and very carefully orientated it to take full advantage of the site's inspiring setting while still being visually unobtrusive and subservient to the natural context. We carefully monitored the progress of the application through the online Public Access system.

However we received almost no feedback or requests for information from the planning officer. We noted all of the statutory consultees return with no objections to the proposal and we waited patiently for the determination which we were very confident of receiving a positive outcome. We have completed many other successful applications for rural dwellings in this council area so had a basis of experience for our confidence. We were shocked by the subsequent indication that the recommendation was to be for a refusal.

Reason for Refusal 1: Settlement Character

1 Having regard to the siting and layout of the proposed dwellinghouse, in isolation to existing surrounding buildings, the development would not complement but be at variance with the existing settlement character with its particular layout and juxtaposed siting. The siting of the dwellinghouse on lower ground on the opposite side of the unsurfaced track (that contains existing buildings) would result in development that would be out of context and visually detrimental within surrounding farmland. Accordingly, such a dwellinghouse with its particular siting and requirements for land raising to avoid the functional floodplain of the Little Eachaig River would be contrary to the principles of sustainable development and of protecting and enhancing the quality of the environment within the Rural Opportunity Area, where there are more appropriate development opportunities. The proposal is considered to be contrary to, SPP 3: Planning for Housing; SPP 15: Planning for Rural Development; Policies STRAT SI 1, STRAT DC 4, STRAT HO 1 of the Argyll and Bute Structure Plan 2002; and to Policies LP ENV1, LP ENV19 and LP HOU1 of the Argyll and Bute Local Plan (August 2009) all of which presume against the nature of the development proposed.

The application for detailed planning permission on this site started with a pre application meeting with the planning officer where he conceded that the proposed location for the dwelling was "a site" and due to this the focus of the application documents was primarily on the design and orientation of the actual dwelling and the issues surrounding flooding. Therefore we did not expend a great deal of time seeking to justify the principle of actually placing a dwelling here in the first place as the overarching designation is that of a Rural Opportunity Area where there is a presumption in favour of development of this nature. However we wholly disagree with the planning officer's subsequent assertions that the proposals does not sit comfortably within the immediate settlement pattern and that it represents an unnatural expansion.

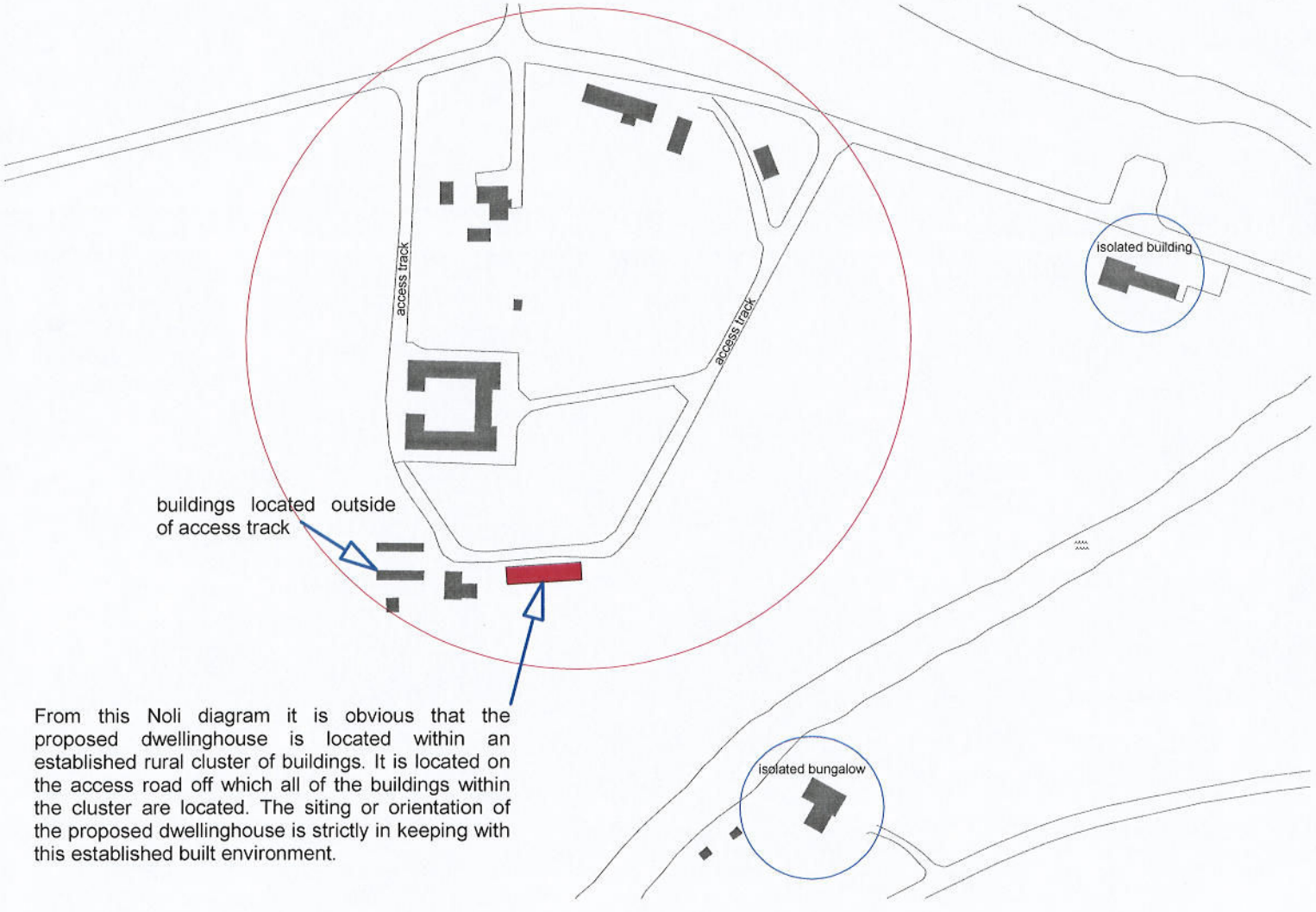
We feel that our proposed design will compliment and enhance the immediate area in the same way that the applicants work to rescue the existing steading enhanced the location. Now that the existing steading has been split into four separate dwellings they are beginning to assume their own separate identities, a process that will be accelerated and accentuated by quickly growing landscaping and boundaries that are being established. Over time this process will result in the steadings being viewed as a cluster in themselves rather than a singular building and the replacement of the large corrugated barn to the north and the redevelopment of the applicant's proposed site will ensure that Ballochyle will develop into a vibrant rural community. We do not feel that the planning officer is giving the long term strategic view the weight that it deserves.

The vast majority of this Rural Opportunity Area is located either in the functional floodplain or within lands controlled by Mrs Kirsteen Manual, who has objected to every development proposal within the estate grounds and as such there is very little likelihood of there being any more proposed development in this location. This goes against the entire guiding principle of the Rural Opportunity Areas and is one of the prime reasons why it is so difficult for families to find suitable housing in this area. As detailed in the Benmore and Kilmun community action plan, the area is being drained of economically active people and young families are becoming a rarity.

The proposal is for a modern rural dwelling that displays traditional massing and detail and it is conceived as being subservient to its dominant neighbour; the existing courtyard steading building and subservient to its natural context. The proposed dwelling is unquestionably located within an existing building cluster as the diagram overleaf clearly demonstrates and the fact that there is an existing, albeit small building on the site of the proposed dwelling reinforces this. The contention that the development would result in an unnatural expansion of the existing group onto ground beyond the existing track is hard to reconcile with the fact that there are four existing agricultural buildings beyond the track and a detached bungalow located some 90m to the SE of the proposed dwelling.

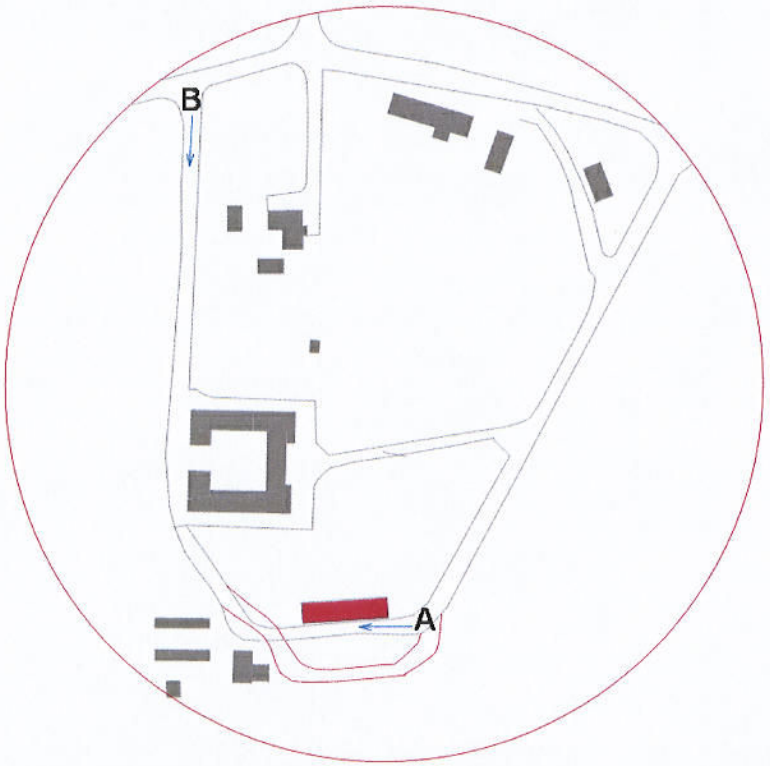
Defining the landscape character of this cluster is very difficult as there is no coherent pattern of any sort. The cluster is made up of the restored steading courtyard that is oriented east to west. It has a rising driveway to the east that approaches what could be considered the front of the building; however there is a grand avenue of very tall cedar trees to what may be considered the rear of the building. As the building has now been split into four dwellings that access the building from different entrances its setting is much less defined. Other buildings in the cluster include four corrugated metal barns immediately adjacent to the proposed dwelling site, a large two storey corrugated barn, a large monopitch timber shed and a detached twentieth century two story dwelling that is distinctly suburban in setting and detail. This built context is hard to define and we do not feel that it deserves the elevated level of protection from “unnatural expansion” that it is receiving.

noli diagrams - contextual clustering



From this Noli diagram it is obvious that the proposed dwellinghouse is located within an established rural cluster of buildings. It is located on the access road off which all of the buildings within the cluster are located. The siting or orientation of the proposed dwellinghouse is strictly in keeping with this established built environment.

The existing access track that the planning officer is taking as a fixed reference point is actually owned by the applicant and although the applicant has a duty to provide unhindered access across it to other residents of the estate they are legal allowed to resurface, remodel and even reposition it as long as it maintains access from point A to point B on the diagram below. Therefore we can find ourselves in the ridiculous position of simply moving the track's position to ensure that the proposed dwelling is on what the planning officer appears to consider is the "correct" side of the track.



This is obviously not a serious suggestion but is shown here as an illustration at how arbitrary the access track is as a datum line to judge whether or not the proposal is in tune with the landscape or settlement character.

The small amount of land raising that is proposed (less than 800mm depth) seeks to elevate the building to a median position between that of the lower lying fields and the existing steading building. This land raising also allows the building to be directly accessed from the parking area, facilitating necessary level access for disabled visitors as per current building regulations.

The design ethos of the building and its orientation, detail and siting is covered in detail in the enclosed design report.

Conclusion

We feel that the judgment that this proposed dwelling does not respect the surrounding landscape or development pattern is incorrect and indeed is a very harsh assessment of what is a vey carefully considered proposal, designed and developed in close conjunction with people who have lived on this site for years and are planning to continue to dwell here and raise their family here.

As a subjective reason for refusal the grounds cited concerning landscape character make it very difficult to wholly dismiss but we feel it is an unbalanced view point that does not weigh the demonstrable landscape qualities of the proposal. We do feel that the assertion that the proposal is contrary to the localized development pattern is demonstrably untrue and that there are few if any more suitable sites for development within this Rural Opportunity Area.

Reason for Refusal 2: Flooding Issues

.2. The proposed development involves an element of land raising in order to avoid the functional flood plain of the Little Eachaig River in which the proposed development and a large proportion of its amenity space would be located. The applicant has failed to demonstrate that the proposed dwellinghouse and its curtilage by reason of its siting and design within the functional floodplain of the Little Eachaig River would not be at significant risk from flooding. The lack of a detailed Flood Risk Assessment and submitted information and history of the site from flooding is contrary to Scottish Planning Policy SPP7 – Planning and Flooding; PAN 69: Planning and Building Standards Advice on Flooding; Policy STRAT SI1(Sustainable Development); Policy STRAT DC10 (Flooding and Land Erosion) of the Argyll and Bute Structure Plan 2002; and policies LP ENV1, LP ENV19 and LP SERV 8 of the Argyll and Bute Local Plan all of which presume against the nature of the development proposed.

Summary of the rebuttals of the above noted reason for refusal:

- The proposed dwelling is located outside the SEPA specified functional flood plan
- The proposed Land-Raising is less than 800mm and takes place outside the functional flood plan
- SEPA has offered no objections to the proposal with regards to flooding
- Argyll and Bute Council's Flood Alleviation Officer offered no objections to the proposal.
- Less than 20% of the large proposed garden area is within an area specified as medium/high risk of flooding
- Any land raising takes place outwith the functional floodplain.

The planning officer consulted SEPA twice on matters relating to flooding on this site and SEPA clearly and unequivocally states that: *"I can now confirm that this application has now been considered by our flood risk specialists. We have no objection to the proposed planning application on flood risk grounds"*

The planning authority also consulted its own Flood Risk and Drainage Impact Officer, Mr Ian Gilfillan who states that: *"In relation to flooding there are no objections if a finished floor level of 13.50 AOD is established"*

It is also relevant to include the following email communication from the applicant's agent to the planning officer:

From: AD Crawford [mailto:line-architecture@btconnect.com]
Sent: 26 October 2009 10:29
To: 'Close, Brian'
Subject: RE: 09/01308/PP - New House at Ballochyle

Brian
I notice that there is a correspondence from Ian Gilfillan at Blairvadach – stating that if the FFL are as specified then there is no issue regarding flooding. Is this the response you require or is there further consultation required from SEPA? I am enquiring specifically to this issue as we have Transtech standing by for a detailed Flood Risk Assessment should SEPA's response be either inconclusive or negative. This FRA will obviously take quite a bit of time to prepare and entail significant professional fees so my clients would obviously like to avoid commissioning it if it is not strictly necessary.
regards
Darran A Crawford BArch ARB
Architect

This was followed up with a telephone call specifically asking whether or not the applicants needed to supply a detailed flood risk assessment. We were told we did not need to and therefore find it difficult to understand the planning

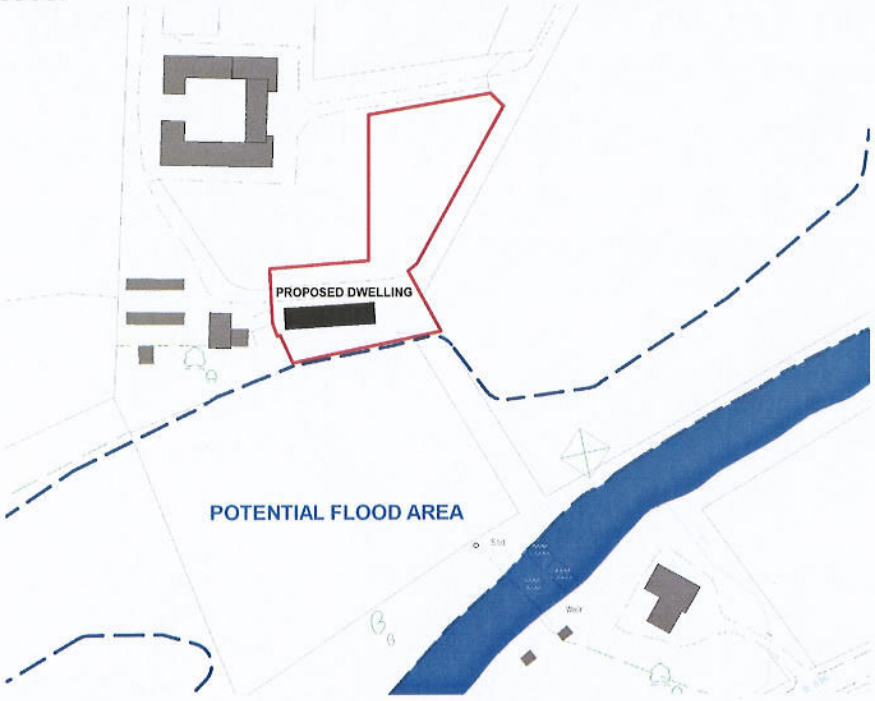
officer's subsequent claim that *"The lack of a detailed Flood Risk Assessment"* was a contributory factor in the refusal

Dwellinghouse Located Outwith Flood Area

None of the proposed dwellinghouse's footprint is located within the functional flood plain of the Little Eachaig River. This is born out by both the digital topographical survey data, the SEPA coastal and rivers flood plain map and all of the consultation responses from SEPA and the council's own Flood Risk and Drainage Impact Officer. This is not a matter for dispute as it is clearly demonstrable. Therefore it is extremely confusing as to why the planning officer states that: *"... element of land raising in order to avoid the functional flood plain of the Little Eachaig River in which the proposed development and a large proportion of its amenity space would be located. "* This statement is inaccurate as the proposed dwellinghouse is outside the functional flood plain, this point has been raised by the applicant and agent repeatedly. This point is confirmed in SEPAs consultation response of 19th November 2009 where they clearly and unequivocally state that in paragraph 1.1 that *"It is noted that the dwellinghouse itself is adjacent to the Flood Map"*.

Amenity Space at Risk From Flooding

Cited documentation, specifically SPP7 makes no mention of any requirement to protect a proportion of amenity space from flooding. In fact it should also be noted that if the applicants were to merely redraw their red line boundary within the blue line boundary of their ownership no areas of the proposed dwelling, its amenity, access or any other related space would encroach on the functional flood plain. See below. This fact notwithstanding less than 20% of the application's current area encroaches on the functional flood plan and this area is designated on the proposed site plan as a "wild flower meadow" and would therefore retain any flood attenuation properties that it currently possesses.



Land Raising
The land raising of the proposed dwelling is minimal (less than 800mm) and is used to both provide an extra guarantee against any possible flood event as well as raising the finished floor level of the proposed dwelling house to the same level as the pedestrian and vehicular access for statutory regulations in regard to disabled access. The land raising is minimal and due to the fact that it is located outside the flood plain SPP7 and PAN69 guidance for land raising in flood areas is not relevant. Furthermore, based on SEPA's comment the level of land raising could in fact be reduced and it would still not constitute a flood risk.

Objector Evidence
The information supplied to the planning officer by Ms Kirsteen Manual, a local objector was and is demonstrably misleading and in specifics deliberately so. This fact was highlighted immediately to the planning officer by the applicant via the agent. However no steps were taken to subsequently verify the accuracy of this information and we are extremely surprised to see this information both referenced in the planning officer's report and cited at the time as a reason to gain a second consultation response from SEPA.

River levels
The 6 years that the applicants have lived at Ballochyle included both the wettest year on record (2009) and the wettest month on record (November 2006) during which time the Little Eachaig River has never burst its banks. Its highest level has been well below 11.5mOSD and it would need to rise by an incredible 3.25m above its usual average height to represent a danger to the proposed dwellinghouse. The recent SEPA works to the weir and gauging station have widened the riverbed, removed the concrete weir and heightened the banks, further reducing any risk from flooding. Therefore we would maintain that even though the field in which the proposed dwelling is located adjacent to is specified in SEPAs flood map as an area at medium to high risk of flooding, this event has never even nearly occurred during the applicant's ownership and even the most extraordinary flood event will not trouble the proposed dwellinghouse.

New weir/gauging station area

Interpretation of SEPA Flood Map

SEPA's statement that we as agents have made a "crude approximation" of the flood map is difficult to understand as the Flood Map itself is a crude approximation of gauging station data and the national digital elevation model (DEM). What this means is that there is no actual record of any parts of this site ever having flooded, this point is conceded by SEPA in an earlier consultation document for an earlier application on the same site (application reference 06/00472/DET, SEPA doc. Ref: AB3/2006/0728 "SEPA holds no record of the application site flooding"). The Flood map merely maps the DEM levels and correlates them with gauging station data. However we do not wish to labour this point as the simple fact remains; the proposed dwelling is outside the Flood map area and the topographical data for the site supports this.

Conclusion

We believe that we have more than demonstrated, with the help of statutory consultees and digital topographical data that the proposed development is free from any risk of flooding. The proposed dwellinghouse and over 80% of its curtiledge is outside the flood plain and as such we feel that this reason for refusal is untenable.

Concerning transparency in planning procedure, we understood from the consultee responses that a detailed flood risk assessment was not required and contacted the planning officer to confirm this. Therefore we find it frustrating to subsequently find this requirement was added to the refusal reasons and at no time were we offered the opportunity to supply this information.

Reason for Refusal 3: Foul Drainage

3. The applicant has failed to provide accurate information in respect of foul drainage proposals for the application site. The lack of precise foul drainage arrangements is contrary to: policy LP SERV 1 – Private Sewage Treatment Plants and Wastewater Systems of the Argyll and Bute Local Plan (August 2009), which presume against the nature of the development proposed.

The submitted drawings for this project clearly mark the location and outline specification for a wastewater treatment facility. A BioDisc active treatment facility and sub surface percolation area is proposed, a specification considerably in excess of current Building Standard requirements. The proposed treatment plant's location is clearly marked to include topographical level data and at no point in this application process was any additional information requested regarding the subsequent post-decision statement regarding a lack of "accurate information".

There are both an existing, SEPA registered septic tank within 20m of the proposed septic tank and a new Bio Disc treatment system within 100m of the proposed development site; therefore it would seem reasonable to assume that there will be suitable ground conditions to facilitate the installation of a new Bio Disc treatment system as specified in this application. Further to this it would be the intention of the applicant to utilise the extra capacity of a new BioDisc system to handle the foul water from both Cottage 3 and 5, allowing the removal of the aforementioned existing septic tank serving these two properties however this is a matter for Building Standards and not Planning.

Additional to this Mrs Jo Rains, Area Environmental Health Manager for Bute and Cowal clearly states in her consultation response of 12th November 2009 that as far as environmental health is concerned the provisions of an acceptable septic treatment system is a matter for the building warrant phase of any project:

"It is further the intention of the applicant to effect a drainage system at the proposed development by way of provision of connection to an individual septic tank with a soakaway outfall. The system of drainage to be provided will require to be in accordance with the requirements of the relevant Building (Scotland) Acts and will be a matter for consideration by the Building Standards office."

We would agree with this statement and also like to again note the fact that at no point during this application process did the planning officer request any further information regarding the suitability of the ground for a private wastewater treatment facility despite repeated requests from us as to whether or not the planning department had sufficient information to determine this application.

The cited policy LP SERV 1 does not specify in any way what the level of detail required by applicants is, however it does make explicit reference to SEPA's preferred method of drainage, which is a sub surface percolation area – which we have specified. We feel that if the planning officer felt that the level

of detail provided was insufficient then it would have been good practice to let the applicant's agent know this.

Conclusion

We have specified on both the application drawings and the application forms that we are proposing a private waste water treatment facility. We have indicated on drawings where that facility was to be located and at what OS datum level that plant was to be placed at. We also clearly detailed on the drawings what operational type of treatment plant was proposed (a BioDisc) and what type of outfall was proposed (a subsurface percolation area as per SEPA preference). In our experience of applying for and gaining planning permission for dwellinghouses in Argyll in rural locations this is sufficient information. At no point during the application process did the planning officer request any other data; if he had we would have conducted a simple percolation test and offered a detailed specification from Klargester, the treatment facilities manufacturer.

Environmental Health concur with our opinion that such information constitutes detail design and is therefore a Building Warrant issue and we are unable to explain why we were not asked for this information when it has subsequently been specified as a reason for refusal.

Therefore we believe that this reason for refusal is untenable.

Reason for Refusal 4: Storm Water Drainage

4 The applicant has failed to provide accurate information in respect of surface water drainage proposals (SuDS) for the application site. The lack of precise drainage arrangements incorporating a SuDS scheme to alleviate potential flooding of the site and adjacent properties and their land is contrary to: Scottish Planning Policy SPP7 – 'Planning and Flooding' and PAN 69 'Planning and Building Standards Advice on Flooding'; Policies STRAT SI 1 'Sustainable Development' and STRAT DC10 'Flooding and Land Erosion' of the Argyll and Bute Structure Plan 2002; and policies LP SERV 2 – Sustainable Drainage Systems (SuDS), LP SERV 3 'Drainage Impact Assessment' and LP SERV 8 'Flooding and Land Erosion' of the Argyll and Bute Local Plan (August 2009), all of which presume against the nature of the development proposed.

As with the previous reason for refusal there is a requirement stated here for an unspecified level of precision information that was never requested by the planning officer, despite repeated requests from us as to whether or not the planning officer had sufficient details to determine the application.

We would again contend that this is a matter for building standards and Mr Ian Gilfillan, Flood Risk and Drainage Impact Officer makes no reference to the requirement for a detailed SuDs drainage design in his consultation response, neither does SEPA.

However we did indicated in drawing no. 0704/DPP/006 Rev A a SuDs drainage system to incorporate storm water soakaways. This is clearly indicated and whilst not at this stage providing precise details of the drainage specification, experience tell us this level of detail is usually sufficient for determining a planning application and that detailed drainage design is handled by a certified engineer at the subsequent building warrant phase.

It should be noted at this stage that this development is for a single private house contained within an area of land controlled by the applicant extending to over 2 acres. It is therefore reasonable to assume that a SuDs drainage system in this case is likely to consist of simple solutions such as a filter trench, separate land soakaways or sub surface sumps.

The applicant has expressed a desire for a grey water recycling system to take advantage of the high levels of rainfall in the area; however this has not been specified at this stage as it is a complex piece of detailed design and usually has no bearing on the planning process. As with foul water drainage, this is a matter for detailed drainage design at the Building Warrant stage.

Conclusion

As with reason for refusal 3, this is, in our opinion a spurious reason for refusal based on the fact that we were never asked for detailed SuDs data, notwithstanding this we did in fact show a SuDs drainage plan on the application and this level of information is, in our experience more than sufficient drainage data for the planning stage and any detailed drainage data is a matter for Building Warrant.

Appendix

Letters from Applicants

Cottage 3
Ballochyle Estate
Sandbank
Dunoon
PA23 8RD

Linearchitecture
1-1
37 Kersland Street
Glasgow
G12 8BP

21st April 2010

Dear Darran

I am writing concerning the appeal in progress re the application for planning at Ballochyle Farm, Sandbank, Dunoon. As you aware my wife has written a letter personally setting out the history of the site and addressing some of the issues including the objections concerned and the work which has been carried out in respect of the steadings and the conversion costs etc. I therefore do not intend to dwell on these or go over this ground again as I am sure my wife has been succinct in her points and has covered them in their entirety. I will merely add what I can in respect of the involvement which I have had in the process of the application (apart from the obvious financial input which I believe is unavoidable and necessary in these matters) and to try and give a view of how I see the development of the site.

As you are aware, both you and I met with Brian Close of Argyll and Bute Council planning department on my insistence as part of the planning process to ascertain what their position was in respect to the new planning application we were to submit. This was to clear up mainly in my mind the actual viability of the application- i.e. was it viewed as an actual "no hope" case or were there merits in continuing with the process considering both the financial and time constraints on all parties, not least the planners. On discussing the site and the application in general Mr Close did indeed indicate that he "conceded that it was a site" albeit that there would have to be some changes to the design-these seemed fairly minor in nature, such as the chimney seemed too large in dimension to the house etc. There was however a general consensus that the application was acceptable in principle this time and that the proposed dwelling was more in keeping with both the site and the surroundings than the previously refused proposed dwelling.

I say this with the full knowledge of being a Notary Public and a Solicitor and with the responsibilities which are incumbent upon me with those posts by the Law Society and was very disappointed to note thereafter that Mr Close seemed to distance himself from this position and indicated that he believed the proposal had no merits and that in fact there was not a natural site there for a dwelling. I would have appreciated a

little more candour in the meeting if only to save myself further expense and this was also represented in the matter as to whether there was a requirement for a Flood Risk Assessment. As you know I have a particular interest in this field which I shall come to later in this note, however suffice to say I am well aware of the requirements to promote the River Basin Management Planning currently being undertaken by the Scottish Executive and implemented in the main by SEPA and to the importance of the designated responsible authorities (planners are one of these) to consider flood management and sustainable development in granting permission.

Ballochyle falls within the Scottish River Management Basin and as such there is a duty incumbent upon all the local authorities and SEPA to promote the implementation of the aims of the Water Framework Directive (WFD) through the Water Environment and Water Services (Scotland) Act 2003. Ballochyle has had a history of mismanagement in respect of the water resources which it has utilised and currently relies too heavily on a stretched private supply which runs from the hill and which has difficulty in meeting the requirements of the households and indeed the aims of the WFD. The water quality being delivered to the households has failed several times in the past as indeed has the supply due to a piping infrastructure badly in need of an overhaul. This has occurred in the main due to a lack of funding being apparent in the running of the estate by the original owners being James and Kirsteen Manuel and the selling off of various parts of said estate (including the steadings which I converted) to facilitate the survival of the same. This process has led quite inevitably to the disintegration of the infrastructural soundness of the estate as a whole and to the same in respect of the services which it delivers.

As part of the proposed development we are proposing to use an alternative resource for water supply i.e. the Little Eachaig River, which will provide both the house in question with a new and better quality supply along with a supply (potentially), to other houses in the estate. This is both sustainable and finds a balance between environmental objectives and social and economic concerns in the discharge of the public bodies normal duties if planning were to be granted, i.e. one of the key criteria outlined in the Policy Statement and Regulatory Impact Assessment addressed to Local Authorities by the Scottish Executive in March 2006. We are also willing to utilise a grey water collection system for flushing and washing using the substantial rainfall in the area as the resource for this. Again this falls within sustainability and environmental impact as outlined above.

In respect of the flooding concerns it is my understanding that SEPA do not think that there is a risk and that the planners never indicated at any stage that there would be a requirement for a full accredited assessment. I offered this option to you and you indicated that it was the duty of the planners to state their requirement of the same should they deem it necessary and that you had asked them if they required it and they had answered in the negative. I would hope that if it is the view of the Review Committee that a Flood Risk Assessment is indeed a necessity, then we can instruct one now without having to resort to a new full application or that planning can be granted subject to a condition of this requirement. What I can say is that in general common sense terms it would benefit an area such as Ballochyle to have a progressive minded resident building a house in a sustainable and low environmental impacting manner that seeks to upgrade the existing infrastructure of the estate and add more economically active residents to the area.

I also understand the potential future requirement to work with SEPA to provide "soft flood defence areas" such as wetlands and rushes on the edge of fields in my ownership to protect the Estate. I can point out in this regard that I have already given SEPA, represented by their engineer Mr Stan McKeddie, full access over this land to facilitate the saving of a very important Monitoring Station on the Little Eachaig and the removal of a collapsing weir that threatened to damage the river system. These works have now vastly improved the flow of water through this bottleneck and according to SEPA, vastly reduced the risk of any flooding.

I work and study as a Lawyer in the field of Water Resource Management on a daily basis and understand the requirements of the Local Authorities in these matters to ensure that the correct decisions are made in carrying out their duties and to enable the management of areas to move forward in a sustainable and environmentally friendly manner. I am also aware of the duties incumbant not only on them but also on those of us in the public realm to adopt a similar attitude towards our future responsibilites in this regard and I believe that I am someone who has such a view and as such any development on the site is going to enhance both the immediate and wider district by the example it seeks to set.

Regards

James Boyd LLb Dip.Lp NP
Solicitor and Notary Public

Cottage 3

Ballochyle Estate

Sandbank

Dunoon

PA23 8RD

21st April 2010

To whom it may concern

I am the owner of Cottage 3, Ballochyle Farm and have lived here for over five years along with my husband and my two young children.

When I first purchased the property of Ballochyle Farm and the surrounding land the building was in a desperate and dilapidated state. One side of the courtyard (the side that I now live in) was derelict and had been lying vacant for a number of years. My husband and I began a long, slow and very expensive process of bringing the farm buildings back to their former glory and in doing so we had to sell one half of the courtyard to a solicitor from Glasgow who intended to use it as a holiday home. This gave us the funds to restore the rest of the courtyard which has now been completed. This restoration has cost a lot of money and has involved totally refurbishment of the entire building. Poorly placed and very unsightly electricity poles had to be removed from the garden and the power lines buried in trenches. The adjoining barn was converted into a three bedroom cottage utilising as many of the original features as we could including pieces of the original threshing machine and retention of the vaulted barn ceiling.

What was once a crumbling eyesore has now been rejuvenated into a vibrant and attractive courtyard development. The courtyard now has two families as permanent residents. The barn was sold to a retired couple who moved here from elsewhere and who now run a local and well known cafe in the town. The estate now has an increasingly diverse community which can only benefit the area and my husband and I are very pleased with the results of our hard work. The restoration of the courtyard was much longer and more difficult than we expected, however that is the nature of old buildings, however we never anticipated that the final part of our plan, building a bespoke family home would be as difficult as it has proved to be.

I have applied over the years on three occasions for permission to build a dwelling in a field beside my house. The reason for wishing to build this dwelling is simple – I would like my family to grow up in this beautiful location in a well designed, contemporary and sustainable home using modern materials and with greatly improved energy efficiency to the dwelling that we currently inhabit. These three applications along with every other application made to the planning department with regard to the courtyard restoration have one thing in common – unfounded grounds for objection by Mrs Kirsteen Manuel. As the previous landowner of the once very

large Ballochyle Estate, Mrs Manuel has submitted increasingly vexatious letters of objection to each planning application submitted with regard to Ballochyle Farm.

Whilst of course any person has the right to object to any proposed dwelling in any place this right also comes with a responsibility - to provide honest information to the planning department and on this point Mrs. Manuel has clearly demonstrated a most dishonest approach over the years.

Firstly, Mrs. Manuel is not a full time resident at the address given. In her objection letter dated 6th March 2006 regarding a previous application at Ballochyle Farm she even provides us with her usual address - in London. In light of this how can any 'eyewitness' reports of flooding be taken at face value without at least some corroborative evidence from another source?

Secondly Mrs. Manuel appears to have gone to a lot of trouble with regard to the alleged flood risk to the proposed dwelling. She in fact provides copies of correspondence between herself and Dr Marc Becker from SEPA in order to back up her dubious claims about flood risk. Upon reading this correspondence I noted one fact in particular that is demonstrably false. In her letter dated 24th April 2006 to Dr Becker, Mrs. Manuel informs him that she is intending to purchase the field in question which is why she is requesting the flood risk information. His reply dated 27th April 2007 mentions an 'upstream gauging station' from the field and he provides a conclusion indicating a very high flood risk. Unfortunately what Mrs. Manuel has failed to mention is that the field to which she is referring is <u>not</u> the field in which the proposed dwelling is located. It is the lower-lying field beside it. She made an offer for this neighbouring field to the solicitor who owns the other side of the courtyard sometime during 2006 which he turned down. This field is downstream from the gauging station that Dr Becker refers to.

Lastly Mrs. Manuel repeatedly refers to the 'working farm buildings' near to the proposed dwelling in her many letters of objection. Over the five years that we have lived here I have observed these barns used very occasionally for the storage of gardening equipment and the fields adjacent to them are sub-let to a farmer from Glendaruel who has a small number of sheep grazing them. The only traffic to and from these buildings is a sporadic visit from the farmer or Mrs. Manuel herself when she uses the grassed area beside the barns for barbeques or bonfires etc.

In light of the many untrue assertions made by Mrs. Manuel in her correspondence with the planning department I was very disappointed to see that parts of her letter of objection are included in the reasons for refusing this most recent planning application. There seems to have been no attempt by the planning department to investigate and corroborate any of her claims, a fact which concerns me especially as she is well known as a serial objector to any development whatsoever on or near the estate. In fact when I asked the planning department if, as a matter of courtesy they could let me know if they were conducting any accompanied visits to the site (which they have conducted in the past without me or my architect being present but with Mrs Manuel being present) I received by email the blunt one word reply "Why?" The planning department's actions with regard to this and previous applications leave me with the distinct

impression that they do not want any development on any grounds that I own. We have suggested moving the proposed dwelling to the other side of the track and placing it on higher ground, still some 30m away from the existing courtyard, this has been rejected as well. It seems that no matter what my architect comes up with, the planning department simply moves the goalposts.

I am a key worker in Dunoon and have an active day to day role performing a vital public service to the Cowal community. My two children attend the local primary school and will eventually be attending Dunoon grammar school. With reference to a document produced last year by the Benmore and Kilmun community council my family and I are fast becoming an increasingly rare resource in the community. The local Benmore and Kilmun community action plan identifies that the local area has some 55% percent of the population economically active. This compares to a national average of 65% and a national park average of 68% indicating that the area has "a very high rate of retired people" (Community Action Plan 2009). The number of working families in the area is falling and therefore the life blood of the community is draining away. Part of the reason for this is the lack of available and affordable housing plots.

I am a part of the local community, my children are part of the future of the local community and I believe the house designed by my architect to be an inspiring modern interpretation of the traditional Scottish long house. I do not wish to build a house somewhere that is at risk from flooding nor do I wish to deprive anyone of the enjoyment of walking or cycling around the quiet, traffic-free lanes in the estate.

I have found this process deeply stressful and very frustrating, particularly the total lack of transparency from the planning department and their seemingly obstructive views towards any development within this Rural Opportunity Area

Regards

Ffiona Boyd


N
Project Title
Ballochyle Cottage
Drawing Title
location map
A3
Date
JUNE 09
Stage
Planning
Scale
1:2500
Drawn By
architect
Drg No
0704_DPP_01
Rev
A (RESUB)
Checked By
architect
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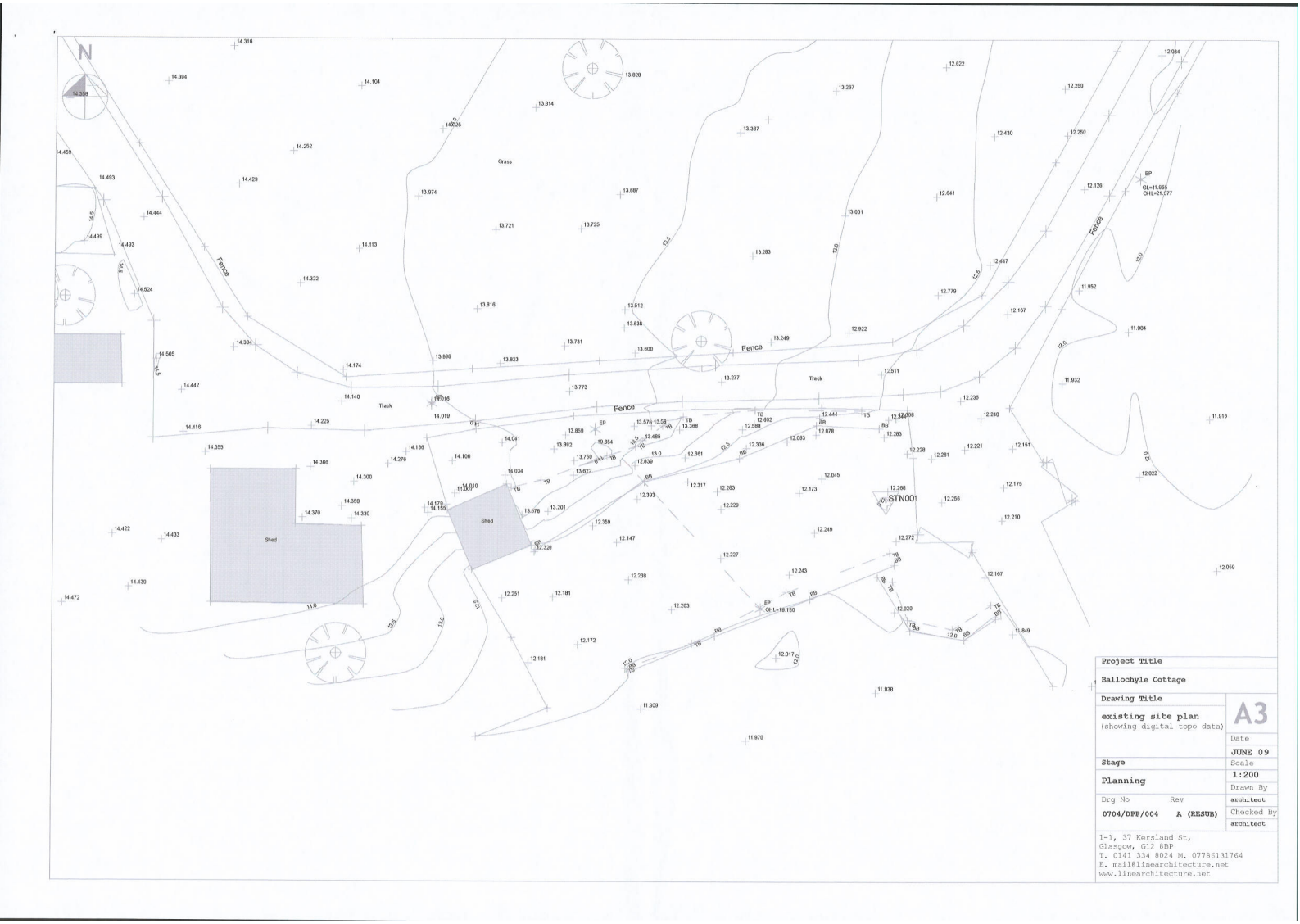

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Drawing Title	existing site plan (showing digital topo data)
	A3
Date	JUNE 09
Stage	Planning
Scale	1:200
Drawn By	architect
Drg No	0704/DPP/004
Rev	A (RESUB)
Checked By	architect

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Project Title	
Ballochyle Cottage	
Drawing Title	A3
Proposed foul, storm drainage and potable water plan	
	Date
	JUNE 09
Stage	Scale
Planning	1:500
	Drawn By
Drg No / Rev	architect
0704/DPP/006 A (RESUB)	Checked By
	architect

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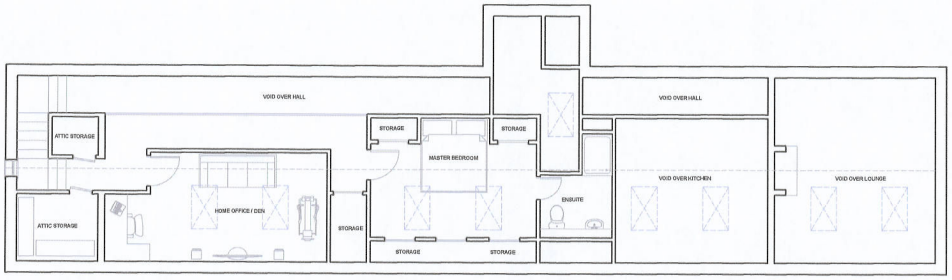
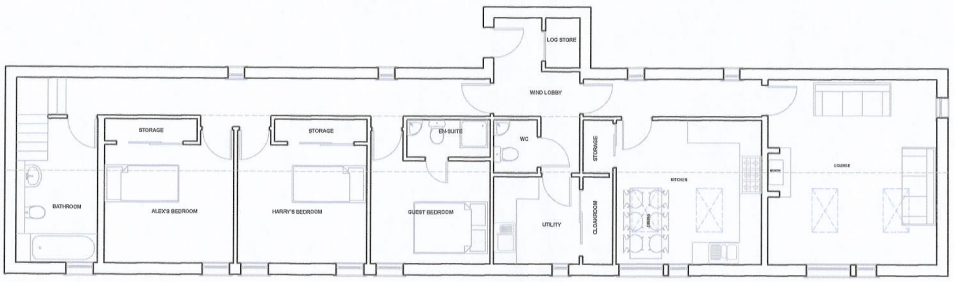


FIRST FLOOR PLAN



GROUND FLOOR PLAN

Project Title	
Ballochyle Cottage	
Drawing Title	A3
Proposed plans	Date
	JUNE 09
Stage	Scale
Planning	1:100
	Drawn By
Drg No / Rev	architect
0704/DPP/008 A (RESUB)	Checked By
	architect

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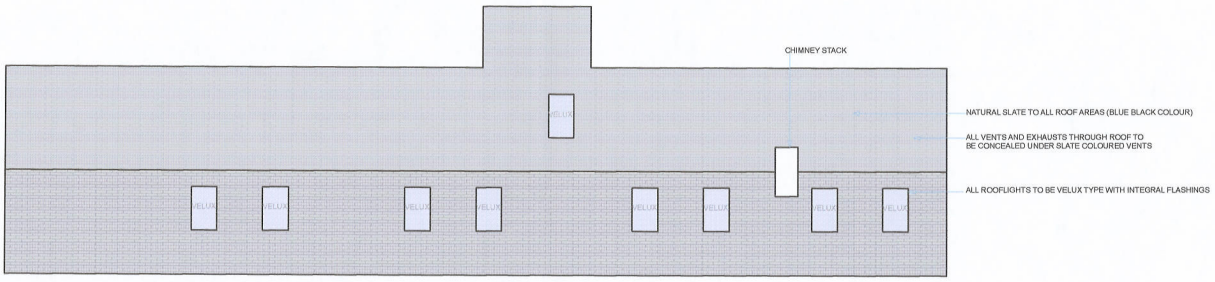

ROOF PLAN

Project Title	
Ballochyle Cottage	
Drawing Title	A3
Proposed roof plan	Date
	JUNE 09
Stage	Scale
Planning	1:100
	Drawn By
Drg No Rev	architect
0704/DPP/008-R1 A (RESUB)	Checked By
	architect

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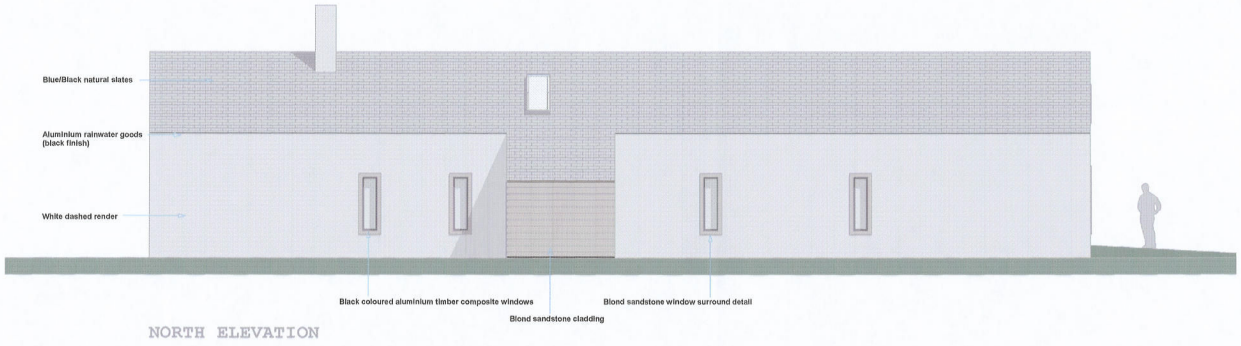
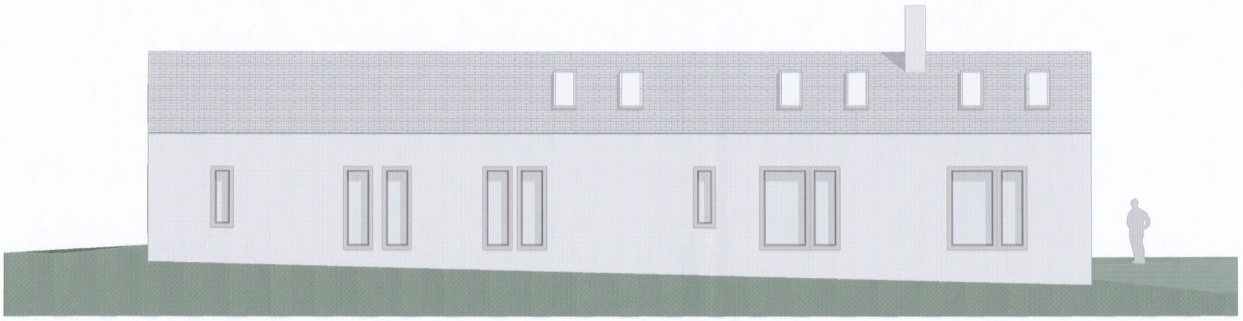


NORTH ELEVATION



SOUTH ELEVATION

Project Title	
Ballochyle Cottage	
Drawing Title	A3
Proposed elevations	
	Date
	JUNE 09
Stage	Scale
Planning	1:100
	Drawn By
Drg No / Rev	architect
0704/DPP/009 A (RESUB)	Checked By
	architect

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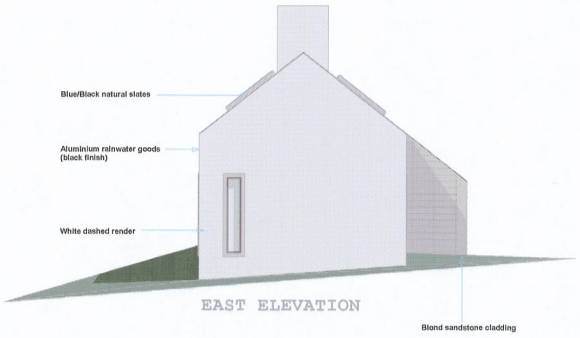
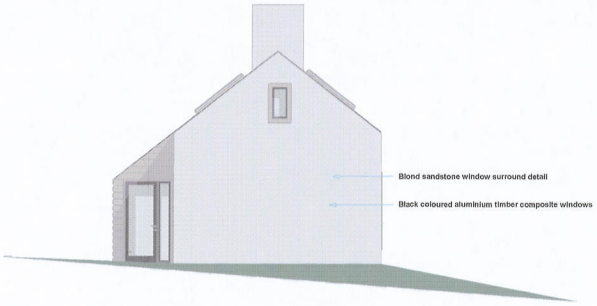
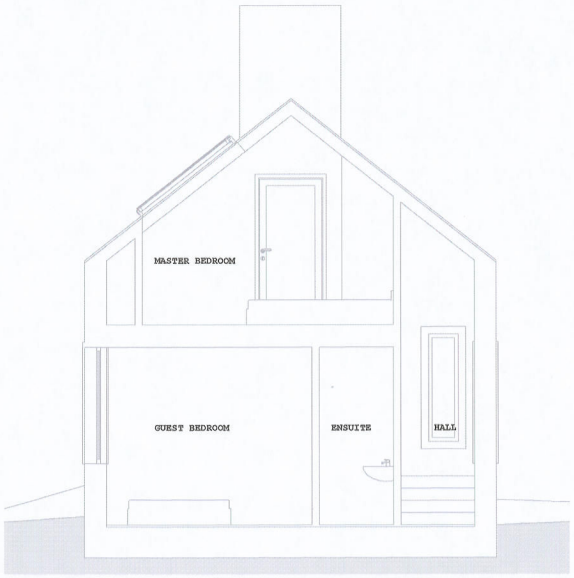


EAST ELEVATION



WEST ELEVATION



SECTION C (1:50)

Project Title	
Ballochyle Cottage	
Drawing Title	A3
Proposed elevations Proposed section C-C	Date
	JUNE 09
Stage	Scale
Planning	1:100
	Drawn By
Drg No / Rev	architect
0704/DPP/010 A (RESUB)	Checked By
	architect

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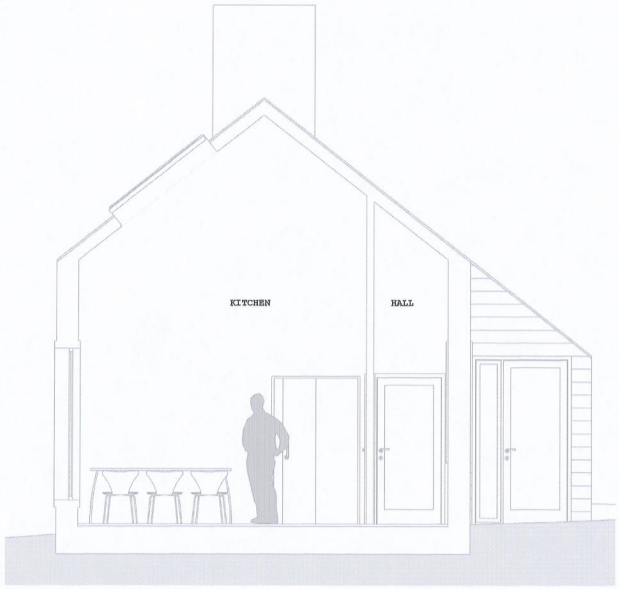
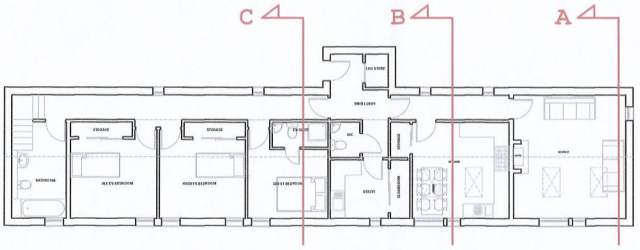


SECTION B

SECTION A



Project Title	
Ballochyle Cottage	
Drawing Title	A3
Proposed sections	Date
	JUNE 09
Stage	Scale
Planning	1:50
	Drawn By
Drg No / Rev	architect
0704/DPP/011 A (RESUB)	Checked By
	architect

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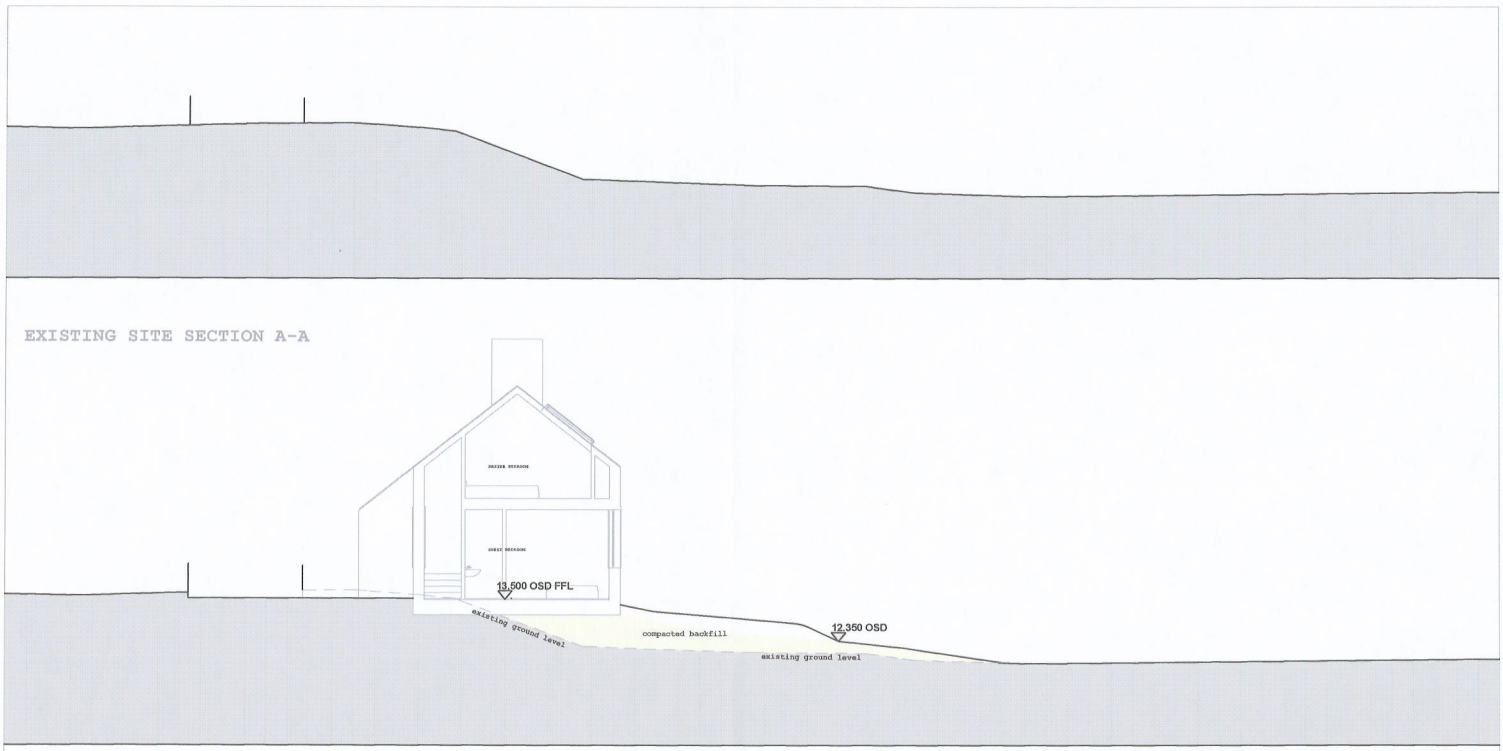
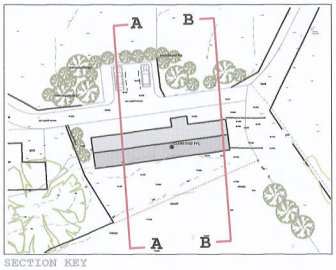


PROPOSED SITE SECTION A-A



SECTION KEY

Project Title	
Ballochyle Cottage	
Drawing Title	A3
Existing & proposed site sections a-a	
	Date: JUNE 09
Stage	Scale
Planning	1:100
	Drawn By: architect
Drg No: 0704/DPP/012	Rev: A (RESUB)
	Checked By: architect

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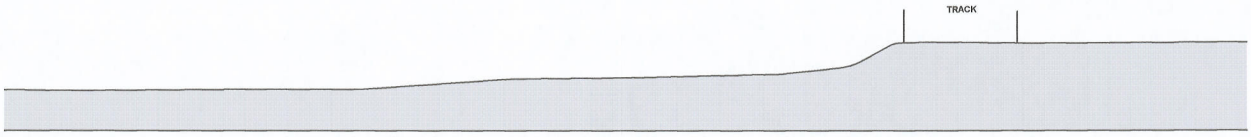
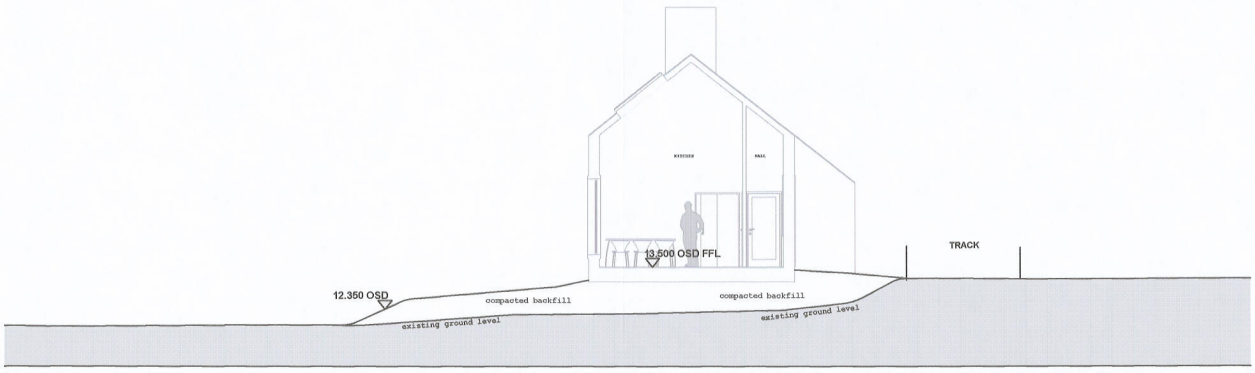
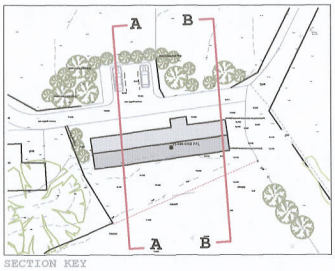


EXISTING SITE SECTION B-B



PROPOSED SITE SECTION B-B



SECTION KEY

Project Title	
Ballochyle Cottage	
Drawing Title	A3
Existing & proposed site sections b-b	
	Date: JUNE 09
Stage	Scale
Planning	1:100
	Drawn By: architect
Drg No: 0704/DPP/014	Rev: A (RESUB)
	Checked By: architect

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DESIGN REPORT

New Rural Dwelling

Ballochyle - Argyll

August 2009

linearchitecture

INTRODUCTION

The submitted proposal shown here is for a four bedroomed, traditionally influenced yet contemporarily styled family dwelling in Sandbank, Argyll. The site has previously submitted for planning approval for the erection of a dwellinghouse (Planning Ref. No:06/01964/DET) and this submission was refused and all of the refusal comments have been considered with this wholly new proposal.

Ballochyle is an area identified in the Local Area Plan (Finalised Draft) as being a Rural Opportunity Area and as such is suitable for small scale housing development within certain subjective criteria. This designation notwithstanding maximum effort has been taken to ensure that this proposed dwelling conforms with all applicable Rural Housing criteria and that the proposed dwelling is a harmonious addition to this location.

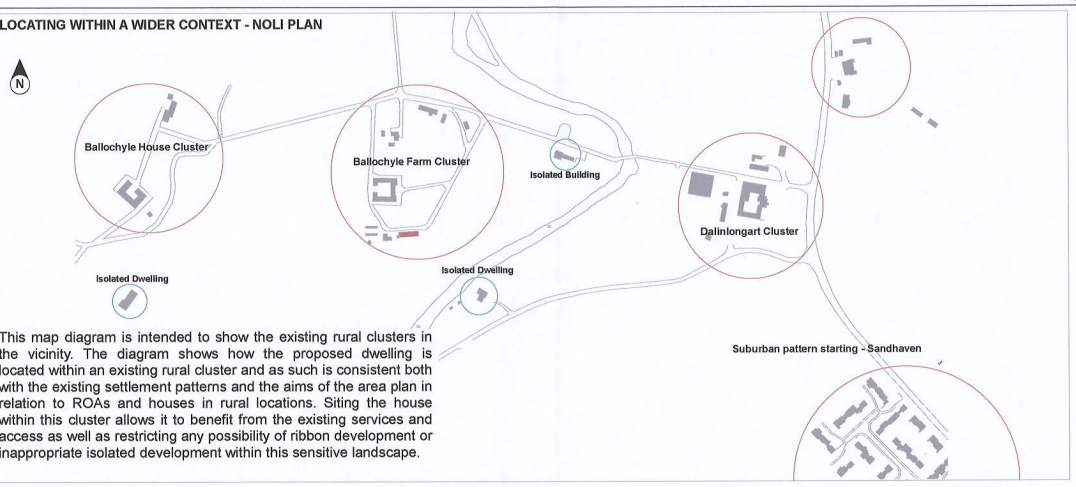
The proposed dwelling is accessed by local estate roads that have been recently upgraded and resurfaced. The applicant has full access and servitude rights to the proposed dwelling site.

The estate is served by a private water supply that is in need of upgrading to reach local authority minimum standards. It is proposed to create a new private water supply to provide potable water to the proposed dwelling by drawing water from the Little Eachaig River; a report and laboratory results giving details of this supply are included with this application.

There are current works on going on the site by SEPA to replace the weir and gauging station on the Little Eachaig river and also works ongoing by Scottish Hydro to route all of the local electricity supply cables underground.

The immediate area of the proposed development site is characterised by the traditional, early twentieth century Ballochyle Farm steading buildings, the scattered farm outbuildings of timber and corrugated iron and a number of non-descript late 20th century buildings such as the SNH office. Planning permissions have recently been granted for the conversion of Ballochyle Farm into four separate units and these projects have now been finished, transforming a seriously dilapidated agricultural building into a vibrant collection of dwellings and holiday cottages. The majority of the built context in the vicinity is of a utilitarian, agricultural idiom - and it is this heritage of simple, undecorated geometric forms that this proposed dwelling draws its influenence.

LOCATING WITHIN A WIDER CONTEXT - NOLI PLAN



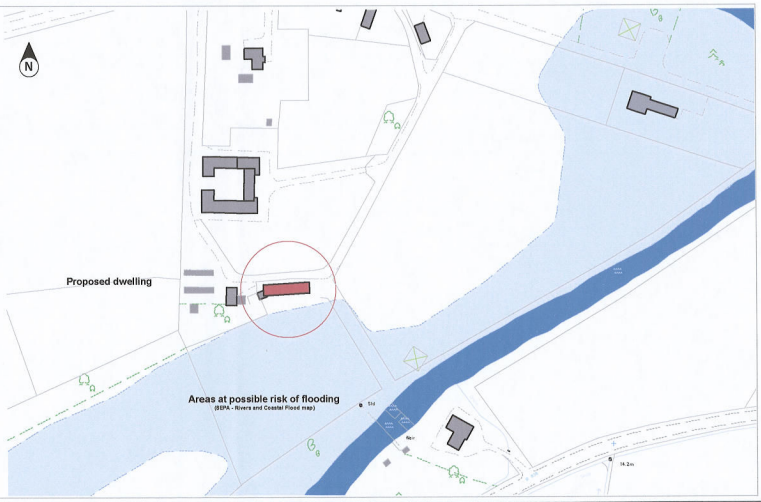
This map diagram is intended to show the existing rural clusters in the vicinity. The diagram shows how the proposed dwelling is located within an existing rural cluster and as such is consistent both with the existing settlement patterns and the aims of the area plan in relation to ROAs and houses in rural locations. Siting the house within this cluster allows it to benefit from the existing services and access as well as restricting any possibility of ribbon development or inappropriate isolated development within this sensitive landscape.

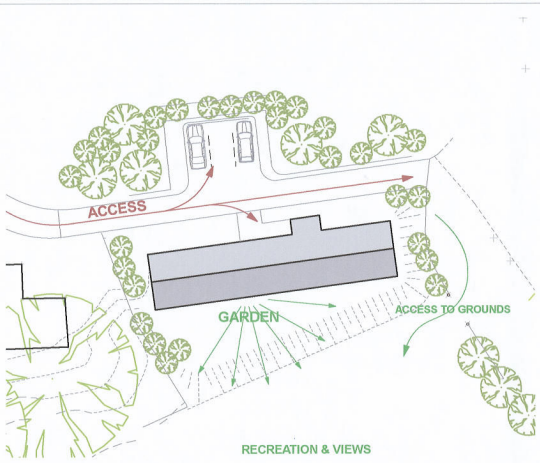
FLOODING

This proposed dwelling and all of its access and utility curtiledge is outside the functional floodplain of the Little Eachaig River - as shown on SEPA's Indicative River & Coastal Flood Map (Scotland) - See diagram on this page.

We have carefully sited the building to ensure that it will never be at risk from flooding from this river. The normal river level at the adjacent weir is 10.00m OSD and the highest ever recorded flood level of 12.36m OSD. However it should be noted that this flood level was recorded only at the Dalinlongart gauging station and there is no evidence that the propsed site has ever been inundated. The proposed FFL of the proposed house is 13.50m OSD and is 1.14m above the highest flood level and 3.5m above the normal river level. Therefore the likelihood of flooding from the Little Eachaig River is nil.

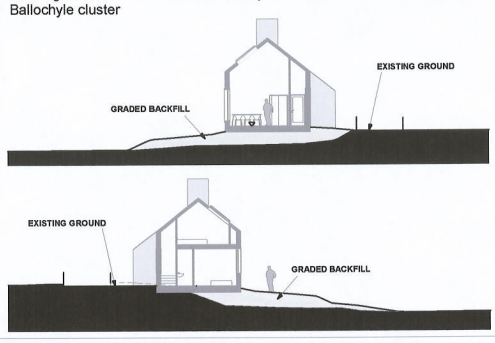
SEPA have recently completed the full upgrading the weir and riverbank reinforcement adjacent to the site and this will further mitigate any possible flooding to the surrounding fields - but as previously mentioned, will have no effect on the proposed dwelling. .





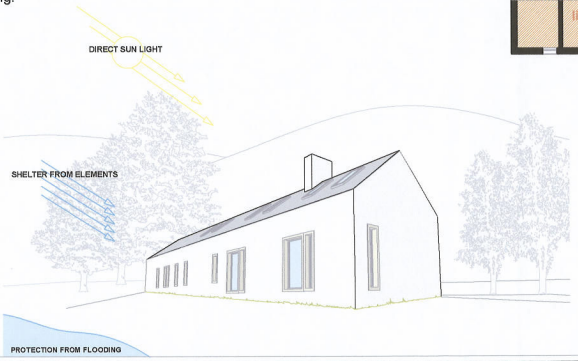
Building positioning principles

The siting of the building footprint has been driven by a number of factors; however primary amongst these are the existing site topography and the orientation of the site towards the sun and towards views. These factors dictate that the best solution for the site is a linear, narrow plan dwelling. The existing topography of the site needs very little modification to allow the proposed dwelling to sit well above any flood risk area and to allow the dwelling to sit at a level that is broadly similar to all other buildings in the Ballochyle cluster

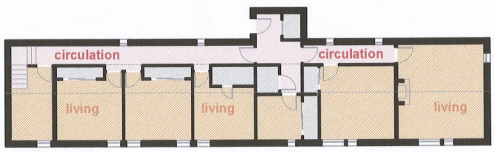


Building schematic principles

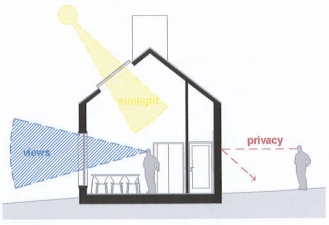
The proposed dwellinghouse is a very simple yet carefully considered design that is wholly site specific. It responds to its setting by orientating all of the living areas towards the sun and the views and uses the circulation as a barrier between the living areas and the more public side of the building. This schematic layout also assists the building's environmental strategy by ensuring that the main heated areas are not abutting the exposed north façade of the building.



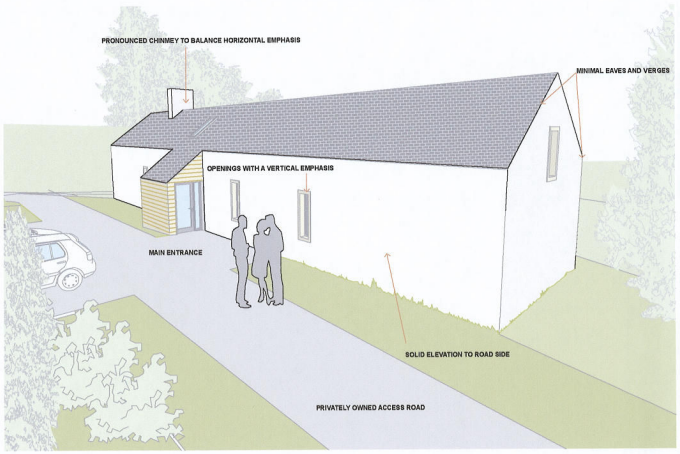
public aspect

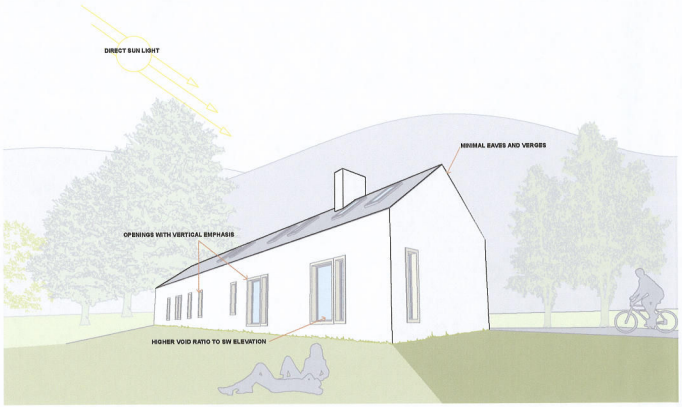


private aspect



DESIGNING THE BUILDING





The proposed dwelling is based on a traditional narrow and long plan form. The dwelling's principle rooms all face the river and all secondary and circulation spaces face the road / approach side, giving the dwelling both high levels of privacy and also to maximise the views to the setting.

This simple plan form also is the main generator of the elevational treatments of the building. It is derived from long and low traditional cottage forms but with both contemporary and site specific features.

The mass of the proposed building features a traditionally high solid to void ratio where the mass of the wall is emphasised. The large areas of solid masonry are counterbalanced by large window openings, set back in deep reveals. The high solid/void ratio is prominently expressed on the elevation facing the road /entrance where there are very few windows and the main feature is the entrance porch. This element has been designed as a pronounced feature that clearly demarks the entrance and gives the dwelling visual legibility. This element is clad in blonde sandstone and acts as both the main entrance and wind lobby to the dwelling.

The fenestration throughout consists of simple rectangular openings with a vertical emphasis. These openings reflect the plan insofar as the principle rooms all feature larger openings facing the main view to the river while secondary spaces such as bathrooms feature smaller openings.

The fenestration is recessed within deep reveals to highlight and accentuate the wall thicknesses. To further highlight this and to give the facades a subtle contemporay articulation all of the windows feature blonde sandstone window sills, surrounds and reveals to add interest and texture to the intentionally simple facades.

The roof of the proposed dwelling is natural slate and has been designed to have no eaves or verge overhangs. This features adds to the contemporary detailing of the proposed dwelling while also referring to the eaves and verge details of traditional cottages.

Design Precedents

Traditional Rural

traditional, narrow plan cottage with simple fenestration and large areas of wall mass

Contemporary Rural

contemporary details and materials on a traditional outline. Large areas of glass and majority timber clad

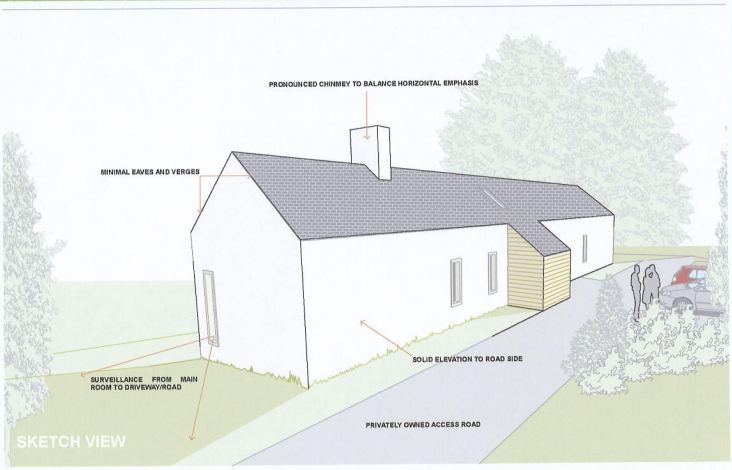
Rural Hybrid

fusion of traditional materiality and mass with contemporary detailing - it is this strategy that we wish to follow with our proposal

DESIGNING THE BUILDING

VIEW FROM RIVER

VIEW FROM ENTRANCE



SKETCH VIEW

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Agenda Item 3b

Argyll and Bute Council
Comhairle Earra Ghàidheal agus Bhòid

Development and Infrastructure Services
Director: Sandy Mactaggart

Milton House, Milton Avenue, Dunoon, PA23 7DU
Tel: (01369) 708606 or 708607
Fax: (01369) 708609

10 May 2010

Your Ref: MS/HK/10/0005/LRB
Our Ref: 09/01308/PP
Contact: David Eaglesham
Direct Line: (01369) 708608

Charles Reppke
Head of Governance and Law
Customer Services
Argyll & Bute Council
Kilmory
Lochgilphead
Argyll
PA31 8RT

For the attention of Melissa Stewart

Dear Mr Reppke,

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997;
PLANNING APPLICATION REF. 09/01308/PP
ERECTION OF DWELLINGHOUSE, FORMATION OF CAR PARKING, INSTALLATION OF SEPTIC TANK AND CREATION OF PRIVATE WATER SUPPLY;
LAND SOUTH WEST OF COTTAGE 3, BALLOCHYLE FARM, SANDBANK, DUNOON, ARGYLL.

With reference to your letter to the Development Manager dated 27 April 2010, I enclose the Service's Statement of Case in respect of this review.

Yours sincerely

David Eaglesham
Area Team Leader (Development Management)

STATEMENT OF CASE

FOR

ARGYLL AND BUTE COUNCIL

LOCAL REVIEW BODY

REFUSAL OF PLANNING PERMISSION FOR THE ERECTION OF A DWELLINGHOUSE, FORMATION OF CAR PARKING, INSTALLATION OF SEPTIC TANK AND CREATION OF PRIVATE WATER SUPPLY AT LAND SOUTH WEST OF COTTAGE 3 BALLOCHYLE FARM, SANDBANK, DUNOON, ARGYLL PA23 8RD.

LOCAL REVIEW BODY REF. 10/0005/LRB

PLANNING PERMISSION APPLICATION

REFERENCE NUMBER 09/01308/PP

6TH May 2010

STATEMENT OF CASE

The planning authority is Argyll and Bute Council ('the Council'). The appellant is Mrs Ffiona Boyd ('the appellant').

An application for planning permission (ref. 09/01308/PP) for the erection of a dwellinghouse, formation of car parking, installation of septic tank and creation of private water supply at land south-west of Cottage 3 Ballochyle Farm, Sandbank, Dunoon ('the appeal site') was refused under delegated powers on 25th January 2010. The planning application has been appealed and is the subject of referral to a Local Review Body.

DESCRIPTION OF SITE

The appeal site comprises part of a low-lying field situated between the existing converted Ballochyle Farm buildings to the north at a higher level, and the Little Eachaig River to the south. An unsurfaced access track runs from the main Dalinlongart-Ballochyle House access around Ballochyle Farm buildings and another dwellinghouse to the north. The proposed development would be located on lower ground to the south this track. The principal access to the appeal site is provided by the existing estate road running north where it connects with the Glen Massan road near Invereck Nursing Home. This road has recently been resurfaced and improved for vehicular traffic.

SITE HISTORY

The historical farmstead of Ballochyle Farm was split into two residential units (i.e. Cottage 2 on the north wing and Cottage 3 on the south wing). Planning permission (ref. 05/02354/COU) was granted on 6th February 2006 for the conversion of a storage building attached to Cottage 3 into a separate dwellinghouse.

Planning permission (ref. 06/00307/COU) was granted on 4th July 2006 to convert the dwellinghouse (cottage 2) on the northern wing of Ballochyle Farm into two separate dwellinghouses.

A detailed application by the appellant (ref. 06/00472/DET) for a 'long house' on the adjacent field to the north and east of Ballochyle Farm was withdrawn on 18th September 2006 following concerns regarding flooding and suitability of that site for residential purposes.

A detailed planning application by the appellant (ref. 06/01964/DET) for the erection of a dwellinghouse, formation of vehicular access, installation of septic tank and erection of detached garage was refused on 6th December 2006 due to design and impact on settlement character, location within the functional flood plain of the Little Eachaig River and poor condition of the private road leading to the Glen Massan Road.

A subsequent application for planning permission (ref. 09/01308/PP) for the erection of dwellinghouse, formation of car parking, installation of septic tank and creation of private water supply was refused on 25th January 2010 due to due to siting and settlement

character, land raising and siting within the functional flood plain of the Little Eachaig River and lack of information on foul drainage and surface water drainage.

STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED

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

STATEMENT OF CASE

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

- Whether the proposed location of the proposed development has sufficient regard to the context of its setting within the existing immediate development pattern and the wider Rural Opportunity Area.

- Whether the requirement to land raise and site the dwellinghouse and part of its curtilage within the functional floodplain of the Little Eachaig River would have a significant impact on the floodplain or on the proposed dwellinghouse and its amenity space.

- Whether foul drainage and surface water drainage matters can be addressed.

The Report of Handling (Appendix 1) sets out the Council's assessment of the application in terms of Development Plan policy and other material considerations. The consultation comments submitted by statutory and other consultees (Appendix 2) and third party representation (Appendix 3) are attached for the purpose of clarity.

REQUIREMENT FOR ADDITIONAL INFORMATION AND HEARING

It is considered that no new information has been raised in the appellants' submission which would result in the Planning Department coming to a different determination of this proposal. The issues raised were covered 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 significant body of conflicting representation, then it is considered that a Hearing is not required.

COMMENT ON APPELLLANT'S SUBMISSION

Having regard to the detailed reasons for requesting the review set out in part (7) of the appellants' submission the following points are noted:

1. *Appellant's agent suggests that the decision is contrary to pre-planning advice.*

Following refusal of planning permission (ref. 06/01964/DET) for a larger dwellinghouse on stilts within the floodplain on 6th December 2006, the agent submitted a pre-application enquiry on 7th January 2008 for a smaller dwellinghouse that would still require land raising. The response from the department is attached as Appendix 4. Contrary to the agent's suggestion that the department's advice was positive suggesting that the *"proposed location for the dwelling was a site"*, the response indicated no support in the then adopted Cowal Local Plan and highlighted flooding issues and a potential similar recommendation primarily if the flooding issue could not be resolved. It was suggested that the agent contact SEPA directly and any application should be accompanied by a detailed Flood Risk Assessment.

The appellant's agent also claims to be shocked by the recommendation for refusal. This would appear to be completely contrary to reasons for refusal in the previous scheme (ref. 06/01964/DET) and to pre-application correspondence noted above. With the exception of the improvements to the private road leading to Glen Massan (which had been undertaken by Ballochyle Estate since that application was refused) the remaining reasons for refusal were still considered to be valid for the revised scheme.

2. *Appellant's agent suggests that decision is contrary to council consultee recommendations.*

The Report of Handling clearly indicates the responses made by statutory consultees and policy implications. In terms of Roads and Public Protection, their concerns could be addressed by planning conditions but not specifically reasons for refusal. In terms of flooding which was the main consultee issue, SEPA eventually removed their initial objections but did raise some concern in their advice to the planning authority. SEPA in their response dated 19th November 2009 commented that the appeal site (or parts thereof) lies within the 1 in 200 year (0.5% annual probability) flood envelope of the Indicative River & Coastal Flood Map (Scotland), and may therefore be at medium to high risk of flooding. It is however noted that the proposed dwellinghouse itself is adjacent to the Flood Map. SEPA comment that the 'Flood Risk Statement' within the applicant's Design Report (August 2009) makes reference to the Flood Map but it appears that a crude approximation has been made on the flood outline on a drawing of the site. This is considered to be inappropriate as the Flood Map by its very nature is indicative, and not designed to quantify the risk to individual locations but supports national planning policy. SEPA consider its use in this form as contrary to the terms of use of the Flood Map. In terms of Regulatory requirements the advice contained in SEPA's letter is intended purely as advice to the Council.

On the basis of this advice, a previous site inspection by the case officer during a period of inclement weather on 29th September 2006 and historical evidence from neighbours, the department chose to adopt a precautionary approach in respect of potential flooding of the application site. Notwithstanding the agent's comments about the removal of the concrete weir and installation of gabion baskets at this point of the river, it is considered that it is the area upstream where the Little Eachaig River bends that could give rise to further flooding events. At the time of the previous inspection in September 2006 a blockage at this part of the river which was in spate at the time, appeared to be spilling over into low-lying fields including the appeal site.

This and the poor drainage within the field incorporating the appeal site resulted in ponding as demonstrated in photographs taken in September 2009 and contained within Appendix 5.

On the basis of the above, the department considers that it was correct to exercise the 'precautionary principle' and refuse the application under the terms of Policy LP SERV 8 of the Argyll and Bute Local Plan (August 2009).

3. *Appellant's agent suggests that no opportunity was given to submit additional technical information later specified in refusal reasons.*

   As Members will be aware, the department is under obligation to deal with applications within a given timescale. In the case of this application, no additional information regarding flooding issues or siting would have altered the recommendation. Submission of additional surface water drainage details and further foul drainage arrangements could perhaps have removed reasons for refusal 3. and 4.

4. *Appellant's agent suggests that the proposal is to locate in an area with a presumption in favour of development and untenable reasoning offered to refusal of permission.*

   The Report of Handling clearly states the presumption either in favour or against in terms of siting within a Rural Opportunity Area (ROA). Development within an ROA should not be taken as a guarantee for planning permission. Policy LP HOU1 states that housing developments are also subject to consistency with other polices of both the Structure Plan and Local Plan. The department's assessment of the whole ROA was that capacity exists by means of redevelopment sites or even open countryside locations that would be in tune with the character of the ROA.

   If Members were minded to grant planning permission, it could establish a precedent for permission for development that requires land raising while undermining the character of a particular part of the ROA. In this instance the cramming of buildings close to the former Ballochyle farm building.

5. *Appellant's agent suggests that planning officer's conclusions regarding siting and clustering are disputed.*

   This aspect is covered in section 4. above. The department consider that the cluster of buildings around the former Ballochyle farm building is contained within the unsurfaced track that encircles existing buildings. This track is not just an arbitrary line but one which also denotes higher ground away from areas that are prone to flooding. The character of each 'cluster' or individual buildings within the ROA was considered within the assessment. Over-developing each cluster would result in a significant change to the historical position and grouping of buildings that are features within the landscape that policies within the Structure Plan and Local Plan are trying to safeguard. Redevelopment opportunities and other open countryside locations could offer more suitable locations that would not involve land raising or placing buildings at risk from potential future flood events.

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.

The application site is located within a large Rural Opportunity Area (ROA) that extends from Glen Lean and Balagowan in the south-west towards Cairdie House at the north, and includes Ballochyle House, Ballochyle Steadings and former Ballochyle farm buildings (now converted into 4 residential units) in the central portion. Policy HOU 1 of the Argyll and Bute Local Plan states a presumption in favour of housing within ROAs where there is a general capacity to successfully absorb small scale housing development that would be in tune with the landscape character and settlement pattern. In the assessment of this proposal the capacity of the wider ROA was also assessed where it was considered that more appropriate development opportunities exist in less sensitive and less problematic locations.

In terms of immediate settlement character, the unsurfaced track is not just an arbitrary line that demarcates an appropriate development zone. Development within the track is sited on higher ground than the lower lying fields that are prone to flooding. However it is not as straightforward as merely adjusting the track to enclose the proposed dwelling, as development within the track may also have an impact on the setting of existing buildings where the former Ballochyle Farm buildings present a strong built feature within the landscape. The importance of the former Ballochyle Farm buildings is crucial in assessing whether this part of the ROA has capacity and the relationship between buildings within this established cluster.

In terms of flooding the department remains unconvinced by the submitted information that part of the appeal site would not be prone to flooding. There is evidence to support that this field has been underwater in recent times and the current vegetation suggests marshy and damp conditions. An element of land raising is therefore required to lift the proposed dwellinghouse out of the floodplain but both the car parking provision and access are located on higher ground. In this regard and on the basis of the evidence submitted, the department have adopted a cautionary approach in respect of potential flooding of the site or impact on the floodplain.

Detailed matters relating to foul drainage arrangements and surface water drainage arrangements were not sufficiently addressed at the time of writing the original report, hence additional reasons for refusal. It is however considered that these matters could be addressed but further information would require to be submitted for consideration.

The department consider that capacity exists within the ROA on alternative sites but granting permission on a site that has a recent history of flooding and one that has an impact on the character and settings of existing buildings would be contrary to Policies STRAT S1 1, STRAT DC1, STRAT DC4, STRAT DC10, STRAT HO1 of the Argyll and Bute Structure Plan, and policies LP ENV1, LP ENV19, LP HOU1, LP SERV1, LP SERV2, LP SERV3, LP SERV8 of the adopted Argyll and Bute Local Plan (August 2009). Taking account of all of the above, it is respectfully requested that the appeal be dismissed.

APPENDICES

Appendix 1 Report of Handling dated 21st January 2010

Appendix 2 Consultation comments submitted by statutory and other consultees

Appendix 3 Third party representation

Appendix 4 Pre-application enquiry response dated 7th January 2008

Appendix 5 Photographs of the appeal site October 2009

APPENDIX 1

Argyll and Bute Council
Development Services

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

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Reference No: 09/01308/PP

Planning Hierarchy: Local application.

Applicant: Mrs. Ffiona Boyd

Proposal: Erection of dwellinghouse, formation of car parking, installation of septic tank and creation of private water supply.

Site Address: Land south-west of Cottage 3, Ballochyle Farm, Sandbank, Dunoon

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DECISION ROUTE

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

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of dwellinghouse (white render and natural slates);
- Land engineering works comprising infilling and regrading of site to accommodate dwellinghouse;
- Installation of new septic tank with soakaway (no details submitted) ;
- Formation of car parking area (three spaces);
- Associated landscaping and boundary treatments (including tree planting and fencing);

(ii) Other specified operations

- Provision of private water supply;
- Formation of SuDS soakaways (no details submitted);
- Draining and removal of field cover to create lawn area.

(B) RECOMMENDATION:

It is recommended that planning permission be **refused** for the reason(s) set out overleaf.

(C) HISTORY:

The historical farmstead of Ballochyle Farm was split into two residential units (i.e. Cottage 2 on the north wing and Cottage 3 on the south wing). Planning permission (ref. 05/02354/COU) was granted on 6th February 2006 for the conversion of a storage building attached to Cottage 3 into a separate dwellinghouse. Planning permission (ref. 06/00307/COU) was granted on 4th July 2006 to convert the dwellinghouse (cottage 2) on the northern wing of Ballochyle Farm into two separate dwellinghouses.

A detailed application by the current applicant (ref. 06/00472/DET) for a 'long house' on the adjacent field to the north and east of Ballochyle Farm was withdrawn on 18th September 2006 following concerns regarding flooding and suitability of that site for residential purposes.

A detailed planning application (ref. 06/01964/DET) for the erection of a dwellinghouse, formation of vehicular access, installation of septic tank and erection of detached garage was refused on 6th December 2006 due to design and impact on settlement character, location within the functional flood plain of the Little Eachaig River and poor condition of the private road leading to the Glen Massan Road.

(D) CONSULTATIONS:

Scottish Environment Protection Agency (responses dated 5th October and 19th November 2009): No objections in principle to the proposal in terms of flood risk. Comments on applicant's interpretation of Flood Risk Map. Additional advice given on flood risk.

Flood Alleviation Manager (response dated 15th October 2009): No objections provided a finished floor level of 13.60metres A.O.D. is established.

Area Roads Manager (response dated 12th October 2009): No objections subject to conditions regarding sightlines at the access to the B836, parking for 2 vehicles and a turning area provided within the development. Roads comment that at present, private access road is not available from the A815 due to the condition of an existing bridge which has now been closed to vehicles. Access to the site will be from a private access road from the U15 Glen Massan Road (*which has 7.5t weight 7'6" width and 30' length restrictions in place).*

Public Protection (response dated 12th November 2009): Note the comments contained in the submitted report by Transtech and recommend a condition in respect of the installation of a private water supply.

(E) PUBLICITY:

The application was advertised under Regulation 20(1) Advert Statement (expiry date 16th October 2009).

(F) REPRESENTATIONS:

Two letters of objection have been received from Mrs. Kirsteen Manuel, *Ballochyle* (letter received 16th October 2009) and Tom Pierson, *1 Ballochyle Estate,* Sandbank (letter dated 27th October 2009). The points raised can be summarised as follows:

- *Planning and Flooding – SEPA flood risk maps indicate the area has a high risk of flooding. Queries regarding the actual flood area. Photos and previous correspondence attached indicate recent flood events.*
- *Use of Bore Hole as private water supply – No evidence to support that bore hole will not be polluted in times of flood. Risk of water seepage from the river into bore hole needs to be assessed. The Little Eachaig and its catchment area are known to be polluted from the Dalinlongart Coup.*
- *Working farm buildings in close proximity – proposed dwelling is in the midst of working farm buildings. Not noted on the plans are sheep pens and dipping facilities in addition to farm sheds and a midden that sits on the boundary of the proposed dwellinghouse.*
- *Ballochyle Farm Cluster – applicant denotes proposed dwelling to be part of the Ballochyle Farm Cluster. The applicant was sold the property as a courtyard, not a farm. The location noted is too small for a government crofter's grant so should not be known as a 'Farm' or 'Farm Cluster'.*
- *Boundaries / Access – Other residents on the estate have servitude rights to use the roads within Ballochyle Estate. Applicant indicates that part of this estate road will be surfaced, which will not be in keeping with the rest of the farm tracks. Applicant does not own private connecting road from the Ballochyle Estate to the U15 Glen Massan Road. This road has recently been resurfaced at a personal expense to the current road users. The new house would have to be given servitude rights by the owners.*
- *Site History – three previous applications made for this site with one refusal and two being withdrawn due to water supply issues, and flooding and design issues.*

A response has been received from the applicant in response to Mrs. Manuel's letter dated 15th October 2009. *SEPA's flooding map clearly shows that the proposed dwelling is outside the area marked at risk from flooding. Finished floor level will be above level of flood risk as noted by highest recorded level at Dalinlongart gauging station. Mrs. Manuel is not a full-time resident at Ballochyle and therefore 'eye-witness' accounts must be viewed with a degree of suspicion. Assertion that the barns adjacent are working farm buildings is false. In the four years that the applicant has lived in Ballochyle, the dipping area or the barns have not been used for anything other than storage.*

Comment: Refer to Assessment below.

(G) **SUPPORTING INFORMATION**

Has the application been the subject of:

(i) **Environmental Statement: N**
(ii) **An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: N**
(iii) **A design or design/access statement: Y**

In the Design Statement (August 2009), the applicant's agent comments that *the proposal is for a four-bedroom traditionally influenced yet contemporarily styled family dwellinghouse based on a traditional 'long house' form. The current submission is based on a previously refused scheme where all of the reasons for refusal have been considered. The proposed dwellinghouse is accessed by local estate roads that have recently been upgraded and resurfaced. The applicant has full access and servitude rights to the proposed site. The estate is served by a private water supply that is in need of upgrading and therefore it is proposed to create a new private water supply to provide potable water to the proposed dwelling by drawing water from the Little Eachaig River. There are also recent works by SEPA to replace the weir and gauging station on the Little Eachaig River and ongoing works by Scottish Hydro to route all of the local electricity supply cables underground.*

The applicant's agent comments that the proposed dwelling is located within an existing rural cluster and is consistent with the existing settlement pattern. Siting the dwelling within this cluster allows it to benefit from the existing services and accesses as well as restricting any possibility of ribbon development or inappropriately isolated development within this sensitive landscape. The design references for the proposed dwelling originate from surrounding agricultural outbuildings in their simple form and materials. The proposed dwelling is based on a traditional narrow and long plan form. The principle rooms all face the river and all secondary and circulation spaces face the road giving the dwelling high levels of privacy and to maximise views.

(iv) **A report on the impact of the proposed development e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc: Y**

In terms of flooding, the Design Statement states that the proposed dwelling and all of its access and curtilage is outside the functional floodplain of the Little Eachaig River. The proposed FFL of the proposed dwelling is 13.50M OSD and is 1.14m above the highest flood level and 3.5m above the normal river level. Therefore the likelihood of flooding from the Little Eachaig River is nil. The agent mentions that SEPA have recently completed the full upgrading of the weir and riverbank reinforcement adjacent to the site and this will further mitigate any possible flooding to the surrounding fields.

The applicant has commissioned engineering consultants to produce a Water Quality Assessment for the proposed development. The report stresses that supplies like this are likely to be highly variable and will be strongly influenced by recent rainfall patterns and temperature. The results presented represent a 'snapshot' only and actual water quality will be both better and worse at different times. The water analysis results are consistent with those expected for a source of this nature, with a failure being recorded for iron and colour only, when compared with the requirements of the Private Water Supply (Scotland) Regulations 2006.

(H) **PLANNING OBLIGATIONS**

(i) **Is a Section 75 agreement required: N**

(i) **Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: N**

(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.**

a) **Argyll and Bute Structure Plan 2002:** The following policies are applicable:

STRAT SI 1 – Sustainable Development
STRAT DC 4 Development in Rural Opportunity Areas (ROA)
STRAT DC 10 – Flooding and Land Erosion
STRAT HO 1 – Housing – Development Control Policy

b) Argyll and Bute Local Plan (August 2009)

The application site is located within a Rural Opportunity Area (ROA) outwith the settlement of Sandbank where the following policies are applicable:

LP ENV1 Development Impact on the General Environment;
LP ENV19 Development Setting, Layout and Design (*including Appendix A Sustainable Siting and Design Principles*);
LP HOU1 General Housing Development;
LP SERV 1 Private Sewage Treatment Plants
LP SERV2 Incorporation of Natural Features/Sustainable Drainage Systems (SuDS);
LP SERV3 Drainage Impact Assessment (DIA);
LP SERV 4 Water Supply
LP SERV8 Flooding and Land Erosion;
LP TRAN4 New and Existing, Public Roads and Private Access Regimes;
LP TRAN6 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 4/2009.

a) Scottish Planning Policy SPP3 – 'Planning for Housing';
b) Scottish Planning Policy SPP7 – 'Planning and Flooding';
c) Scottish Planning Policy SPP 15: Planning for Rural Development;
d) Planning Advice Note PAN 44 : Fitting New Housing Development into the Landscape;
e) Planning Advice Note PAN 69 : Planning and Building Standards Advice on Flooding;
f) Planning Advice Note PAN 72: Housing in the Countryside.

(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: N

(L) Has the application been the subject of statutory pre-application consultation (PAC): N

(M) Has a sustainability check list been submitted: N

(N) Does the Council have an interest in the site: N

(O) Requirement for a hearing (PAN41 or other): N

(P) Assessment and summary of determining issues and material considerations

The design and layout of the proposed dwellinghouse is based on a previously refused scheme in 2006 (ref. 06/01964/DET). The agent has submitted supporting information in respect of finished floor levels and feels that the proposed dwelling would be harmonious with the existing cluster of buildings around Ballochyle Farmsteadings.

While one of the reasons for refusal has been addressed (i.e. condition of access road), there are outstanding concerns regarding the impact on the development pattern and building within the functional flood plain.

The department maintains that in terms of the development pattern, any potential development should take place within the existing perimeter track that demarcates the built area on higher ground from lower lying ground where the proposed dwellinghouse and its curtilage would be sited.

Despite suggested floor levels, the department has adopted a precautionary approach regarding potential flooding and the need to develop within the floodplain when there are more suitable development sites contained within the Rural Opportunity Area. The proposed development would also require land raising to keep it clear of the functional flood plain in which it is located.

Two letters of objections have been received that include flooding matters and surrounding land uses. Whilst none of the statutory consultees has objected to the proposal, SEPA question the applicant's agent interpretation of flood information and advice and considers this assessment inappropriate. While SEPA have not objected outright on flood risk grounds and proposed floor level, it is noted that parts of the application site lie within the 1 in 200 year flood envelope of the Indicative River & Coastal Flood Map and may therefore be at medium to high risk of flooding. SEPA also note the requirement for land raising to provide a development platform and potential for surface water ponding.

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

(R) Reasons why planning permission or a Planning Permission in Principle should be refused

1. Having regard to the siting and layout of the proposed dwellinghouse, in isolation to existing surrounding buildings, the development would not complement but be at variance with the existing settlement character with its particular layout and juxtaposed siting. The siting of the dwellinghouse on lower ground on the opposite side of the unsurfaced track (that contains existing buildings) would result in development that would be out of context and visually detrimental within surrounding farmland. Accordingly, such a dwellinghouse with its particular siting and requirements for land raising to avoid the functional floodplain of the Little Eachaig River would be contrary to the principles of sustainable development and of protecting and enhancing the quality of the environment within the Rural Opportunity Area, where there are more appropriate development opportunities. The proposal is considered to be contrary to, SPP 3: Planning for Housing; SPP 15: Planning for Rural Development; Policies STRAT SI 1, STRAT DC 4, STRAT HO 1 of the Argyll and Bute Structure Plan 2002; and to Policies LP ENV1, LP ENV19 and LP HOU1 of the Argyll and Bute Local Plan (August 2009) all of which presume against the nature of the development proposed.

2. The proposed development involves an element of land raising in order to avoid the functional flood plain of the Little Eachaig River in which the proposed development and a large proportion of its amenity space would be located. The applicant has failed to demonstrate that the proposed dwellinghouse and its curtilage by reason of its siting and design within the functional floodplain of the Little Eachaig River would not be at significant risk from flooding. The lack of a detailed Flood Risk Assessment and submitted information and history of the site from flooding is contrary to Scottish Planning Policy SPP7 – Planning and Flooding; PAN 69: Planning and Building Standards Advice on Flooding; Policy STRAT SI 1 (Sustainable Development); Policy STRAT DC10 (Flooding and Land Erosion) of the Argyll and Bute Structure Plan 2002; and policies LP ENV1, LP ENV19 and LP SERV 8 of the Argyll and Bute Local Plan all of which presume against the nature of the development proposed.

3. The applicant has failed to provide accurate information in respect of foul drainage proposals for the application site. The lack of precise foul drainage arrangements is contrary to: policy LP SERV 1 – Private Sewage Treatment Plants and Wastewater Systems of the Argyll and Bute Local Plan (August 2009), which presume against the nature of the development proposed.

4. The applicant has failed to provide accurate information in respect of surface water drainage proposals (SuDS) for the application site. The lack of precise drainage arrangements incorporating a SuDS scheme to alleviate potential flooding of the site and adjacent properties and their land is contrary to: Scottish Planning Policy SPP7 – *'Planning and Flooding'* and PAN 69 *'Planning and Building Standards Advice on Flooding'*; Policies STRAT SI 1 *'Sustainable Development'* and STRAT DC10 *'Flooding and Land Erosion'* of the Argyll and Bute Structure Plan 2002; and policies LP SERV 2 – *Sustainable Drainage Systems (SuDS),* LP SERV 3 *'Drainage Impact Assessment'* and LP SERV 8 *'Flooding and Land Erosion'* of the Argyll and Bute Local Plan (August 2009), all of which presume against the nature of the development proposed.

(S) **Reasoned justification for a departure from the provisions of the Development Plan**
n/a

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

Author of Report: Brian Close Date: 19th January 2010

Reviewing Officer: David Eaglesham Date: 21 January 2010

Angus Gilmour
Head of Planning

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 09/01308/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

Within the Argyll and Bute Local Plan, the application site is located within a Rural Opportunity Area (ROA). This large ROA runs from Glen Lean and Balagowan in the south-west towards Cairdie House at the north and includes Ballochyle House, Ballochyle Steadings and former Ballochyle farm buildings (now converted into 4 residential units) in the central portion.

The majority of the land surrounding the application site is in the ownership of Ballochyle Estate and used primarily for sheep grazing purposes. The immediate area is characterised by the traditional Ballochyle farm buildings, and scattered farm outbuildings of timber and corrugated iron construction. The recent sub-division of the former Ballochyle Farm into four separate dwellinghouses was considered to have no significant adverse visual impact as it was an existing building.

Ballochyle Farm is located on higher ground than the application site. The Ballochyle Farm buildings and dwellinghouse to the north and other storage buildings are contained within the access track that defines the higher ground which these buildings are sited upon. Other agricultural storage buildings are located in the south-west on the opposite side of the track immediately adjacent to the proposed dwellinghouse.

STRAT DC 4 of the Argyll and Bute Structure Plan gives encouragement to small scale developments in ROAs on suitable sites which in terms of siting and design, will visually integrate with the landscape and settlement pattern; this may include small scale development in open countryside as well as small scale infill, rounding-off, redevelopment and change of use of building development.

Policy HOU 1 of the Argyll and Bute Local Plan states a presumption in favour of housing within ROAs where there is a general capacity to successfully absorb small scale housing development that would be in tune with the landscape character and settlement pattern.

The proposed development does not sit comfortably within the immediate settlement pattern where the particular siting and layout do not complement existing established traditional buildings. Development on this application site could not be considered as in tune with the landscape character and development pattern that extends the existing group of buildings and requires land raising to do so. The proposed development is therefore inconsistent with policies contained in the adopted Argyll and Bute Local Plan and Argyll and Bute Structure Plan.

The development is not in tune with the landscape character and does not respect the surrounding development pattern. The proposal would result in an unnatural expansion of the existing group of buildings on higher ground onto lower ground beyond the unsurfaced track. The proposal is considered to be inconsistent with policies STRAT DC 4 and HO 1 of the Argyll and Bute Structure Plan and Policies LP ENV 19 and LP HOU 1 of the Argyll and Bute Local Plan.

B. Location, Nature and Design of Proposed Development

(i) Development Setting

The application site comprises part of a low-lying field situated between the existing Ballochyle Farm buildings to the north at a higher level, and the Little Eachaig River to the south. An unsurfaced access track runs from the main Dalinlongart-Ballochyle House access around Ballochyle Farm and another dwellinghouse to the north. The proposed development would be located on lower ground to the south this track. The former main vehicular access over the bridge past Dalinlongart Farm has now been formally closed due to storm/flood damage when the buttresses of the bridge were washed away. The principal access to the site is now provided by the existing estate road running north where it connects with the Glen Massan road near Invereck Nursing Home. This road has recently been resurfaced and improved for vehicular traffic. While there is also a longer private track running west to connect with the B836 Colintraive Road, this is poorly surfaced, has steep gradients and is not suitable for standard vehicles.

(ii) Development Layout

The dwellinghouse has been designed on the theme of a traditional long cottage. The building itself would be long (25 metres) and slim (5.5 metres) with a slated pitched roof with oversized chimney and white rendered walls. The main entrance porch would be finished in blond sandstone. The dwelling would be sited with its main front elevation alongside the existing access track where a parking area for three cars would be located on the northern side of the track.

The dwellinghouse would provide two levels of accommodation. On the ground floor, the main entrance would be located on the main (north) elevation into a long hall where a lounge, kitchen/dining three bedrooms and bathroom would be located. On the upper level, a master bedroom, office/study would be located with roof voids over the downstairs lounge, kitchen and hall.

It is proposed to surface the section of existing compacted stone chipping track within the application site with asphalt. The large field to the rear (south) of the dwellinghouse is to be used as amenity space together with small lawn areas on either side of the house.

It is proposed to create a new water supply with a borehole shown within the field to the south and a new septic tank system (no details submitted) on land across the track to the north, adjacent to the proposed car parking area.

(i) Assessment

The proposal must be assessed against the provisions of Policy LP ENV 19 - Development Setting, Layout and Design of the Argyll and Bute Local Plan (August 2009) where a high standard of appropriate design is expected in accordance with the Council's design principles. Development shall be sited and positioned to pay regard to the context within which it is located. Development layout and density shall effectively integrate with its countryside setting of the development. This is further explored in Appendix A Sustainable Siting and Design Principles where in terms of 'Design of New Housing in Countryside Development Zones', 'the landscape could be easily spoiled by careless development and new houses within this landscape must respect local identity and the environment and should be designed taking the following advice into account:

- *Location – houses must be carefully located within the landscape to complement their surroundings and should make the minimum possible physical impact;*

The development of the long isolated dwellinghouse has the capacity to extend the existing cluster of buildings contained within the existing track onto farmland that serves as the functional floodplain of the Little Eachaig River and adjacent to existing agricultural structures. While other development opportunities may exist within this group of existing buildings on higher ground, the proposed development would be regarded as an unnatural expansion across the track onto lower ground and into the floodplain.

- *Siting – must respect existing landforms and development patterns and the amenity of other dwellings;*

The proposed development requires an element of land raising to ensure that it sits higher than the field to the south which lies within the functional floodplain of the Little Eachaig River where flooding events have occurred frequently and recently. The proposed dwellinghouse would be sited at a lower level than the adjacent dwellings.

While the proposed dwellinghouse has been designed to artificially sit on a platform site higher than the low-lying field that forms part the functional floodplain, the remainder of the site would be unprotected from flood events. Proposals to turn the existing reeded field within the floodplain area into a mown lawn to provide external amenity space for the dwellinghouse could prove futile given the history of flooding on the site. In terms of location, there would be no issues of loss of privacy, daylighting or overlooking from any adjoining buildings that are located some 40 metres distant.

- *Principles of Design – High standards of design are expected where scale form, proportions, materials, detailing, colour must all work together to enhance the existing built form and landscape;*
- *Materials and Detailing – materials and detailing should be compatible with the traditions of the area and be sympathetic to the landscape;*
- *Outbuildings – should relate to the main building in form and design and be carefully positioned on the site, relating to the house;*

In general terms the design of the proposed dwellinghouse is traditional in appearance with appropriate materials. However, whilst the scale and design of the dwelling is generally acceptable, it is the siting of the dwelling that requires land raising out of the floodplain and isolated location on the river side of the track that is considered to be unacceptable.

- *Landscaping and Boundaries – where privacy and amenity is important, built form should be screened from viewpoints using appropriate native planting. Hard-landscaping should be kept to a minimum. Boundaries will either integrate a site or alienate it;*

Shrub and tree screen planting is proposed around the site with post and wire fencing. Whilst no precise details have been submitted in respect of proposed boundary treatments and planting, it is considered that specific conditions could control landscaping and screening of the site within its rural context.

- *Parking – car parking areas should not be dominant features which are highly visible from access ways or dominate views from within buildings.*

The dwellinghouse would be served by the existing unbound access track that would be surfaced in asphalt for the stretch within the application site boundary. Parking for three vehicles is proposed facing the main

entrance to the dwelling but on land on the opposite (north) side of the track. Screening by trees and shrubs is proposed.

Having due regard to the above, the proposal is considered to be inconsistent with Policy STRAT SI 1 STRAT DC 4 and STRAT HO 1 of the Argyll and Bute Structure Plan 2002 and Policies LP ENV 19, HOU 1 and Appendix A of the Argyll and Bute Local Plan.

C. Flooding

A material consideration in an assessment of this application is the risk of flooding and recognition that the greater part of the site forms part of the functional floodplain for the Little Eachaig River whose large catchment area includes many watercourses draining east from Glen Kin, Glen Lean and Gleann Ban.

In terms of SPP7: Planning and Flooding, flood risk is a material consideration for a wide range of sites including those with a history of flooding, in a flood plain, adjacent to a watercourse, drained by a culvert, with drainage constraints or otherwise poorly drained.

While SEPA have not objected on flood risk grounds, the application site (or parts thereof) lies within the 1 in 200 year (0.5% annual probability) flood envelope of the Indicative River & Coastal Flood Map (Scotland), and may therefore be at medium to high risk of flooding. It is however noted that the proposed dwellinghouse itself is adjacent to the Flood Map.
SEPA comment that the 'Flood Risk Statement' within the applicant's Design Report (August 2009) makes reference to the Flood Map but it appears that a crude approximation has been made on the flood outline on a drawing of the site. This is considered to be inappropriate as the Flood Map by its very nature is indicative, and not designed to quantify the risk to individual locations but supports national planning policy. SEPA consider its use in this form as contrary to the terms of use of the Flood Map.
Notwithstanding the general flood risk comments, SEPA find the proposed finished floor level of 13.5m AOD acceptable when taken against the maximum water level of 12.36m AOD recorded at the former Dalinlongart Gauging Station during the November 1979 flood event. It is noted that the development will require land raising to provide a development platform and it is suggested that the volume of land raising should be minimised so as not to encroach on the floodplain and impact its ability to convey and store water at this location. Advice given on water resistant materials and also suggest that frequent surface water ponding in the field should be investigated to ensure that this does not have an adverse impact on the proposed development.

SPP7, including the Risk Framework, and advice from SEPA on flood risk are important material considerations, and accordingly, given SEPA's comments, the proposed development is contrary to the advice given in this document in addition to policies in the adopted Argyll and Bute Local Plan.
While the applicant suggests that, *"the likelihood of flooding from the Little Eachaig River is nil"*, there is evidence to demonstrate that the site has flooded in the past and could still be prone to flooding (in an area identified as medium to high risk of flooding) where this trend is not just likely to continue but may increase due to climatic changes. With this in mind, and the capacity of the larger ROA to more appropriate development opportunities, a proposal to build within a floodplain (taking account of the amount of infilling/backfilling required) is considered contrary to sustainable development policies. The department must therefore adopt a precautionary approach consistent with National Planning Guidance and recommend refusal as the proposal stands.

Given the above, the Council have adopted a precautionary approach in terms of potential flooding and the requirement to land raise within the floodplain and the proposal is therefore considered to be inconsistent with the provisions of Policies STRAT SI 1 and STRAT DC 10 of the Argyll & Bute Structure Plan 2002 and Policies LP ENV 1 and LP SEV3 and LP SERV 8 of the Argyll and Bute Local Plan.

D. Road Network, Parking and Associated Transport Matters

Since the previous application (ref. (ref. 06/01964/DET) was refused in December 2006, the private estate road leading from Ballochyle Farm to the junction with the Glen Massan Road has been resurfaced. Roads have no objections in principle to the proposed scheme subject to conditions regarding visibility splays and parking standards. It is noted that the access is not available direct to the A815 where the existing access to the site from the U15 Glen Massan Road has 7.5t weight 7'6" wide and 30' length restrictions.
Car parking provision is considered to be acceptable.

Having due regard to the above the proposal is considered to be consistent with Policies LP TRAN 4 and TRAN 6 of the Argyll and Bute Local Plan.

E. Water Supply

The applicant proposes to sink a borehole south of the proposed development to establish a new private water supply. While not strictly a planning consideration, Public Protection comment that should planning permission be granted, it would be a requirement via suspensive condition that the existing private water supply be maintained and safeguarded and that any proposed development can be served by its own supply with no impact on existing supply. This is also a matter which would be dealt with under a Building Warrant.

Having due regard to the above the proposal is considered to be consistent with Policy SERV 4 of the Argyll and Bute Local Plan.

F. Foul Drainage

It is proposed to install a bio-disc septic tank with soakaway but no details have been provided.

On the basis of a lack of information on proposed foul drainage arrangements, the proposal is considered to be inconsistent with Policy SERV 1 of the Argyll and Bute Local Plan (August 2009).

G. Surface Water Drainage

It is proposed to install SuDS soakaways into the low-lying field that forms part of the functional flood plain. This field is also prone to ponding. No details have been provided.

On the basis of a lack of information on proposed surface water drainage arrangements, the proposal is considered to be inconsistent with Policies SERV 2 and SERV 3 of the Argyll and Bute Local Plan (August 2009).

CONCLUSION

The determining issue in an assessment of this proposal is whether the siting and design of this contemporary rural dwellinghouse together with its amenity spaces in and adjacent to the functional flood plain of the Little Eachaig River, would complement the character of the existing surrounding dwellings within a Rural Opportunity Area.

The proposal would result in an unnatural and unacceptable extension of the existing cluster of buildings at Ballochyle Farmsteadings that are contained within the existing private track. Development outwith this track could lead to an expansion of the existing group of buildings into surrounding low-lying land that is prone to flooding and within the functional floodplain of the Little Eachaig River.

While the Sustainable Design Guidance contained in the Argyll and Bute Local Plan promotes innovative and energy conscious design, it is important that dwellings within Rural Opportunity Areas are attractively sited and appropriate. One of the main aims of Design Guidance 1 is to ensure that future development is in sympathy with its landscape and its surroundings where there is a need to consider both the relationship of new dwellings to their landscape setting and their relationship to other buildings within their immediate area. Although the proposed long, narrow building displays traditional design features, it would require infilling to ensure that the building could be built out of the floodplain of the Little Eachaig River. Whilst the infilled ground could be regraded and landscaped to look natural, it is the location of this dwellinghouse on the opposite side of the access track from existing buildings that result in the building being isolated and out of context in the immediate vicinity.
Furthermore the location of this dwellinghouse does not sit well within its rural surroundings where it does not contribute to the character of the Ballochyle estate and at variance with the existing built form. Siting a dwelling on lower ground across the track from existing dwellings that are located on higher ground would result in a building that could have a detrimental visual impact on the character of the surrounding rural area, and establish a dangerous precedent where there may be potential to build new houses in more suitable development or redevelopment sites.

While recent Design Guidance suggests that modern and sustainable design should be encouraged, it is considered that this is only acceptable on appropriate sites. The application site has a recent history of flooding from the Little Eachaig River which carries a significant amount of water from its large catchment. Despite recent improvements to the river downstream with the installation of gabions, flooding has taken place further upstream where the river has the potential to flood part of the application site. Whilst the applicant has attempted to address issues that caused a similar previous application to be refused, the department remains unconvinced that parts of the site will not be susceptible to flooding and has adopted a precautionary approach. Notwithstanding SEPA's non-objection on flood risk, it is

suggested that the applicant's interpretation of SEPA's Flood Map is inappropriate in this case. Despite the innovative and site constraint influenced 'long-house' design, the applicant has not amply demonstrated that the site and its curtilage are free from flooding therefore contrary to National Policy Guidance and advice from SEPA.

Given the topography, location and background to the application site, the proposed dwellinghouse with its particular siting and layout, does not conform to the layout and pattern of surrounding existing buildings which would be at odds with the existing settlement character, sited within a floodplain and lacking sufficient details on foul drainage and surface water drainage and therefore contrary to Policies STRAT S1 1, STRAT DC1, STRAT DC4, STRAT DC10, STRAT HO1 of the Argyll and Bute Structure Plan, and policies LP ENV1, LP ENV19, LP HOU1, LP SERV1, LP SERV2, LP SERV3, LP SERV8 of the Argyll and Bute Local Plan and accordingly does not justify the grant of planning permission.

REASONS FOR REFUSAL RELATIVE TO APPLICATION REF. NO. 09/01308/PP

1. Having regard to the siting and layout of the proposed dwellinghouse, in isolation to existing surrounding buildings, the development would not complement but be at variance with the existing settlement character with its particular layout and juxtaposed siting. The siting of the dwellinghouse on lower ground on the opposite side of the unsurfaced track (that contains existing buildings) would result in development that would be out of context and visually detrimental within surrounding farmland. Accordingly, such a dwellinghouse with its particular siting and requirements for land raising to avoid the functional floodplain of the Little Eachaig River would be contrary to the principles of sustainable development and of protecting and enhancing the quality of the environment within the Rural Opportunity Area, where there are more appropriate development opportunities. The proposal is considered to be contrary to, SPP 3: Planning for Housing; SPP 15: Planning for Rural Development; Policies STRAT SI 1, STRAT DC 4, STRAT HO 1 of the Argyll and Bute Structure Plan 2002; and to Policies LP ENV1, LP ENV19 and LP HOU1 of the Argyll and Bute Local Plan (August 2009) all of which presume against the nature of the development proposed.

5. The proposed development involves an element of land raising in order to avoid the functional flood plain of the Little Eachaig River in which the proposed development and a large proportion of its amenity space would be located. The applicant has failed to demonstrate that the proposed dwellinghouse and its curtilage by reason of its siting and design within the functional floodplain of the Little Eachaig River would not be at significant risk from flooding. The lack of a detailed Flood Risk Assessment and submitted information and history of the site from flooding is contrary to Scottish Planning Policy SPP7 – Planning and Flooding; PAN 69: Planning and Building Standards Advice on Flooding; Policy STRAT SI 1 (Sustainable Development); Policy STRAT DC10 (Flooding and Land Erosion) of the Argyll and Bute Structure Plan 2002; and policies LP ENV1, LP ENV19 and LP SERV 8 of the Argyll and Bute Local Plan all of which presume against the nature of the development proposed.

6. The applicant has failed to provide accurate information in respect of foul drainage proposals for the application site. The lack of precise foul drainage arrangements is contrary to: policy LP SERV 1 – Private Sewage Treatment Plants and Wastewater Systems of the Argyll and Bute Local Plan (August 2009), which presume against the nature of the development proposed.

7. The applicant has failed to provide accurate information in respect of surface water drainage proposals (SuDS) for the application site. The lack of precise drainage arrangements incorporating a SuDS scheme to alleviate potential flooding of the site and adjacent properties and their land is contrary to: Scottish Planning Policy SPP7 – *'Planning and Flooding'* and PAN 69 *'Planning and Building Standards Advice on Flooding'*; Policies STRAT SI 1 *'Sustainable Development'* and STRAT DC10 *'Flooding and Land Erosion'* of the Argyll and Bute Structure Plan 2002; and policies LP SERV 2 – *Sustainable Drainage Systems (SuDS),* LP SERV 3 *'Drainage Impact Assessment'* and LP SERV 8 *'Flooding and Land Erosion'* of the Argyll and Bute Local Plan (August 2009), all of which presume against the nature of the development proposed.

APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **09/01308/PP**

(A) Submitted Drawings

For the purpose of clarity it is advised that this decision notice relates to the following refused drawings:
0704/DPP/01 Rev A, 0704/DPP/004 Rev A, 0704/DPP/005/200 Rev B, 0704/DPP/006 Rev A, 0704/DPP/008 Rev A, 0704/DPP/008-R1 Rev A, 0704/DPP/009 Rev A, 0704/DPP/010 Rev A, 0704/DPP/012 Rev A, 0704/DPP/014 Rev A

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

No

APPENDIX 2

OPERATIONAL SERVICES
BUTE & COWAL AREA
OBSERVATIONS ON PLANNING APPLICATION

Planning No: 09/01308/PP
Contact: FARRELL PR
Tel: 01369708600

Dated: 08/08/09

RECEIVED
12 OCT 2009

Received: 21/09/09

Grid Reference: NS 1482

Applicant: Mrs F Boyd
Proposed Development: Erection of dwelling
Location Ballochyle Farm
Type of Consent: Detailed
Ref No(s) of Drg(s) submitted: Location & Site plans and details (11 + report)

RECOMMENDATION: No objections subject to conditions

Proposals Acceptable Y or N	
1. General	
(a) General impact of development	Y
(b) Safety Audit Required	N
(c) Traffic Impact Analysis	N
(d) Flooding Assessment	N
2. Existing Roads	
(a) Type of Connection (Road Junct/Footway Crossing)	Y
(b) Location(s) of Connection(s)	Y
(c) Sightlines 120 x2.5 m	Y
(d) Pedestrian Provision	Y

Proposals Acceptable Y or N	
3. New Roads	N/A
(a) Widths	
(b) Pedestrian Provision	
(c) Layout (Horizontal/ Vertical alignment)	
(d) Turning Facilities (Circles/Hammerheads)	
(e) Junction Details (Locations/Radii/Sightlines)	
(f) Provision for PU	

Proposals Acceptable Y or N	
4. Servicing & Car Parking	
(a) Drainage	Y
(b) Car Parking Provision	Y
(c) Layout of Parking Bays/ Garages	Y
(d) Servicing Arrangements/ Driveways	Y
5. Signing	N/A
(a) Location	
(b) Illumination	

Item Ref	COMMENTS
1, 2 4	This development is accessed from A815 Sandbank via a private road. The available sightlines at the existing access on to the A815 meet the requirements. There should be parking available for 2 vehicles and a turning area within the development. At present access is not available from the A815 due to the condition of an existing bridge. Access to the site will be from U15 Glenmasson Road which has 7.5t weight 7'6"wide and 30' length restrictions in place or B836 from an existing access west of the Rumbling Bridge. The sightlines at this access to be a minimum of 120 x2.5m in both directions. Any hedge, wall or fence within the visibility splays must be maintained at a height not exceeding 1m above the carriageway.

Item Ref	CONDITIONS
2, 4	The available sightlines at the existing access on to the A815 meet the requirements. There should be parking available for 2 vehicles and a turning area within the development. The sightlines at the access to B836 to be a minimum of 120 x2.5m in both directions. Any hedge, wall or fence within the visibility splays must be maintained at a height not exceeding 1m above the carriageway.

Notes for Intimation to Applicant

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

*Relevant Section of the Roads (Scotland) Act 1984

Signed: Paul R Farrell Date: 12/10/09

Copies to: Planning Maint SOID File

Argyll and Bute Council
Comhairle Earra Ghàidheal agus Bhòid

Memo

Operational Services

RECEIVED

To: Planning Section
Milton House
Milton Avenue
Dunoon
PA23 7DU

From: Ian Gilfillan
Blairvadach

Date: 15th October 2009

Your Ref: 09/01308/PP

Our Ref: R05005/C

Telephone: 01436 658878

PROPOSED HOUSE, 3 BALLOCHYLE FARM, SANDBANK, DUNOON

I refer to your letter of 18th September 2009.

In relation to flooding there are no objections if a finished floor level of 13.600m A.O.D is established.

Ian Gilfillan
Flood Alleviation Manager

ARGYLL AND BUTE COUNCIL

LEGAL AND PROTECTIVE SERVICES
Head of Service: SUSAN MAIR

Area Office, 22 Hill Street, Dunoon, PA23 7AP

e-mail address: jo.rains@argyll-bute.gov.uk

Telephone:01369 707120
Extension: 7120
Fax: 01369 705948

INTERNAL MEMORANDUM

Date: 12th November 2009

To: Director of Development Services
F.A.O. Brian Close

Your Ref: 09/01308/DET

From: Mrs Jo Rains, Area Environmental Health Manager
Bute and Cowal

Our Ref: JHR/DS

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
PROPOSAL: Erection of dwellinghouse, formation of car parking area and installation of septic tank
ADDRESS: Land to the south west of Cottage 3, Ballochyle Farm, Sandbank
Grid Reference: 214184 682158

I refer to the above application for outline consent to effect the erection of a dwelling house at the above site.

It is the intention of the applicant to effect a water supply to the proposed development by way of connection to a new private borehole supply at the locality. With regard to the adequacy of the supply in question, water quality must meet the requirements of the Private Water Supply (Scotland) Regulations 2006, but this is not a matter for consideration by the planning process. However, the adequacy of the supply with regard to the issue of the ***quantity*** of water capable of supporting an existing usage and the proposed usage without affecting any surrounding private water supplies requires to be addressed at the planning stage.

To satisfy this requirement a report by Transtech Ltd has been submitted to support the application.

It is further the intention of the applicant to effect a drainage system at the proposed development by way of provision of connection to an individual septic tank with a soakaway outfall. The system of drainage to be provided will require to be in accordance with the requirements of the relevant Building (Scotland) Acts and will be a matter for consideration by the Building Standards office.

In order to ensure public health should this development proceed, should the application be approved I would ask that the following condition be placed on any consented development.

- The development shall not be brought into use or occupied until the private water supply has been installed in accordance with the accompanying report and tested to ensure compliance with the Private Water Supply.

J H Rains
Area Environmental Health Manager
Bute and Cowal

SEPA
Scottish Environment Protection Agency

Our ref: 09/01308/PP/CC/BL
Your ref: PCS/104096

If telephoning ask for:
Carole Chapman

19 November 2009

Brian Close
Development Services
Argyll and Bute Council
Milton House
Milton Avenue
Dunoon
PA23 7DU

By email only to: planning.maki@argyll-bute.gov.uk

Dear Mr Close

Town and Country Planning (Scotland) Acts
Planning application: 09/01308/PP
Erection of dwellinghouse, formation of car parking , installation of septic tank and creation of private water supply (flood risk)
Land south west of Cottage, 3 Ballochyle Farm, Sandbank, Dunoon

Thank you for your consultation letter of 26 October 2009 which SEPA received on 27 October 2009.

The new application for the above site (submitted to SEPA on 25 September 2009 PCS/103676) fell below our threshold level and therefore we sent a standard response back. I can now confirm that this application has now been considered by our flood risk specialists.

We have **no objection** to the proposed planning application on flood risk grounds. Notwithstanding this we would expect Argyll & Bute Council to undertake their responsibilities as the Flood Prevention Authority. Please note the advice provided below.

Advice for the planning authority

Flood Risk

1 We have reviewed the information provided in this consultation and it is noted that the application site (or parts thereof) lies within the 1 in 200 year (0.5% annual probability) flood envelope of the Indicative River & Coastal Flood Map (Scotland), and may therefore be at medium to high risk of flooding. It is noted however that the dwelling house itself is adjacent to the Flood Map.

2 The 'Flood Risk Statement' within the Design Report by Line Architecture makes reference to the Indicative River & Coastal Flood Map (Scotland) and it appears that a crude approximation has been made of the flood outline on a planning drawing of the site. This is inappropriate as the map is by its very nature is indicative, and not designed to quantify the risk to individual locations but supports national planning policy. Notwithstanding this its use in this form is contrary to the Terms of Use of the Flood Map as outlined on the SEPA web site.

3 The maximum water level of 12.36mAOD recorded at our former Dalinlongart Gauging Station during the November 1979 flood event has been considered when determining a Finished Floor Level of 13.5mAOD within the proposed development. We would generally find this proposed Finished Floor Level acceptable given our historic records and the topographic level difference above normal water levels in the Little Eachig burn.

4 It appears from Planning Drawings by Line Architecture that land raising is proposed to provide a development platform. Given the location of the site, the volume of landrasing should be minimised so as to not encroach on the floodplain and impact its ability to convey and store water at this location.

5 The applicant may wish to consider the use of water resistant materials as outlined in Planning Advice Note 69: Planning and Building Standards Advice on Flooding in the construction of the property.

6 We acknowledge receipt of a letter of representation from Kirsteen Manuel dated 14 October 2009 raising concerns regarding the potential flood risk to this proposed development. Whilst we acknowledge the proximity of the proposed development to the floodplain of the Little Eachig, we are of the opinion that the risk has been considered and appropriate management strategies employed as outlined above.

7 It would appear from the photographs supplied by Mrs Manuel that there is a potential issue with surface water ponding in proximity to the development in the event of heavy rain. We recommend that the Flood Prevention Authority comment on any requirements for surface management strategies to ensure that this does not have an adverse impact on the proposed development.

is advice is given without prejudice to any decision made on elements of the proposal regulated us, which may take into account factors not considered at the planning stage.

tailed advice for the applicant

Flood Risk

The Indicative River & Coastal Flood Map (Scotland) has been produced following a consistent, nationally-applied methodology for catchment areas equal to or greater than 3km^2 using a Digital Terrain Model (DTM) to define river cross-sections and low-lying coastal land. The outlines do not account for flooding arising from sources such as surface water runoff, surcharged culverts or drainage systems. The methodology was not designed to quantify the impacts of factors such as flood alleviation measures, buildings and transport infrastructure on flood conveyance & storage. The Indicative River & Coastal Flood Map (Scotland) is designed to be used as a national strategic assessment of flood risk to support planning policy in Scotland. For further information please visit www.sepa.org.uk/flooding/flood_map.aspx.

We refer the applicant to the document entitled: "*Technical Flood Risk Guidance for Stakeholders*". This document provides generic requirements for undertaking Flood Risk Assessments and can be downloaded from www.sepa.org.uk/flooding/flood_risk/planning_flooding.aspx. Please note that this document should be read in conjunction with Annex B in SEPA Policy 41: "*Development at Risk of Flooding, Advice and Consultation – a SEPA Planning Authority Protocol*", available from www.sepa.org.uk/flooding/flood_risk.aspx.

2.3 Our Flood Risk Assessment checklist should be completed and attached within the front cover of any flood risk assessments issued in support of a development proposal which may be at risk of flooding. The document will take only a few minutes to complete and will assist our review process. It can be downloaded from www.sepa.org.uk/flooding/flood_risk/planning_flooding/fra_checklist.aspx

2.4 Please note that we are reliant on the accuracy and completeness of any information supplied by the applicant in undertaking our review, and can take no responsibility for incorrect data or interpretation made by the authors.

Regulatory advice

Regulatory requirements

3.1 The advice contained in this letter is supplied to you by SEPA in terms of Section 25 (2) of the Environment Act 1995 on the basis of information held by SEPA as at the date hereof. It is intended as advice solely to Argyll & Bute Council as Planning Authority in terms of the said Section 25 (2).

3.2 Details of regulatory requirements and good practice advice for the applicant can be found on our website at www.sepa.org.uk/planning. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the Environmental Protection and Improvement Team in your local SEPA office at:

Lochgilphead office
2 Smithy Lane
LOCHGILPHEAD
PA31 8TA
Tel: 01546 602876
Fax: 01546 602337

If you have any queries relating to this letter, please contact me by telephone on 01349 860305 or e-mail at planning.dingwall@sepa.org.uk.

Yours sincerely

Carole Chapman
Senior Planning Officer
Planning Service

Copy to: Linearchitecture (Agent)
1-1 37 Kersland Street
Glasgow
G12 8BP

APPENDIX 3

Ballochyle

By Dunoon

Argyll PA23 8RD

Brian Close

Planning officer

Argyll & Bute Council

4 Milton Avenue

Dunoon, PA23 7DU

RECEIVED

16 OCT 2009

15th Dec 2009

Dear Mr Close,

Mrs Fiona Boyd; Erection of dwelling house, planning application # 09/01308/PP

I would like to make an objection to this planning application on the following grounds.

- Planning & Flooding – SPP7
- Private Water Supply – use of Bore Hole
- Working farm buildings in close proximity
- Ballochyle Farm Cluster
- Access/Parking/Boundaries

Planning & Flooding: SEPA hold indicative flood risk maps which indicate the area is in high risk of flooding. They also note that they would likely object to any planning application proposal. Please see correspondence attached dated 27th April 2006. I would also like to draw your attention to the applicants flood map which indicates it as a SEPA rivers and coastal flood map. Knowing the area and where the river last broke its banks this is not a natural flow of excess water, I would ask that SEPA's official map is requested. On that note I have myself contacted Dr Marc Becker asking them to clarify the flood pattern that the applicant has submitted, please see attached.

The application states that the highest ever recorded flood level in this area is 12.36m, 1.14m below the finished floor level of the proposed dwelling and therefore the likelihood of flooding from the Little Eachaig is nil. I feel this is a little ambiguous, with climate change and river erosion who can say what will happen in years to come. Our summers have been the wettest on record with heavy flooding of the said area in recent years.

On a previous application in May it was detailed that the property is 13.40m at its entrance, 13.15m external ground level to the left and 12.65m external ground level to the right (as you look at the plan) points from front to back of the proposed dwelling range from 0.68m and 0.29m above the noted highest recorded flood level. Are there further proposals to raise the site in order for it to clear the flood risk by the 1.14m noted? On the current proposal I can not see the sight being 1.14m clear of recorded floods.

Enclosed are pictures taken during the summer that show recent flooding in the field which would be the curtilage to the applicants' dwelling house. The flooding I believe is mainly due to heavy rain collected as ground water, the pictures clearly show how wet the ground is with heavy growth of reeds. Please see planning advice note 69.

Use of Bore Hole as a private water supply: The applicant proposes to sink a borehole where there is no evidence, in times of flood, that this will not become polluted. The risk of water seepage from the river into the bore hole would need to be assessed. The little Eachaig, and its catchment area, is known to be polluted from the old Dalilongart Coup, this can't be overlooked.

Working farm buildings in close proximity: The proposed dwelling is in the midst of working farm buildings. Not noted on the map are sheep pens and dipping facilities. There are also farm sheds and a midden that sits on the boundary of the proposed dwelling house.

Ballochyle Farm Cluster: The applicant denotes the proposed dwelling to be part of the Ballochyle Farm Cluster. The applicant was sold the property as a courtyard, not a farm. The location noted is too small for a government crofter's grant so technically should not be known as 'Farm' or 'Farm Cluster'

Boundaries/Access: The point of the proposed dwelling highlights 3 car parking spaces, again I would like to note the close proximity of working farm buildings and use of machinery, the area is already often blocked due to additional cars from the split of cottages 1 & 2.

The applicant does own the road & access rights for the proposed dwelling house, however everyone on the estate has a servitude right to use the road, the applicants plan shows that the area of road in question will be resurfaced, this will not be in keeping with the rest of the farm tracks, there look on the map to be 2 lines where there may be intentions to close this area to other road users.

Access to the dwelling house & the applicants' private road would be on my private road to the Ballochyle estate; this connects with the U15 Glen Massan Road and in turn with the A815. I have not been notified of 3 more cars wishing to have constant use/access of this road. The private road has recently been resurfaced, at a personal expense to the current road users. The new house would have to be given a servitude right by the owners of the main access road; I do not believe this has been accounted for in application.

Site History: A previous 3 applications have been made by the same applicant on both the mentioned site and surrounding area, 06/00472/DET withdrawn on the 18th September 2006 following concerns regarding flooding & suitability of the site for residential purposes. 06/01964/DET; Refusal of planning application on the 24th November 2006. 09/00612/DET; withdrawn in May 2009 following concerns of all neighbours due to additional strain of private water supply. When is this going to end?

I look forward to hearing from you,

Yours Sincerely,

[redacted]

Kirsteen Manuel


1 16 OCT 2009
2
3
4

Ballochyle

Photographs taken 8.9.09

Explanation of Enclosed Photographs Page 1

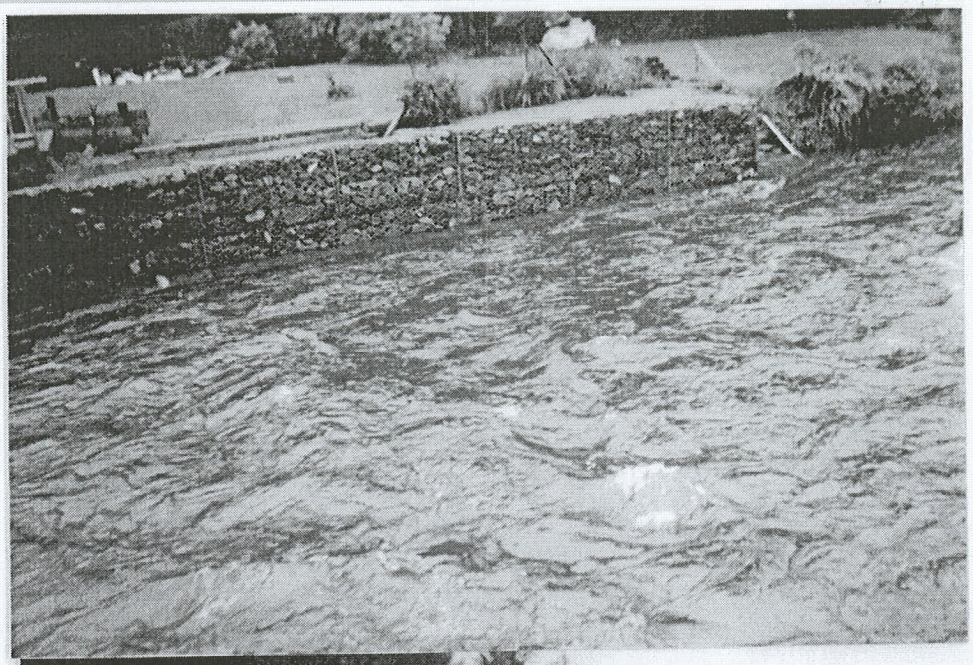
1 The effect of August rain on already saturated ground without any flooding. Site of proposed house is in front of existing dwellings, on the bank.

2 View of 1 from site of proposed house.

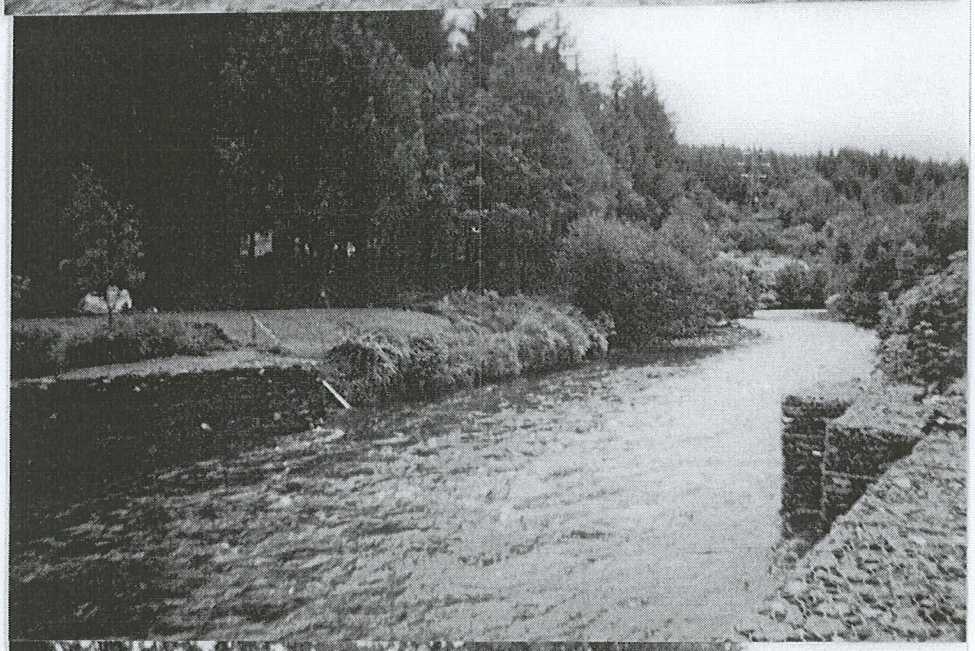
3 Rain water lying in channel of River Eachaig's previous course on top side of proposed housing site which could easily become a channel again in times of flood. The existing river course is just in front of Keith Tate's house – see 3.on page 2.

4 Close up of rain water lying in old river course on top side of proposed house site.

1



2



3

16 OCT 2009

Ballochyle

16 OCT 2009

Photographs Taken 8.9.09

Explanation of Enclosed Photographs Page 2

1River Eachaig showing gabions on Keith Tate's side above his house.

2 Gabions jutting out and narrowing the river flow which in flood will exacerbate the situation of the flood plain which by this time is in full spate up river.

3 Keith Tate's house showing its position against the River. In the major flood (1997) Mr Tom Pearson went by road to rescue the Tate family with the river still rising and lapping at his door.

Ballochyle
By Dunoon
Argyll PA23 8RD
Tel/Fax 01369 70 4412

Dr Marc Becker
Senior Hydrologist
SEPA
Redwood Crescent
Peel Park
East Kilbride G74 5PP

14th October 2009

Dear Dr Becker,

Once again I would like to call on your expert advice in reference to planning application on/next to a flood plain. I enclose various pieces of previous correspondence which are still relevant.

Mrs Boyd has applied for planning, yet again, on the flood plain next to my ground, which as recently as a month ago was flooded from my fields on to the area where she intends to build. The worrying thing was that the flooding was not from the river Eachaig this time but coming up from the ground, the culmination of a very wet summer.

I am sending photographs, taken at that time, to the planners. Mrs Boyd goes into great detail about the recently constructed gabions on the river bank which has narrowed this area of the river.

When the major flood occurred, in the past ten years, the river rose to the height of the steps to the house on the opposite bank to where the Boyd's would like to build. I am also including a detailed map, which the Boyd's submitted with their planning application, showing the flood risk area which I do not believe is correct. Mr Tom Pearson, of Till Hill EFG, states the bottom of the road at Ballochyle and the field leading to the then EFG offices were all flooded, extremely seriously, to the height of the office windows.

The river has flooded twice in the last 10 years. What the Boyd's don't realise is that the river doesn't flood from the area of the gabions but further upstream, from the top end of my field which was probably the track of the river many years ago.

What concerns me greatly is that as the owner of this field, I don't want to be held responsible for any future flooding or damage. It seems that weather patterns are changing and our climate in Argyll is getting wetter & wetter, with ever increasing risks of flooding. I am also including a detailed map with the plans showing the flood risk area which I do not believe is correct

I would greatly appreciate your advice on this matter,

Yours sincerely,

[redacted]

Kirsteen Manuel

SEPA
Scottish Environment Protection Agency

Our Ref: MBB/DS
Your Ref: Letter 24.04.06

If telephoning ask for:
Marc Becker

27 April 2006

Mrs Kirsteen Manuel
Ballochyle
By Dunnon
ARGYLL
PA23 8RD

Dear Mrs Manuel

FLOOD RISK – FIELD ADJACENT TO LITTLE EACHAIG RIVER

I refer to your letter dated the 24 April 2006 regarding flood risk at the above location (214369 682163).

I can confirm SEPA hold indicative flood risk maps which indicate that the area is at risk of flooding from the '100 year' flood (the event with a 1% risk of occurrence in any one year). However, I understand you have evidence that the site has flooded in recent years, and SEPA also hold records of flooding of the area during the late 90's. This information, in conjunction with data from our gauging station (just upstream of the field), would lead me to suggest that the field is likely to flood as frequently as perhaps once every five years on average.

In relation to your query as to the possibility of the site being used for development purposes, SEPA would advise that the field is in an area at very high flood risk, and development at this location (other than for the few exceptions provided for in Scottish Planning Policy Guidelines 7 (SPP7) – Planning and Flooding) would likely be contrary to SPP7. Therefore, if SEPA were consulted on residential development at this location, we would likely object to any such proposal.

The advice contained in this letter is supplied to you by SEPA under the Environmental Information Regulations 1992 in response to your request of information under these regulations. This information is the information relating to your request held by SEPA as at the date hereof under section 25(1) of the Environment act 1995.

I trust this information is of use, and should you require any further advice or clarification please get back in touch with me.

Yours sincerely

[redacted]

Marc Becker
Senior Hydrologist (Flood Risk)

Ballochyle
By Dunoon
Argyll PA23 8RD
Phone/Fax 01369 70 4412

24th April 2006

Dear Dr Becker,

Please find enclosed a copy letter to Mr Jim Frame dated 15th March 2006, providing a map which he wished to send on to you.

He said you were the authority on Flood Risk Assessment and could provide information on the flood pattern on the Little Echaig which SEEPA is monitoring.

I am particularly interested because I was wishing to purchase a field next to the river, purely for agricultural use, which ajoins my land.

I would be very grateful if you give me some guidance about the flood risk. How is my enquiry progressing ?

Yours sincerely,

Mrs Kirsteen Manuel

Ballochyle
By Dunoon
Argyll PA23 8RD
Phone/Fax 01369 70 4412

Dr M Becker
SEPA
5 Redwood Cresent
Peel Park
East Kilbride G74 5PP

17th September 2006

Dear Dr Becker,

I am enclosing my original letter to refresh you with the situation about which you sent me an excellent reply. I promised to send you further information, if it came to hand. Steven Thom has supplied me with this.

I have not managed to buy the field and the owner now plans to build on this ground a house on stilts. I will be sending my objections to the planners and no doubt SEPA will be called in for advice. The owner of the ground has not see it in flood. !!

Thank you for your help.

Yours sincerely

Kirsteen Manuel

RECEIVED

Planning Services
Milton House
Milton Avenue
Dunoon
PA23 7DU
FAO Mr Brian Close

1 Ballochyle Estate
Sandbank
Dunoon
Argyll
PA23 8RD

Tel/Fax: 01369 701 173
Mob: 07831 386 601
Date: 27th October 2009-10-27

Dear Sir

Neighbour Notification – 09/01308/PP
Land South East of Cottage 3 Ballochyle Farm
Mrs Fiona Boyd

I refer to the above Neighbour Notification concerning the proposed erection of a dwelling house to the South East of Cottage 3 Ballochyle Farm. There are three issues concerning the application that I would like to bring to the attention of the Planning Department.

1. The application states that drinking water for the proposed house would be taken from a bore hole to be located to the south east of the proposed house site. I would like to be assured that tests to determine the quality and quantity of the supply would be carried out before any building works took place. My reason for raising this is so that the estate's private water supply could not be used as a fall back if the bore hole proved fruitless.

2. The application shows that vehicle access to the proposed house site is to be taken via the applicants owned track leading at present to Cottage 3. I would like to be assured that, in the event of planning permission being granted, this condition of access is maintained in the new house title.

3. The estate track running through the proposed house site which would separate the house and the proposed parking area is an estate track over which all Ballochyle residents have rights of access in title. I would like to be assured that, in the event of planning permission being granted, the track would remain unrestricted for pedestrian and vehicular use.

Yours Sincerely

Tom Pierson

Cottage 3
Ballochyle Farm
Sandbank
PA23 8RD

23rd October 2009

Dear Mr Close

Please find enclosed responses to objections raised by Mrs Kirsteen Manuel regarding planning application no 09/01308/PP

Planning and Flooding

I read with interest Mrs Manuel's grounds for objection. The SEPA Rivers and coastal flooding map clearly shows that the proposed house plot is outside the area marked at risk of flooding. The finished floor level of the proposed dwelling will be above the level of flood risk as noted by the highest recorded level at the Dalinlongart gauging station. The photographs supplied by Mrs Manuel appear to show a puddle in the field due to the collapsed field drains which are made of clay pipe. These have not been maintained over the years and were probably installed during the time that Mrs Manuel and her late husband owned the property. I was pleased to see a photo of the river in full spate included. This gives a very good picture of how well the new gabions have dealt with the river flow during a period of record rainfall. Previously to this the weir had fallen into a poor state of repair and caused flood water to back up. The new channel very successfully deals with increased water flow.

Dr Becker's letter in 2006 states what SEPA's position may be if consulted however without having seen the plans for the proposed dwelling or visited the site then Dr Becker only has Mrs Manuel's letter and a flood map for reference. Any information supplied by Mrs Manuel to SEPA must be viewed with a degree of suspicion. She states she is requesting the information because she was attempting to purchase the field. I have no knowledge of any offer for my property from Mrs Manuel nor does my solicitor. However we do have knowledge of Mrs Manuel attempting to purchase the field to the NW of the application site from a MR Brian McDonald and it is this field, not our proposed development site to which she appears to be referring.

Anecdotal evidence of flooding from Mrs Manuel must also be viewed with a degree of suspicion. She is not a full time resident at Ballochyle, indeed her main residence seems to be in London. Seeing as she is only an occasional visitor I am not sure how much credence can be given to her "eyewitness" reports of flooding. I have been permanently resident in Ballochyle Farm since 2004, through two of the wettest winters since records began and this field was never flooded. I have no desire to build a home for me and my children in an active flood plain.

Working Farm Buildings in Close Proximity

Mrs Manuel's assertion that the dilapidated barns adjacent the proposed dwellings are working farm buildings is wholly false. Indeed if they are working farm buildings my solicitor

would be interested to know what access rights I have granted to Mrs Manuel regarding farm vehicles on the lane that I own leading to these barns. Mrs Manuel I believe has let the grazing rights to some nearby fields to a farmer from Glendaruel. Very occasionally this farmer visits to move the sheep from one place to another. In the four years I have lived here I have not yet seen the dipping area be used nor the barns themselves be used for anything other than occasional storage of gardening equipment. The "midden" that Mrs Manuel refers to must mean the area where grass clippings are occasionally dumped.

Boundaries and Access

There have been no issues brought to my attention regarding any lane being blocked by vehicles anywhere close to the proposed development site. Mrs Manuel seems to be making a rather large assumption regarding the lane being closed to other users if the proposed development goes ahead. I am aware that the local authority is composing a core path system nearby and as a keen walker I would welcome the fact that people use the estate roads for recreational purposes. I have two young children who enjoy the fact they can walk or cycle the quiet lanes beside the house therefore I have no desire to deprive others of this enjoyment. Mrs Manuel however feels very differently about this and indeed from my observations over the years, when she is in residence she is 'robust' in dealing with walkers or cyclists on roads leading to her property within the estate and in no way embraces the very good piece of legislation that is the Land Reform (Scotland) Act 2003 giving people the right to roam.

Any legal issues that Mrs. Manuel feels are relevant regarding the servitude rights of the access road are not of any relevance to the planning application of the proposed dwelling. They are separate legal matters to be dealt with between solicitors and the Land Registry.

To conclude I would like to add that Mrs. Manuel is a consistent objector to any proposed development in the area of the old Ballochyle Estate. Mrs. Manuel neither lives full time in the local area nor works in the local community. I have two children who attend local schools in the area and I work in the Dunoon area. This proposed dwelling is for my family and I to hopefully build and occupy for many years to come. The local Benmore and Kilmun community action plan identifies that the local area has some 55% percent of the population economically active. This compares to a national average of 65% and a national park average of 68% indicating that the area has "a very high rate of retired people" (Community Action Plan 2009). The number of working families in the area is falling and the fact that they are unable to build affordable housing in the area is a key factor in this. With objections such as those raised by Mrs. Manuel, is this any surprise?

Regards

Ffiona Boyd

Ffiona Boyd

APPENDIX 4

Milton House, Milton Avenue, Dunoon, PA23 7DU
Tel: (01369) 708606 or 708607; Fax: (01369) 708609

17th January 2008
Our Ref: Devcon08/ DC15/BC1701
Contact: Brian Close; Direct Line: (01369) 708604

Mr. Darran Crawford
Cottage 3
Ballochyle Estate
Sandbank
Argyll PA23 8RD

Dear Sir

RE: PROPOSED RESIDENTIAL DEVELOPMENT AT BALLOCHYLE FARM, ARGYLL.

With reference to your letter and submissions of 7th January 2008 the department would offer the following comments without prejudice.

In the adopted Cowal Local Plan 1995, the site that you refer to is shown outwith the existing settlement of Sandbank where it would require to be assessed against *inter alia* Policy RUR 1: Landscape Quality and Policy HO10 Housing in the Countryside. The existing policies contained within the adopted Cowal Local Plan, do not offer support for development of this site for residential purposes. However, while the Cowal Plan constitutes the Development Plan, this plan is being updated by the Argyll and Bute Modified Finalised Draft Local Plan June 2006, which should be given significant weight in an assessment of this proposal.

In the Argyll and Bute Modified Finalised Draft Local Plan June 2006, the site is contained within a Rural Opportunity Area (ROA) within which open countryside locations are only considered appropriate where small scale housing developments will be in tune with landscape character and settlement pattern.

Previous applications included a scheme (ref.06/00472/DET) that was withdrawn on 18th September 2006 and a subsequent application (ref.06/01964/DET) refused on 6th December 2006 on grounds of design, siting, materials and development within the functional floodplain of the Little Eachaig River.

Having regard to the currently submitted scheme, the re-orientation, slight reduction in scale and proposed materials do not detract from the fact that part of the curtilage of the property lies within the floodplain of the Little Eachaig River. In terms of SPP7: Planning and flooding, *"new development should not take place if it would be at significant risk of flooding from any source or would materially increase the probability of flooding elsewhere. The storage capacity of functional floodplains should be safeguarded, and works to elevate the level of a site by landraising should not lead to a loss of flood water storage capacity."* It is considered that a property at risk from flooding comprises not just the building itself but its access and garden/amenity areas with particular reference to foundations and underbuild. PAN69: Planning and Building Standards Advice on Flooding offers design guidance when building within a floodplain or landraising.

It is therefore suggested that you contact SEPA directly for their formal response prior to contacting the department again for a further detailed response. If an application is lodged without prior initial consultation with SEPA and a detailed Flood Risk Assessment there is a possibility that a similar recommendation will be made to the previously refused scheme. These comments form a policy-based response and do not include specific comments from Roads or SEPA in respect of access and drainage/flooding issues.

I trust these informal comments, given without prejudice, will be of some assistance. Your attention is drawn to the footnote.

Yours faithfully

BAK

Area Planning Officer
Development Management, Bute and Cowal

The preliminary assessment is based on current information. In the event of a formal application being submitted, the Council must take into account views of consultees and representations as appropriate. Any report to Committee must reflect this and may therefore differ from the initial assessment. Finally, the above informal views may not necessarily be those of the Committee.

APPENDIX 5

BALLOCHYLE

BY DUNOON

ARGYLL

PA23 8RD

Head of Democratic Services and Governance,

Argyll and Bute Council

Kilmory

Lochgilphead

PA31 8RT

May 7th 2010

To the Head of Democratic Services and Governance,

Planning Application: 09/01308/PP

I would like to clarify that I, Kirsteen Manuel, have lived at Ballochyle for 45years. 40 years with my late husband and latterly on my own, since my husbands sudden death in December 2004. I feel that the appeal letters, comprising of line architects, James Boyd & Ffiona Boyd are a direct and very personal attack on both my late husband, with whom they did not know, myself and the local planning department. Attached is my last letter of objection, I believe the fourth to the area in question. Rather than re-hash old ground, I would like to submit my letter and photographs as part of my representation.

I would therefore like to raise some concerns.

WATER

James Boyd states that Ballochyle has had a history of mismanagement in terms of water resources. Why is this even relevant as the applicants wish to obtain their own water supply? What is more relevant is that my late husband both invested & built the current water supply, which has been in good working order for the past 30 years, the upkeep is carried out by the residents, as and when necessary. The original private water supply that the applicant refers to is in fact the main source of water for their current dwelling, which they quite happily increased usage to by splitting two dwellings into four.

The applicant mentions the little Echaig as an alternative water source. I have no knowledge of its suitability for domestic use but there could be some seepage from other occupations upstream. The Glenkin burn; which contains run off from the original local dump joins the Little Echaig at the rumbling bridge further upstream to the applicant's access point.

If the applicant intends to use the Little Echaig as a source, is there a formality of application or approval to do so?

Potable Water; is water of sufficiently high quality that can be consumed or used without risk of immediate or long term harm. A source for potable water should be protected, sources that don't encourage improved drinking water include: unprotected well, rivers or ponds. (Wikipedia)

FLOODING

I am most concerned & surprised to see that Sepa now do not think that there is a risk. I enclose a copy of my last letter to Sepa and some pictures of the surrounding ground to the applicants plot in question. The surrounding ground is within the Sepa flood map. Points within this flood map are as high as 12.36m, the adjacent field, to which the applicant makes reference to me purchasing, also points up to 12.36m, points at which have seen flood water, my point is that the fields are level and do in fact both flood, and have done, on numerous occasions in the last 45 years of me living at Ballochyle.

Offices on the estate have flooded twice in the past few years; this can be validated by Stephen Tong of Till Hill EFG and more recently by occupants SNH. The flooding starts from a much higher point on the river than the applicant highlight, flood water passes over their ground and into the field that they highlights in order to reach the said offices that have flooded.

The weir has indeed been bound with a gauging station & the sides of the river clad with gabions, this in terms will narrow the river at this point, I am no expert but the Little Echaig, prone to flood, will and does burst its banks, the flood water normally starts much higher upstream & follows the course of the flood map, this may however change due to the alterations made recently on the river bank? Please see correspondence & images of the area in question attached.

WORKING FARM & CONDITION OF BUILDINGS

The Cottages in question were in perfect liveable condition when my late husband and I sold them. They have had 3 owners prior to the applicants. I can assure you they were purchased after much renovation and in good conditions.

The outer buildings, as a fank and pens, are frequently used by a local farmer, to whom I lease my fields. They are used during the working day when probably the applicants are at work themselves, away from home.

I would like to conclude by noting that I am in my 70th year. I adore my surroundings and have a very good relationship with my neighbours. I have been part of the local community for 45 years and genuinely have the local area at my best interest.

I find the nature of the applicant's plea distasteful & empty of fact. The planning officers, over the entire period of my residence at Ballochyle have always been honest & support their answers with facts. I do not condone the way in which they have been attacked in this application, they too are looking to protect the local environment & have the best interest of the rural opportunity areas at their forefront.

On that point, I would like to include that I am slightly confused as to the relationship of the applicant, her husband and Architect. It seems that both the applicant & her husband have written their appeal letters to the architect. The architect practice is made up of the applicant's brother & husband. In turn the applicant's husband is writing to his own firm as a letter of appeal. I have no idea if this is common practice but do feel that the appeal is very one sided with a skewed view to their end goal.

I would certainly like to be part of the on site meeting, pre application discussions, if and should these take place. I thank you in advance for reviewing my past letters, photographs and attached points.

Yours Sincerely,

Kirsteen Manuel

Kirsteen Manuel

Ballochyle

By Dunoon

Argyll PA23 8RD

Brian Close

Planning officer

Argyll & Bute Council

4 Milton Avenue

Dunoon, PA23 7DU

15th Dec 2009

Dear Mr Close,

Mrs Fiona Boyd; Erection of dwelling house, planning application # 09/01308/PP

I would like to make an objection to this planning application on the following grounds.

- Planning & Flooding – SPP7
- Private Water Supply – use of Bore Hole
- Working farm buildings in close proximity
- Ballochyle Farm Cluster
- Access/Parking/Boundaries

Planning & Flooding: SEPA hold indicative flood risk maps which indicate the area is in high risk of flooding. They also note that they would likely object to any planning application proposal. Please see correspondence attached dated 27th April 2006. I would also like to draw your attention to the applicants flood map which indicates it as a SEPA rivers and coastal flood map. Knowing the area and where the river last broke its banks this is not a natural flow of excess water, I would ask that SEPA's official map is requested. On that note I have myself contacted Dr Marc Becker asking them to clarify the flood pattern that the applicant has submitted, please see attached.

The application states that the highest ever recorded flood level in this area is 12.36m, 1.14m below the finished floor level of the proposed dwelling and therefore the likelihood of flooding from the Little Eachaig is nil. I feel this is a little ambiguous, with climate change and river erosion who can say what will happen in years to come. Our summers have been the wettest on record with heavy flooding of the said area in recent years.

On a previous application in May it was detailed that the property is 13.40m at its entrance, 13.15m external ground level to the left and 12.65m external ground level to the right (as you look at the plan) points from front to back of the proposed dwelling range from 0.68m and 0.29m above the noted highest recorded flood level. Are there further proposals to raise the site in order for it to clear the flood risk by the 1.14m noted? On the current proposal I can not see the sight being 1.14m clear of recorded floods.

Enclosed are pictures taken during the summer that show recent flooding in the field which would be the curtilage to the applicants' dwelling house. The flooding I believe is mainly due to heavy rain collected as ground water, the pictures clearly show how wet the ground is with heavy growth of reeds. Please see planning advice note 69.

Use of Bore Hole as a private water supply: The applicant proposes to sink a borehole where there is no evidence, in times of flood, that this will not become polluted. The risk of water seepage from the river into the bore hole would need to be assessed. The little Eachaig, and its catchment area, is known to be polluted from the old Dalilongart Coup, this can't be overlooked.

Working farm buildings in close proximity: The proposed dwelling is in the midst of working farm buildings. Not noted on the map are sheep pens and dipping facilities. There are also farm sheds and a midden that sits on the boundary of the proposed dwelling house.

Ballochyle Farm Cluster: The applicant denotes the proposed dwelling to be part of the Ballochyle Farm Cluster. The applicant was sold the property as a courtyard, not a farm. The location noted is too small for a government crofter's grant so technically should not be known as 'Farm' or 'Farm Cluster'

Boundaries/Access: The point of the proposed dwelling highlights 3 car parking spaces, again I would like to note the close proximity of working farm buildings and use of machinery, the area is already often blocked due to additional cars from the split of cottages 1 & 2.

The applicant does own the road & access rights for the proposed dwelling house, however everyone on the estate has a servitude right to use the road, the applicants plan shows that the area of road in question will be resurfaced, this will not be in keeping with the rest of the farm tracks, there look on the map to be 2 lines where there may be intentions to close this area to other road users.

Access to the dwelling house & the applicants' private road would be on my private road to the Ballochyle estate; this connects with the U15 Glen Massan Road and in turn with the A815. I have not been notified of 3 more cars wishing to have constant use/access of this road. The private road has recently been resurfaced, at a personal expense to the current road users. The new house would have to be given a servitude right by the owners of the main access road; I do not believe this has been accounted for in application.

Site History: A previous 3 applications have been made by the same applicant on both the mentioned site and surrounding area, 06/00472/DET withdrawn on the 18th September 2006 following concerns regarding flooding & suitability of the site for residential purposes. 06/01964/DET; Refusal of planning application on the 24th November 2006. 09/00612/DET; withdrawn in May 2009 following concerns of all neighbours due to additional strain of private water supply. When is this going to end?

I look forward to hearing from you,

Yours Sincerely,

Kirsteen Manuel

Ballochyle
By Dunoon
Argyll PA23 8RD
Tel/Fax 01369 70 4412

Dr Marc Becker
Senior Hydrologist
SEPA
Redwood Crescent
Peel Park
East Kilbride G74 5PP

14th October 2009

Dear Dr Becker,

Once again I would like to call on your expert advice in reference to planning application on/next to a flood plain. I enclose various pieces of previous correspondence which are still relevant.

Mrs Boyd has applied for planning, yet again, on the flood plain next to my ground, which as recently as a month ago was flooded from my fields on to the area where she intends to build. The worrying thing was that the flooding was not from the river Eachaig this time but coming up from the ground, the culmination of a very wet summer.

I am sending photographs, taken at that time, to the planners. Mrs Boyd goes into great detail about the recently constructed gabions on the river bank which has narrowed this area of the river.

When the major flood occurred, in the past ten years, the river rose to the height of the steps to the house on the opposite bank to where the Boyd's would like to build. I am also including a detailed map, which the Boyd's submitted with their planning application, showing the flood risk area which I do not believe is correct. Mr Tom Pearson, of Till Hill EFG, states the bottom of the road at Ballochyle and the field leading to the then EFG offices were all flooded, extremely seriously, to the height of the office windows.

The river has flooded twice in the last 10 years. What the Boyd's don't realise is that the river doesn't flood from the area of the gabions but further upstream, from the top end of my field which was probably the track of the river many years ago.

What concerns me greatly is that as the owner of this field, I don't want to be held responsible for any future flooding or damage. It seems that weather patterns are changing and our climate in Argyll is getting wetter & wetter, with ever increasing risks of flooding. I am also including a detailed map with the plans showing the flood risk area which I do not believe is correct

I would greatly appreciate your advice on this matter,

Yours sincerely,

Kirsteen Manuel

Explanation of Photographs Page 1

1 The effect of August rain on already saturated ground without any flooding. Site of proposed house is in front of existing dwellings, on the bank.

2 View of 1 from site of proposed house.

3 Rain water lying in channel of River Eachaig's previous course on top side of proposed housing site which could easily become a channel again in times of flood. The existing river course is just in front of Keith Tate's house – see 3.on page 2.

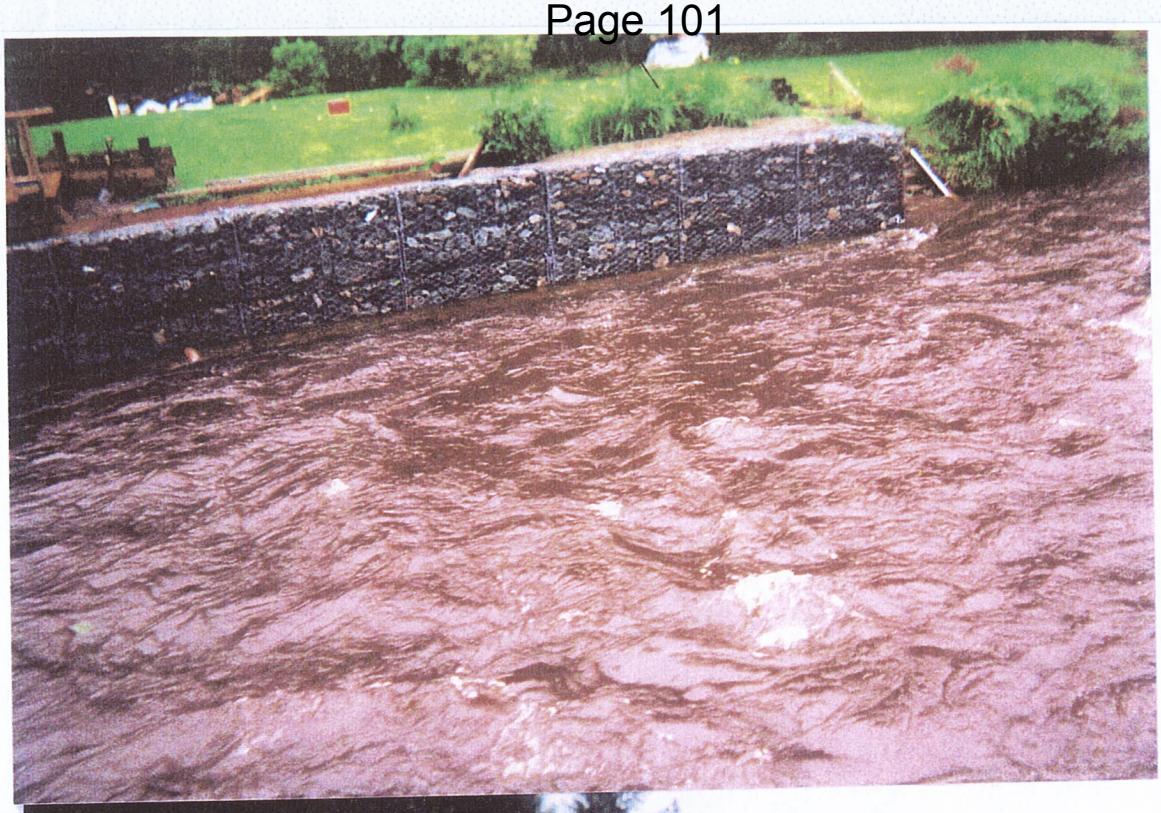
4 Close up of rain water lying in old river course on top side of proposed house site.

Explanation of Enclosed Photographs Page 2

1River Eachaig showing gabions on Keith Tate's side above his house.

2 Gabions jutting out and narrowing the river flow which in flood will exacerbate the situation of the flood plain which by this time is in full spate up river.

3 Keith Tate's house showing its position against the River. In the major flood (1997) Mr Tom Pearson went by road to rescue the Tate family with the river still rising and lapping at his door.



UPM

Tilhill

Novar, Kilmun, Dunoon, Argyll PA23 8SD
Telephone:- 01369 840 169
Fax:- 05600 496 677

Mrs Kirsty Manual
Ballochyle House
By Sandbank
Dunoon
Argyll **PA23 8RD**

1(1)

04 September 2006

Our Ref:

Dear Kirsty

Flooding at Office Premises at Ballochyle

Further to our telephone conversation, I am writing to confirm details relating to the flooding of our old office premises at Ballochyle.

The office was built at this location some 30-40 years ago. No flooding was experienced there until about 1999, when the water came in to a few inches above the floor level. At the time, we considered that this had been a "freak event" and may have been caused or exacerbated by blockages upstream.

We sold the office around 2000 and, to my knowledge, it has flooded on a further occasion since the sale. I believe that this was probably in 2001.

When the office got flooded, the river burst its banks some distance upstream and flowed all the way across the fields between our depot and the bridge, flooding a significant area of ground. Prior to the flood, we had been looking at the possibility of building a house on the field next to the office. Our investigation indicated that the risk of flooding in this area is too great and that consent for additional building on ground at the same level as the old office would be likely to be refused.

I am sorry that I cannot be more specific about matters relating to our old office, but we no longer retain any of the records relating to it.

With best wishes,
Yours sincerely

S B Tong
Forest Manager

Agenda Item 3c

FLOOD RISK ASSESSMENT

Proposed development of land at Ballochyle, by Sandbank, Argyll

Prepared for:

Mr D A Crawford
Line Architecture
Basement – 7
Lynedoch Crescent
Glasgow
G3 6DZ

25 May 2010

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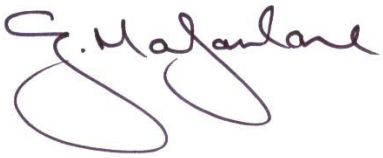
QUALITY ASSURANCE

The data used in this document and its input and reporting have undergone a quality assurance review which follows established TransTech procedures. The information and results presented herein constitute an accurate representation of the data collected.

Modelling undertaken by:

Mr Bruno Vercosa
Environmental Analyst
TransTech Ltd

Report written and modelling checked by:



Dr Garret Macfarlane
Managing Director
TransTech Ltd

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LIST OF ABBREVIATIONS

AOD	Above Ordnance Datum, Newlyn
FSSR	Flood Studies Supplementary Report
PAN69	Planning Advice Note 69
QMED	Median Annual Maximum Flow
SEPA	Scottish Environment Protection Agency
SPP7	Scottish Planning Policy 7: Planning and Flooding
XS	Cross-section

EXECUTIVE SUMMARY

This flood risk assessment has been prepared for proposed development of land at the north end of a grass field south of Ballochyle Farm, by Sandbank, Argyll.

The site is located at NS 1423 8211 (Planning Ref: 09/01308/PP). The River Little Eachaig flows in a north easterly direction approximately 70m from the site and is deemed to pose a potential flood risk.

In order to establish the risk of flooding from the River Little Eachaig seven cross-sections were taken through the watercourse to determine its flow carrying capacity. Two sections traverse the site, three are upstream of the site and two are downstream.

A 1 in 200 year flow for the river was calculated using data for the former gauging station adjacent to the site and the flood growth curve for Scotland. Manning's equations were then applied to the flow and topographic data to determine whether the channel has sufficient flow carrying capacity for the 1 in 200 year flow.

The study found that the channel does not have sufficient capacity for a 1 in 200 year flood event and HEC-RAS hydraulic modelling software was used to calculate the 1 in 200 year flood level within the floodplain adjacent to the site. For the 1 in 200 year flow the maximum predicted flood water level for the sections crossing the site was 12.43 mAOD at XS8 and 11.99 mAOD at XS9. The ground level at the proposed development site is ≥12.750 mAOD which gives a freeboard of ≥320 mm above the predicted 1 in 200 year flood level. The proposed finished floor level is 13.5 mAOD which provides a freeboard of 1070mm above the predicted 1 in 200 year flood level.

A multi-level approach to attenuating and treating surface water arising from the proposed development site will be investigated. Should ground conditions and site investigations confirm that full infiltration of the surface water is feasible then, given the nature of the development only one level of treatment would be necessary, i.e. infiltration to ground.

Foul water will be treated by means of a new BioDisc sewage treatment plant which will be located to the rear of the site and therefore outwith the predicted floodplain.

The conclusion of this FRA is that the proposed development site does not form part of the functional floodplain of the River Little Eachaig during a 1 in 200 year event. Development of the site will not result in the loss of floodwater storage or increase the flow of floodwater downstream. It is therefore considered to be compliant with the recommendations of Scottish Planning Policy 7 and Planning Advice Note 69.

1.0 INTRODUCTION

1.1 Any flood risk to the land proposed for development comes from high flows in the River Little Eachaig which flows in a north easterly direction approximately 70 m south of the site. (Figures 1 to 3). The planning process requires that it be demonstrated that the land can be developed with an acceptable risk of flooding, that any works needed to manage flood risk are sustainable over the likely life of the development, and that the development will not increase the risk of flooding elsewhere.

1.2 The assessment has been undertaken in accordance with the recommendations of SPP7 and PAN69.

1.3 The report is based on the following information:

(i) Topographical survey transects (to local grid) for the watercourse adjacent to the development site provided by Cowal Surveying.
(ii) Ordnance Survey Explorer Map.
(iii) Promap Digital Mapping (www.promap.co.uk).
(iv) Manning's Equation Calculator/Software (http://www.lmnoeng.com/manning.htm).

1.4 All comments and opinions contained in this report, including any conclusions are based on information available to TransTech during our investigations. The conclusions drawn by TransTech could therefore differ if the information is found to be inaccurate, incomplete or misleading. TransTech accepts no liability should this prove to be the case, or, if additional information exists or becomes available with respect to this site.

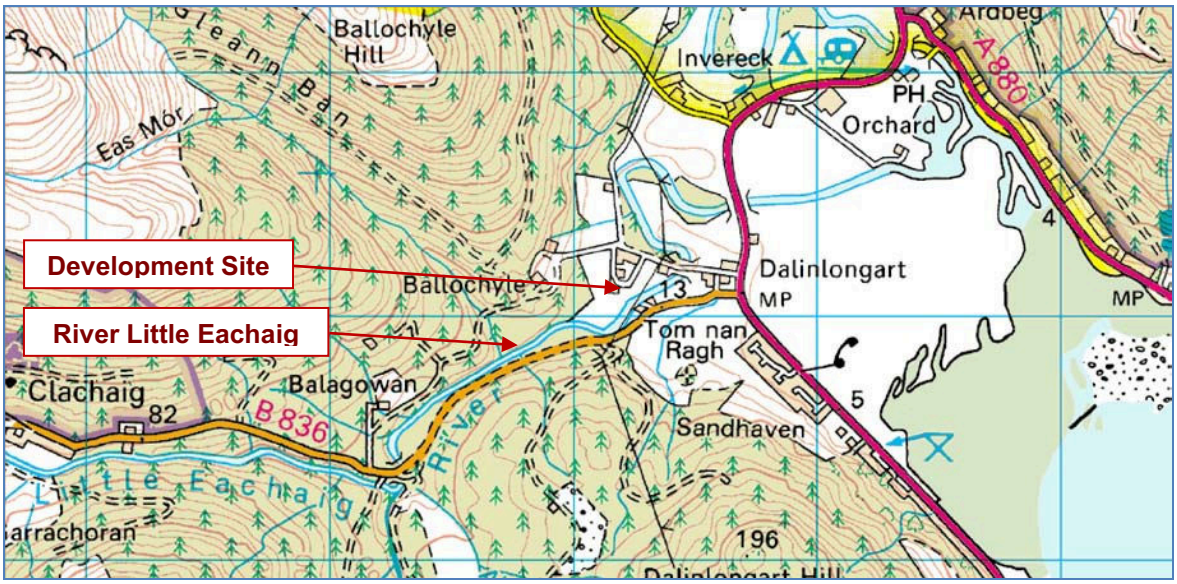


Figure 1. Location map

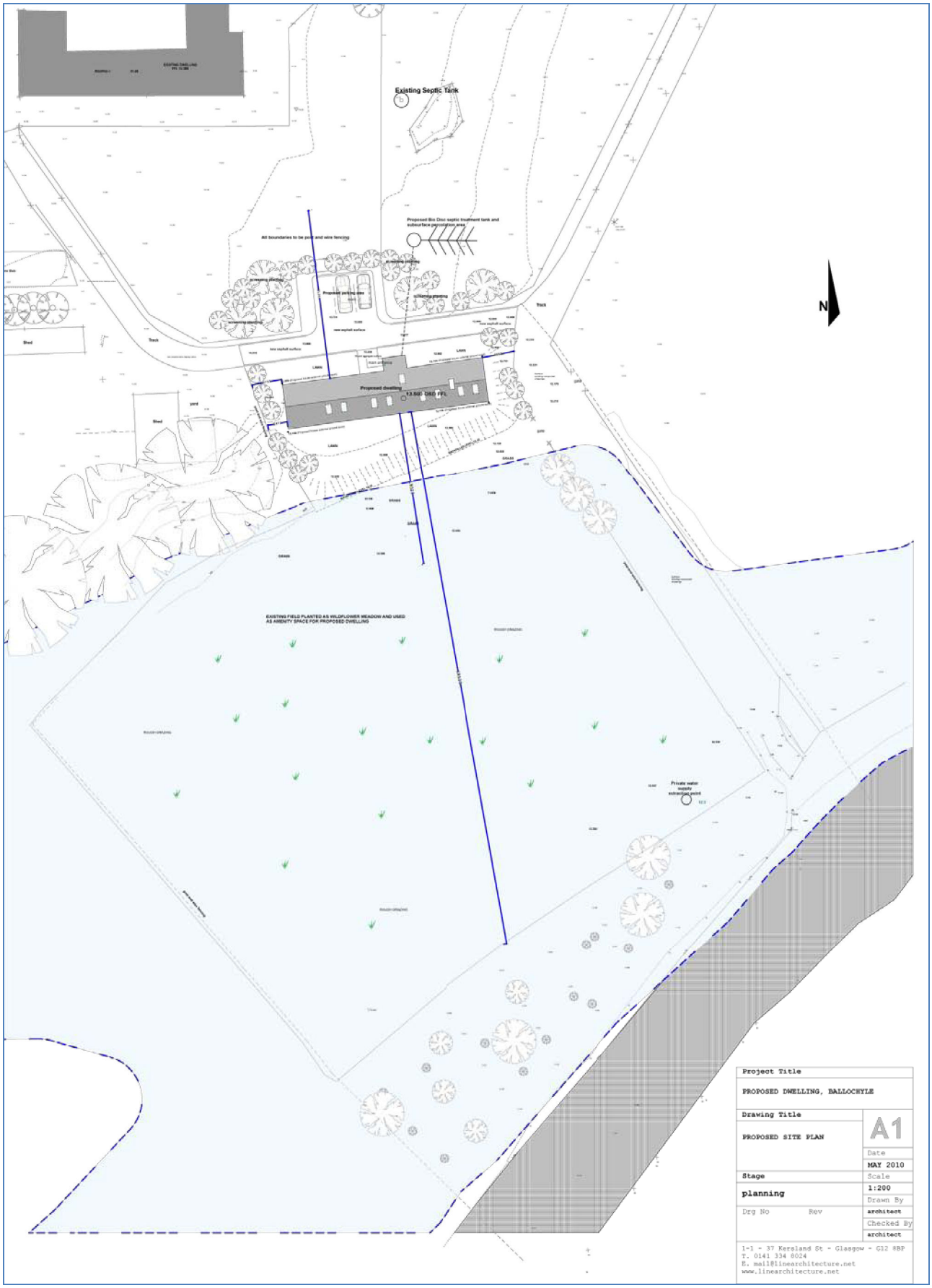


Figure 2. Proposed site plan

2.0 BACKGROUND INFORMATION

Site Details

2.1 The site currently consists of open grassed land. The watercourse runs in a north easterly direction approximately 70m south of the development site (Figure 3).

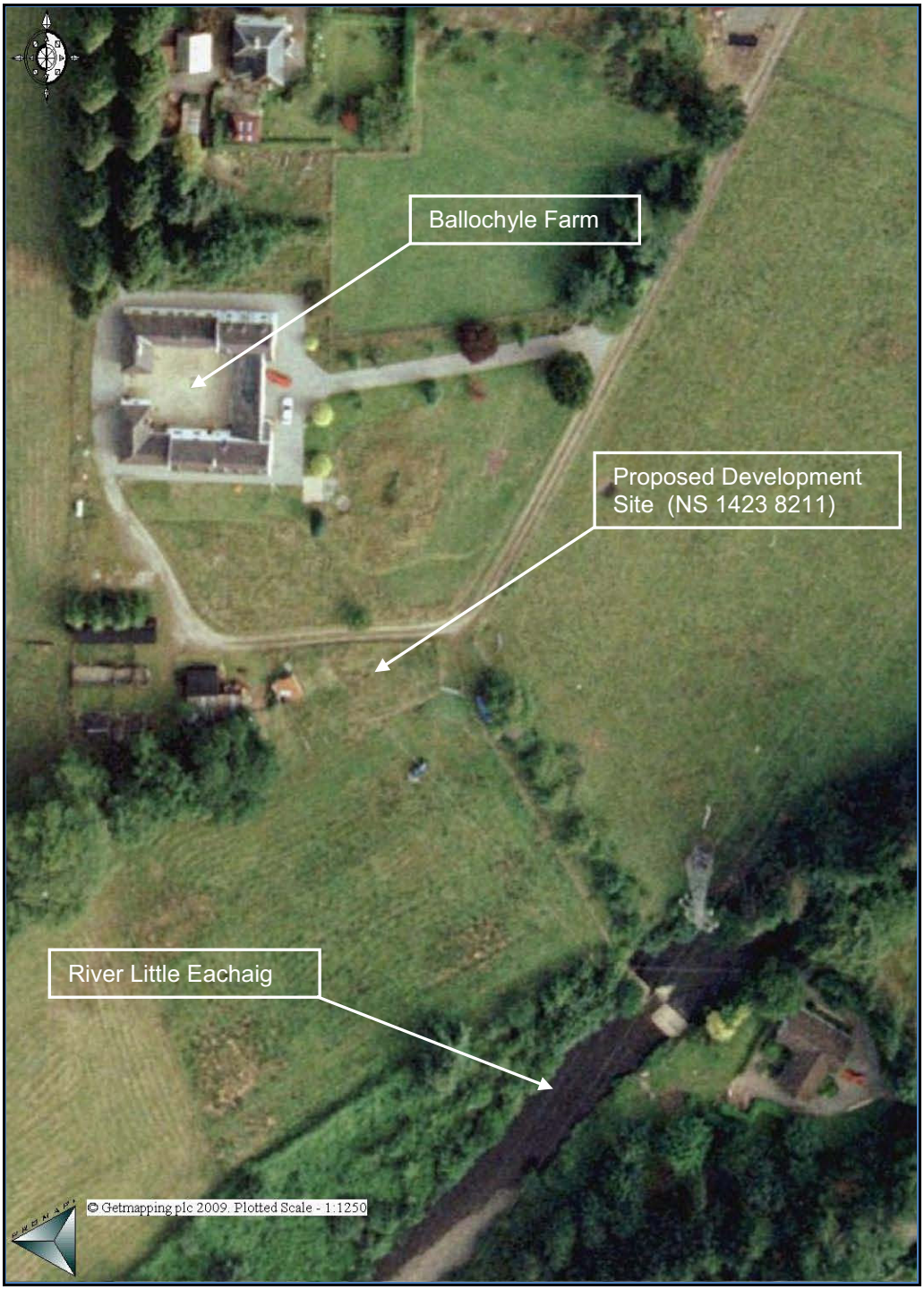


Figure 3. Aerial view of the proposed site

Proposed Development

2.2 It is understood that the development will consist of a dwellinghouse, formation of car parking, installation of a septic tank and creation of a private water supply. Please refer to planning application reference number 09/01308/PP for further information.

Identification of Need

2.3 An indicative floodplain map was obtained from the SEPA website. The map indicates that the site may lie close to the indicative fluvial floodplain of the River Little Eachaig.

2.4 In order to assess the potential flood risk to the site a hydrological assessment of the River Little Eachaig was carried out to meet the requirements of Scottish Planning Policy 7 and associated documents.

3.0 HYDROLOGICAL ASSESSMENT

Objective

3.1 The River Little Eachaig flows adjacent to the development site and therefore poses a potential source of flood risk. The objective of this Flood Risk Assessment is to determine the risk that the River Little Eachaig poses to the development of the site for a 1 in 200 year flow in the watercourse.

Hydrology

3.2 The River Little Eachaig travels from Loch Tarsan Reservoir south-eastwards into Glen Lean. It then turns north east and flows past the site to the Holy Loch.

3.3 There are no structures in the vicinity of the site such as bridges, pipes/ducts crossing the watercourse, culverts, screens, embankments, walls, outfalls or channels which may influence local surface water hydraulics.

3.4 There are no existing fluvial flood alleviation measures in place at the proposed development site.

Methodology for Derivation of Flow

3.5 The River Little Eachaig was gauged at the location of interest (Dalinlongart) until 2006.

3.6 According to HiFlows the QMED for the Little Eachaig adjacent to the site is 43.2 m^3/s (http://www.environment-agency.gov.uk/hiflows/apr.aspx?86001_amax).

3.7 A flood growth curve (Figure 4) using the FSSR 14^4 regional growth curve for NW Scotland was produced.

FSSR14 provides a growth factor for 1 in 2, 5, 10, 50, 100 and 500 year events. To derive the 1 in 200 year flow the best fit curve for the data provided was described by a fifth order logarithm with the model definition

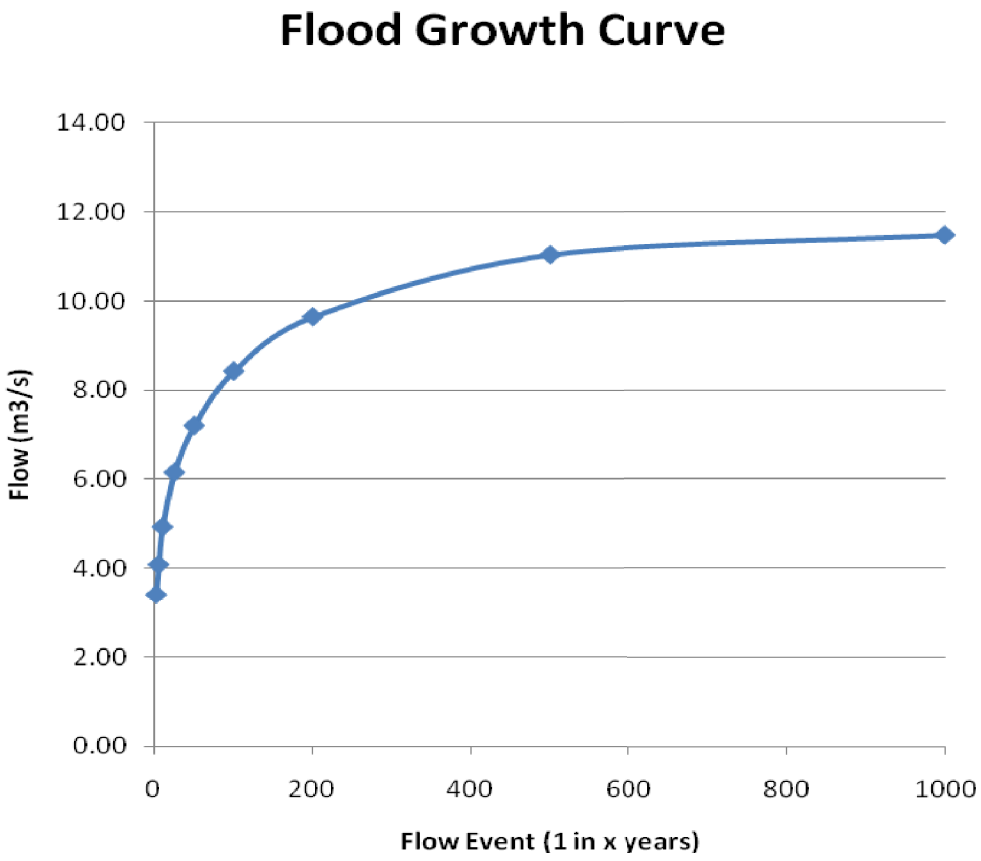
$$y = a+b*\log n(x)+c*\log n(x)^2+d*\log n(x)^3+e*\log n(x)^4+f*\log n(x)^5$$

where,

y = flow rate in m^3/sec

The unexplained variance is 0.00091%, where:

a = 2.30416049929479
b = 0.923021537861735
c = 0.154770790072705
d = -0.0710985934180333
e = 0.0193556814875732
f = -0.00161825020696887



Return Period:	2	5	10	25	50	100	**200**	500
Growth Factor:		1.20	1.45	1.81	2.12	2.48	**2.84**	3.25
Flow (m^3/s):	43.2	51.8	62.6	78.2	91.6	107.1	**122.7**	140.4

Figure 4. Flood Growth Curve for the River Little Eachaig

The 1 in 200 year flow was calculated as 122.7 m^3/s.

Methodology for Estimation of the Hydraulic Capacity of the Watercourse

3.8 The geometry of the water course channel was recorded by using 7 surveyed cross-sections spaced out at 10 m intervals. The cross-sections used in the calculations are those labelled XS5 to XS11 on the supplied AutoCAD file. XS8 and XS9 traverse the site with XS5 to XS7 being upstream and XS10 and XS11 downstream. At these points the flow of water that can be conveyed by the channel at "bank-full" conditions can be estimated using the Manning's Equation.

3.9 The Manning's Equation provides a method of calculating the flow through a channel based on the size of the channel and an empirical Manning's Number which represents the channel and river bed roughness and the resistance to flow presented by the river banks. This provides an indication of the volume of water that could be conveyed before the channel is overtopped.

3.10 The Manning's Equation results for bank-full watercourse capacity are summarised in Table 1.

Table 1. Bank-full watercourse capacity

Cross-section	Area (m^2) *	Wetted Perimeter (m)	Manning's Number [2,3]	Bed Slope **	Bank-full Capacity (m^3/s)
XS5	55.74	37.057	0.04	0.0054	134.4
XS6	43.57	33.465	0.04	0.0001	13.0
XS7	42.56	28.204	0.04	0.0203	199.4
XS8	42.47	35.899	0.04	0.0106	122.3
XS9	79.16	41.888	0.04	0.0381	590.5
XS10	63.66	34.622	0.04	0.0001	23.9
XS11	64.40	33.562	0.04	0.0444	523.9

* calculated using HEC-RAS v4.1.0 from survey data.
** bed slope from survey data.
XS1 to XS4 could not be used in the Manning's Calculations/HEC-RAS modelling as they do not extend far enough south.

3.11 The results indicated that the river channel does not have enough flow carrying capacity for the predicted 1 in 200 year flow of 122.7 m^3/s.

Methodology for Estimation of the Flood Level within the Watercourse

3.12 The survey data and the predicted 1 in 200 year flow were used to calculate the flood level in the floodplain adjacent to the site using HEC-RAS v4.1.0.

3.13 The HEC-RAS results for maximum flood level are summarised in Table 2.

Table 2. Watercourse flood level derived from modelling cross-sections and the 1 in 200 year flow in HEC-RAS - steady flow with a subcritical flow regime - normal depth and critical depth boundaries

Cross-section	Normal Depth Maximum Predicted Flood Level (mAOD)	Critical Depth Maximum Predicted Flood Level (mAOD)	Below Site Level (m)
XS5	12.77	12.77	n/a
XS6	12.71	12.71	n/a
XS7	12.61	12.61	n/a
XS8	12.43	12.43	0.320
XS9	11.99	11.99	0.751
XS10	11.72	11.72	n/a
XS11	11.13	11.13	n/a

Flood levels are shown in Figures 6, 8, 10, 12, 14, 16 and 18.
XS1 to XS4 could not be used in the Manning's Calculations/HEC-RAS modelling as they do not extend far enough south.
Mannings values used in the modelling were 0.06 for banks and 0.04 for the river channel.

3.14 There was no difference in flood level for the two different downstream boundary conditions.

3.15 For the 1 in 200 year flow the maximum predicted flood water level for the sections crossing the site was 12.43 mAOD at XS8 and 11.99 mAOD at XS9. The ground level at the proposed development site is ≥12.750 mAOD which gives a freeboard of ≥320 mm above the predicted 1 in 200 year flood level. The proposed finished floor level is 13.5 mAOD which provides a freeboard of 1070mm above the predicted 1 in 200 year flood level.

4.0 INDICATIVE FLOOD INUNDATION & HISTORICAL FLOODING

4.1 The indicative flood inundation maps held by SEPA indicate that the site may lie within or adjacent to the 200 year flood envelope. The SEPA map shows an estimate of the areas of Scotland with a 1 in 200 or greater probability of being flooded in any given year. The maps are not based on hydraulic assessment, but as a guide they indicate that the site is potentially at risk of flooding and it is on this basis that a detailed flood risk assessment has been prepared.

4.2 Details of historical flooding have been sought from relevant authorities and sources. There is no measured information on the extent and depth of any flood events affecting the site or nearby properties.

4.3 The British Hydrological Society's "Chronology of British Hydrological Events"[1] was checked to provide any evidence of flood events in Ballochyle. No entries exist for the Ballochyle area.

4.4 There is therefore no measured information, direct, historical, photographic or other evidence on the extent or depth of flood events or flood water levels at the development site, or in the immediate area of the site.

5.0 EFFECT OF DEVELOPMENT ON GENERAL FLOOD RISK

5.1 SPP7 requires that the flood risk assessment includes consideration of impacts elsewhere in the river system arising as a result of the development. The development may increase flood risk upstream or downstream of the site by any of three mechanisms:

(i) Impedance of flood flows
(ii) Encroachment on river floodplain
(iii) Contribution to flood flows from development drainage

Impedance of Flood Flows

5.2 If the development causes a loss of transmission capacity for flood flows in the watercourse, this can cause a backwater effect. As a consequence, water levels upstream of the site can increase resulting in an increased flood risk.

5.3 The site is not subject to predicted flooding and as such there will be no loss of transmission capacity for flood flows.

Encroachment on River Floodplain

5.4 Where development encroaches on floodplain it can cause an increase in water levels through the loss of floodplain storage. This in turn can cause an increase in flood risk upstream by backwater effect. It can also increase flood risk downstream because the raised water level steepens the hydraulic gradient of downstream channels, thereby increasing their transmission capacity and the pass forward flow.

5.5 The development site is not predicted to form part of the functional floodplain.

Contribution to Flood Flows from Development Drainage

5.6 Surface water drainage from the proposed development is not available and does not form part of the scope of this report. It is thought likely that a multi-level approach to attenuating and treating surface water arising from the proposed development site will be investigated. Should ground conditions and site investigations confirm that full infiltration of the surface water is feasible then, given the residential nature of the development only one level of treatment would be necessary, i.e. infiltration to ground.

Other Potential Backwater Effects

5.7 A backwater effect can be created as a result of a bridge or other obstruction raising the surface of the water upstream of it.

5.8 There are no structures on the watercourse that will affect flood flows in the vicinity of the site.

Waste Water Treatment

5.9 Foul water will be treated by means of a new BioDisc sewage treatment plant located outwith the predicted floodplain.

6.0 CONCLUSIONS

6.1 The hydrological study presented here indicates that the proposed development site is not at significant risk of flooding from the River Little Eachaig.

6.2 SPP7 adopts the precautionary principle and states that new development should not take place if it would be at significant risk of flooding or would materially increase the probability of flooding elsewhere. The land proposed for development does not form part of a functional floodplain and as such there will be loss of floodwater storage as a result of the development.

6.3 The development will not cause an increase in flood risk in the wider catchment as it will not be sited on the functional floodplain.

6.4 Given the findings of this report it is considered that there will be no risk to the lives of occupants of the development as the result of flooding during a 1 in 200 year flood event.

6.5 Safe access to and egress from the development during extreme flow events, including access by emergency vehicles, needs to be considered. No difficulty is foreseen with this during the extreme event because the development including the access road is outwith the predicted functional floodplain.

6.6 In summary, the development may proceed without significant risk of flooding from the River Little Eachaig and will not increase the flow of floodwater downstream. It is therefore considered to be compliant with the recommendations of SPP7 and PAN69.

REFERENCES

1 Chronology of British Hydrological Events. Online database. The British Hydrological Society. 2007. (www.dundee.ac.uk/geography/cbhe/).

2 Chow, V. T. Open-channel Hydraulics. New York, McGraw-Hill Book Co. 1959.

3 Aldridge, B. N. & Garrett, J. M. Roughness coefficients for stream channels in Arizona. US Geological Survey Open-File Report, 87pp. 1973.

4 Flood Studies Supplementary Report 14. Regional Growth Curves Reviewed. Institute of Hydrology, Wallingford. 1983.

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Planning Advice Note 69: Planning and Building Standards Advice on Flooding. Scottish Executive Development Department. August 2004.

Reporting Requirements for Flood Risk Assessments. Scottish Environment Protection Agency. 2007.

Scottish Planning Policy 7: Planning and Flooding. Scottish Executive Development Department. February 2004.

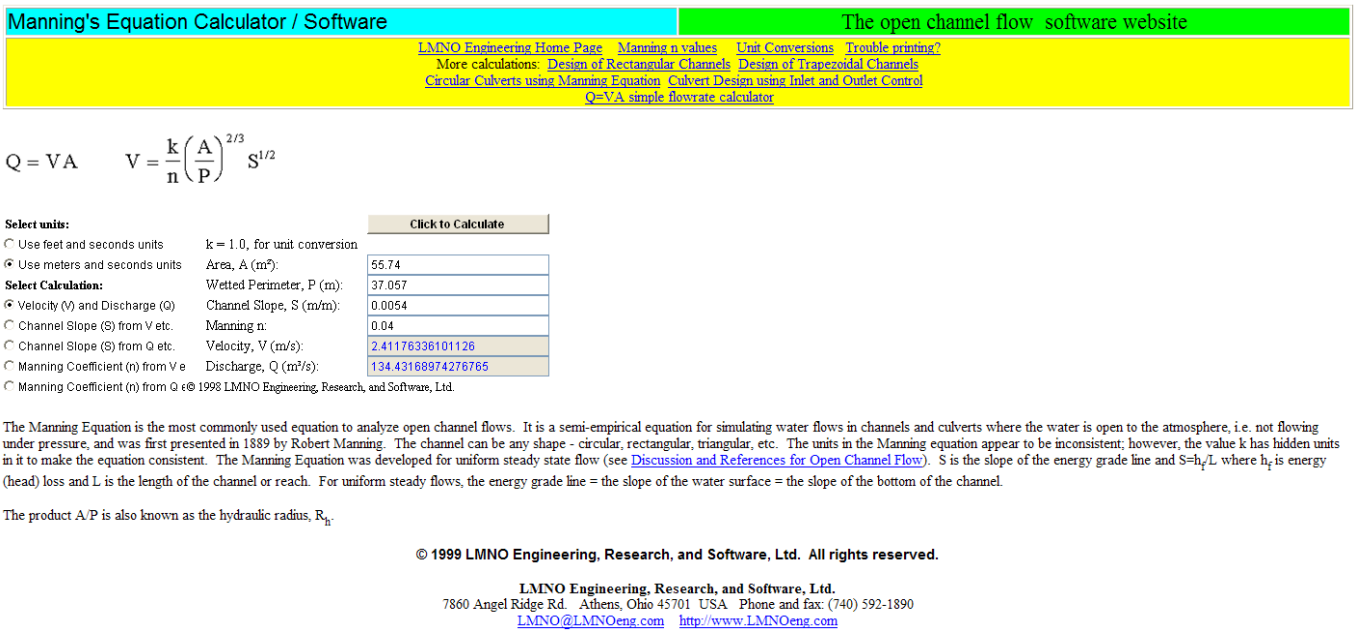
Technical Flood Risk Guidance for Stakeholders. Version 2. Scottish Environment Protection Agency. 30/01/08.

ACCOMPANYING FILES

The following files accompany this report:

HEC-Ballochyle.zip	–	HEC-RAS Modelling Files
J435 Dalinlongart Topo 3D Rev A.dwg	–	AutoCAD Cross-section Profiles
Ballochyle_Survey_Data.xlsx	–	Processed survey data for Manning's Calculations & for HEC-RAS Modelling

ADDITIONAL FIGURES



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More calculations: Design of Rectangular Channels | Design of Trapezoidal Channels
Circular Culverts using Manning Equation | Culvert Design using Inlet and Outlet Control
Q=VA simple flowrate calculator

$$Q = VA \qquad V = \frac{k}{n}\left(\frac{A}{P}\right)^{2/3} S^{1/2}$$

Select units:		Click to Calculate
○ Use feet and seconds units	k = 1.0, for unit conversion	
◉ Use meters and seconds units	Area, A (m^2):	55.74
Select Calculation:	Wetted Perimeter, P (m):	37.057
◉ Velocity (V) and Discharge (Q)	Channel Slope, S (m/m):	0.0054
○ Channel Slope (S) from V etc.	Manning n:	0.04
○ Channel Slope (S) from Q etc.	Velocity, V (m/s):	2.41176336101126
○ Manning Coefficient (n) from V e	Discharge, Q (m^3/s):	134.43168974276765
○ Manning Coefficient (n) from Q ε		

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Figure 5. XS5 Manning's Calculation

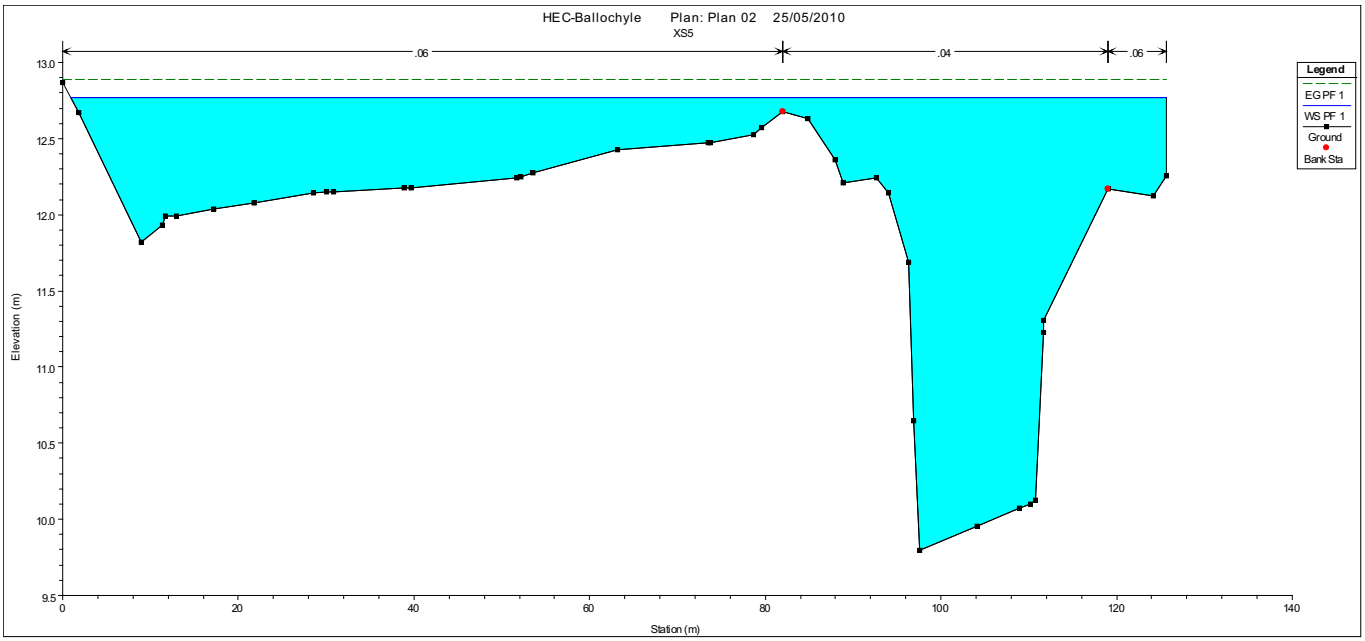

Figure 6. XS5 HEC-RAS - Water Surface Elevation is 12.77 mAOD

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Q=VA simple flowrate calculator

$$Q = VA \qquad V = \frac{k}{n}\left(\frac{A}{P}\right)^{2/3} S^{1/2}$$

Select units:		Click to Calculate
Use feet and seconds units	k = 1.0, for unit conversion	
Use meters and seconds units	Area, A (m^2):	43.57
Select Calculation:	Wetted Perimeter, P (m):	33.465
Velocity (V) and Discharge (Q)	Channel Slope, S (m/m):	0.0001
Channel Slope (S) from V etc.	Manning n:	0.04
Channel Slope (S) from Q etc.	Velocity, V (m/s):	0.298083425970412
Manning Coefficient (n) from V e	Discharge, Q (m^3/s):	12.98749486953085
Manning Coefficient (n) from Q		

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Figure 7. XS6 Manning's Calculation

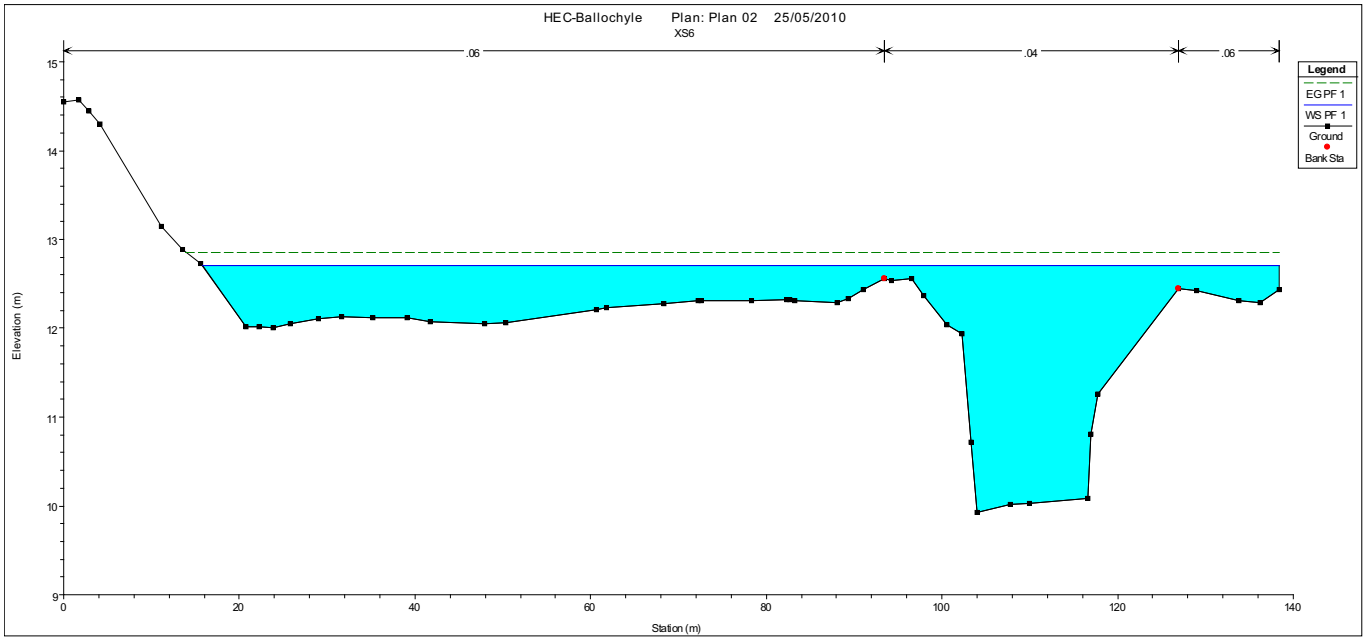

Figure 8. XS6 HEC-RAS - Water Surface Elevation is 12.71 mAOD

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Q=VA simple flowrate calculator

$$Q = VA \qquad V = \frac{k}{n}\left(\frac{A}{P}\right)^{2/3} S^{1/2}$$

Select units:		Click to Calculate
Use feet and seconds units	k = 1.0, for unit conversion	
Use meters and seconds units	Area, A (m²):	42.56
Select Calculation:	Wetted Perimeter, P (m):	28.204
Velocity (V) and Discharge (Q)	Channel Slope, S (m/m):	0.0203
Channel Slope (S) from V etc.	Manning n:	0.04
Channel Slope (S) from Q etc.	Velocity, V (m/s):	4.6861404747951445
Manning Coefficient (n) from V e	Discharge, Q (m³/s):	199.44213860728135
Manning Coefficient (n) from Q ε© 1998 LMNO Engineering, Research, and Software, Ltd.		

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Figure 9. XS7 Manning's Calculation

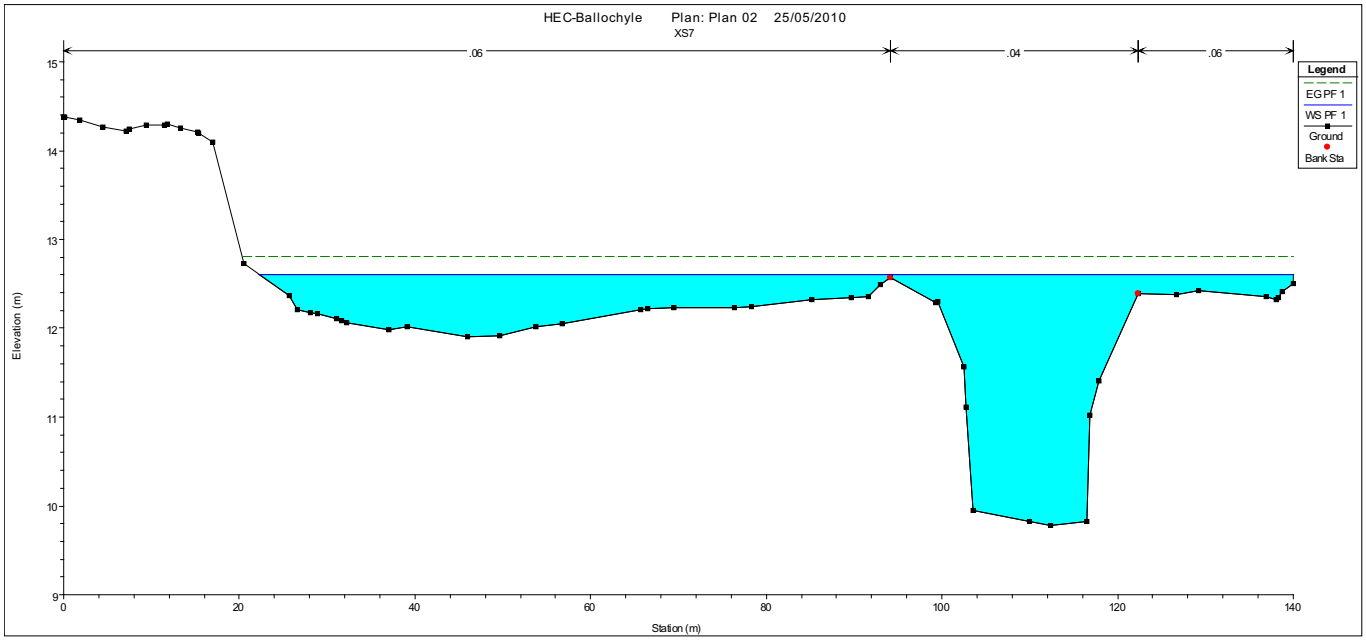

Figure 10. XS7 HEC-RAS - Water Surface Elevation is 12.61 mAOD

Manning's Equation Calculator / Software | The open channel flow software website

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Circular Culverts using Manning Equation | Culvert Design using Inlet and Outlet Control
Q=VA simple flowrate calculator

$$Q = VA \qquad V = \frac{k}{n}\left(\frac{A}{P}\right)^{2/3} S^{1/2}$$

Select units:		Click to Calculate
Use feet and seconds units	k = 1.0, for unit conversion	
Use meters and seconds units	Area, A (m²):	42.47
Select Calculation:	Wetted Perimeter, P (m):	35.899
Velocity (V) and Discharge (Q)	Channel Slope, S (m/m):	0.0106
Channel Slope (S) from V etc.	Manning n:	0.04
Channel Slope (S) from Q etc.	Velocity, V (m/s):	2.879118551659611
Manning Coefficient (n) from V e	Discharge, Q (m³/s):	122.27616488898367
Manning Coefficient (n) from Q ε© 1998 LMNO Engineering, Research, and Software, Ltd.		

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Figure 11. XS8 Manning's Calculation

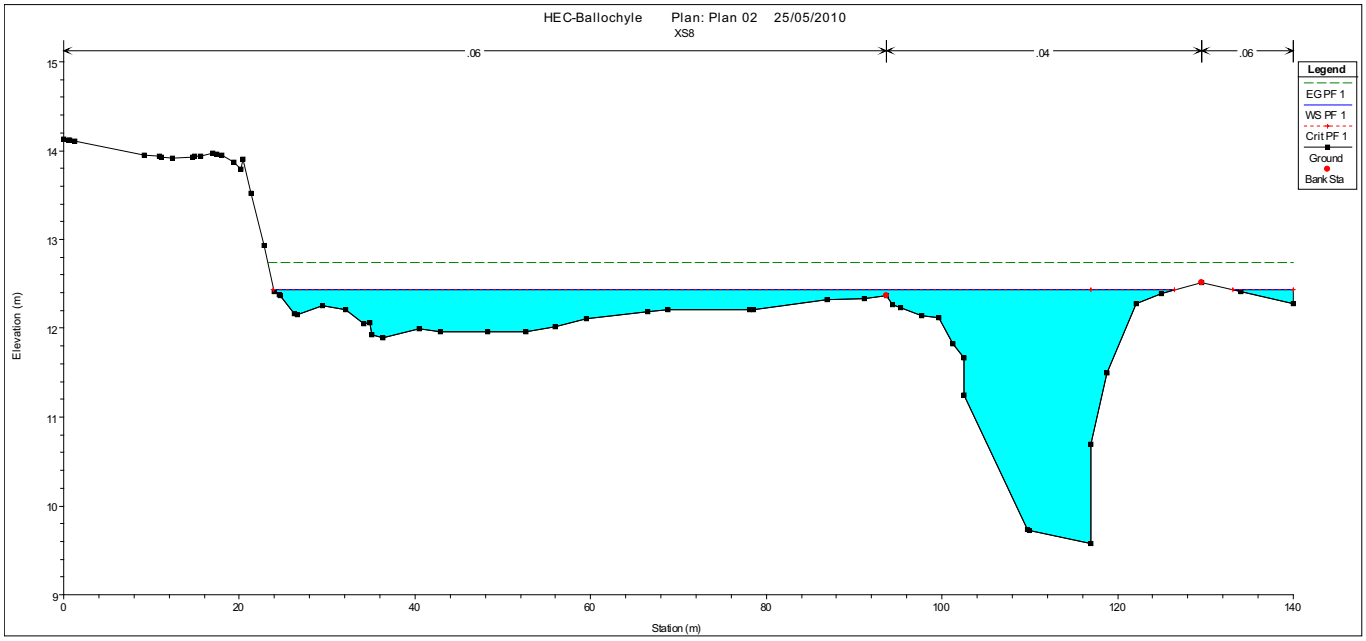
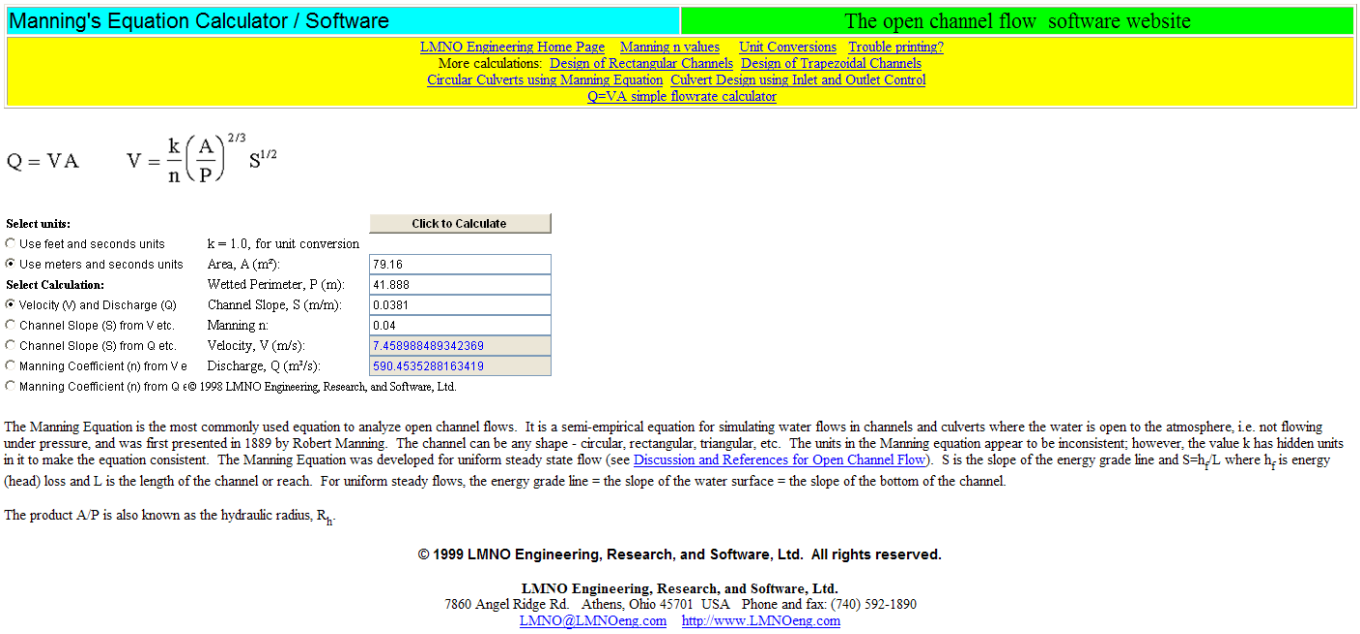


Figure 12. XS8 HEC-RAS - Water Surface Elevation is 12.43 mAOD



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Circular Culverts using Manning Equation | Culvert Design using Inlet and Outlet Control
Q=VA simple flowrate calculator

$$Q = VA \qquad V = \frac{k}{n}\left(\frac{A}{P}\right)^{2/3} S^{1/2}$$

Select units:		Click to Calculate
○ Use feet and seconds units	k = 1.0, for unit conversion	
◉ Use meters and seconds units	Area, A (m^2):	79.16
Select Calculation:	Wetted Perimeter, P (m):	41.888
◉ Velocity (V) and Discharge (Q)	Channel Slope, S (m/m):	0.0381
○ Channel Slope (S) from V etc.	Manning n:	0.04
○ Channel Slope (S) from Q etc.	Velocity, V (m/s):	7.458988489342369
○ Manning Coefficient (n) from V e	Discharge, Q (m^3/s):	590.4535288163419
○ Manning Coefficient (n) from Q ε© 1998 LMNO Engineering, Research, and Software, Ltd.		

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Figure 13. XS9 Manning's Calculation

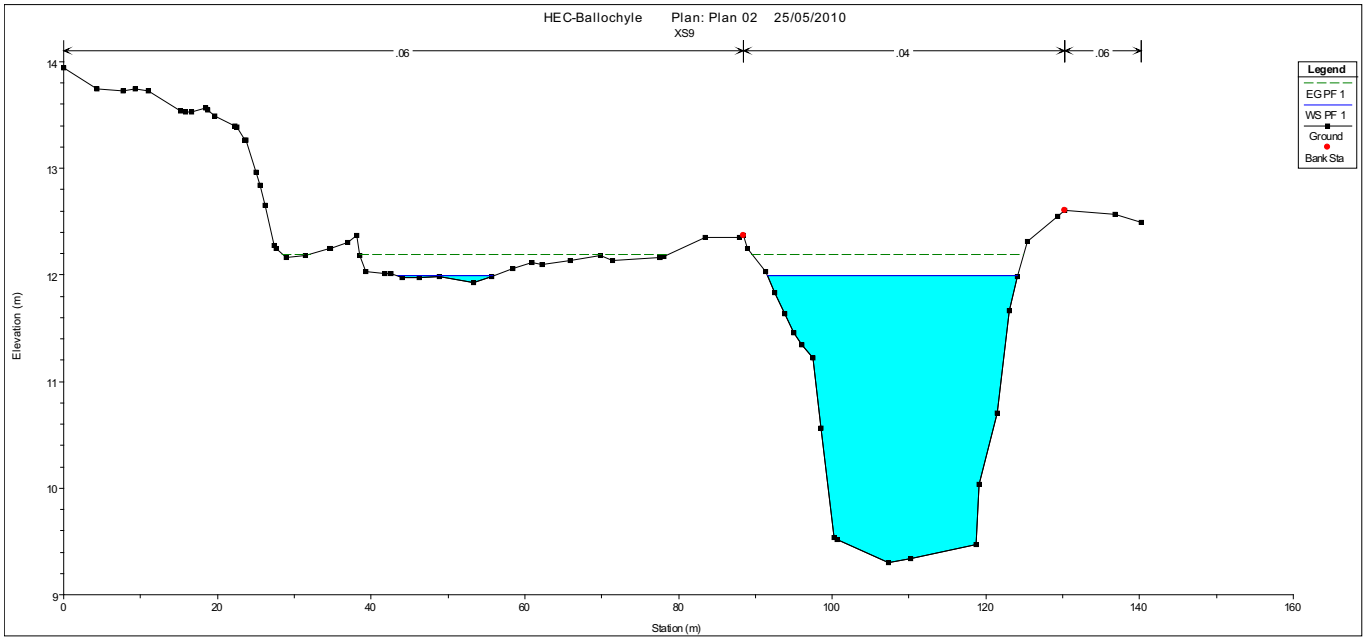

Figure 14. XS9 HEC-RAS - Water Surface Elevation is 11.99 mAOD

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More calculations: Design of Rectangular Channels | Design of Trapezoidal Channels
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Q=VA simple flowrate calculator

$$Q = VA \qquad V = \frac{k}{n}\left(\frac{A}{P}\right)^{2/3} S^{1/2}$$

Select units:		Click to Calculate
Use feet and seconds units	k = 1.0, for unit conversion	
Use meters and seconds units	Area, A (m²):	63.66
Select Calculation:	Wetted Perimeter, P (m):	34.622
Velocity (V) and Discharge (Q)	Channel Slope, S (m/m):	0.0001
Channel Slope (S) from V etc.	Manning n:	0.04
Channel Slope (S) from Q etc.	Velocity, V (m/s):	0.37521742339051223
Manning Coefficient (n) from V e	Discharge, Q (m³/s):	23.88634117304001
Manning Coefficient (n) from Q ε© 1998 LMNO Engineering, Research, and Software, Ltd.		

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Figure 15. XS10 Manning's Calculation

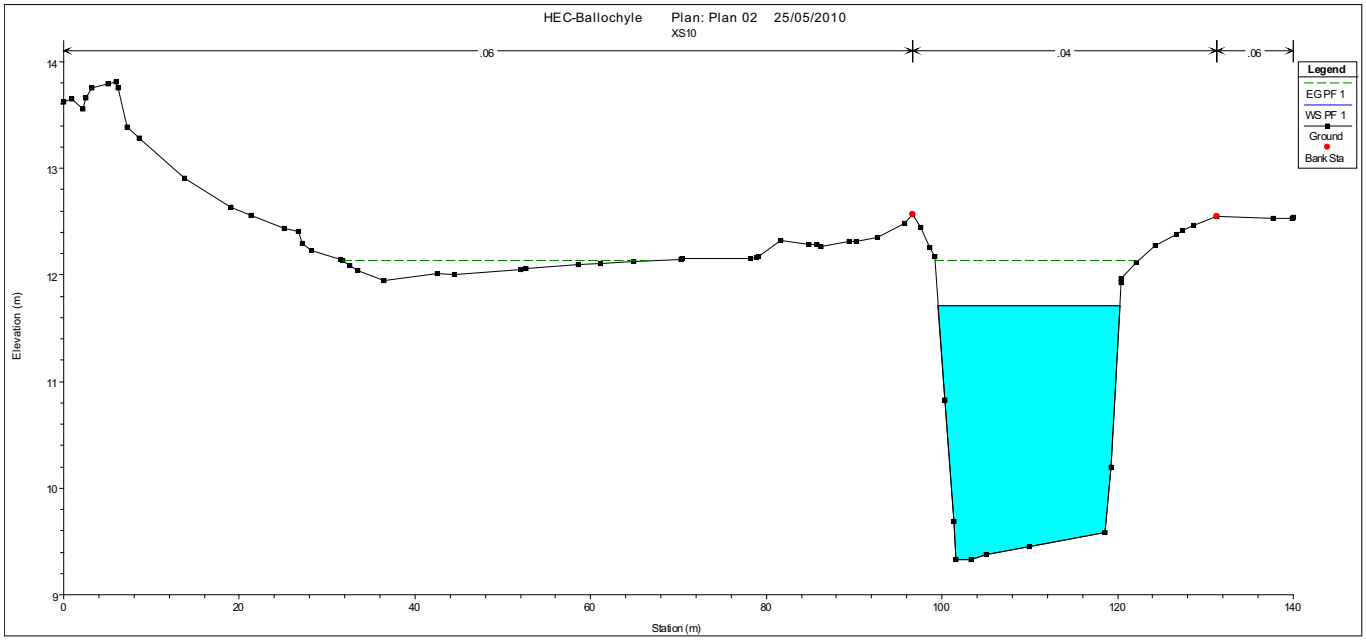

Figure 16. XS10 HEC-RAS - Water Surface Elevation is 11.72 mAOD

Manning's Equation Calculator / Software | The open channel flow software website

LMNO Engineering Home Page | Manning n values | Unit Conversions | Trouble printing?
More calculations: Design of Rectangular Channels | Design of Trapezoidal Channels
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Q=VA simple flowrate calculator

$$Q = VA \qquad V = \frac{k}{n}\left(\frac{A}{P}\right)^{2/3} S^{1/2}$$

Select units:		Click to Calculate
○ Use feet and seconds units	k = 1.0, for unit conversion	
◉ Use meters and seconds units	Area, A (m²):	64.4
Select Calculation:	Wetted Perimeter, P (m):	33.562
◉ Velocity (V) and Discharge (Q)	Channel Slope, S (m/m):	0.0444
○ Channel Slope (S) from V etc.	Manning n:	0.04
○ Channel Slope (S) from Q etc.	Velocity, V (m/s):	8.13436239104784 2
○ Manning Coefficient (n) from V e	Discharge, Q (m³/s):	523.8529379834811
○ Manning Coefficient (n) from Q ε© 1998 LMNO Engineering, Research, and Software, Ltd.		

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Figure 17. XS11 Manning's Calculation

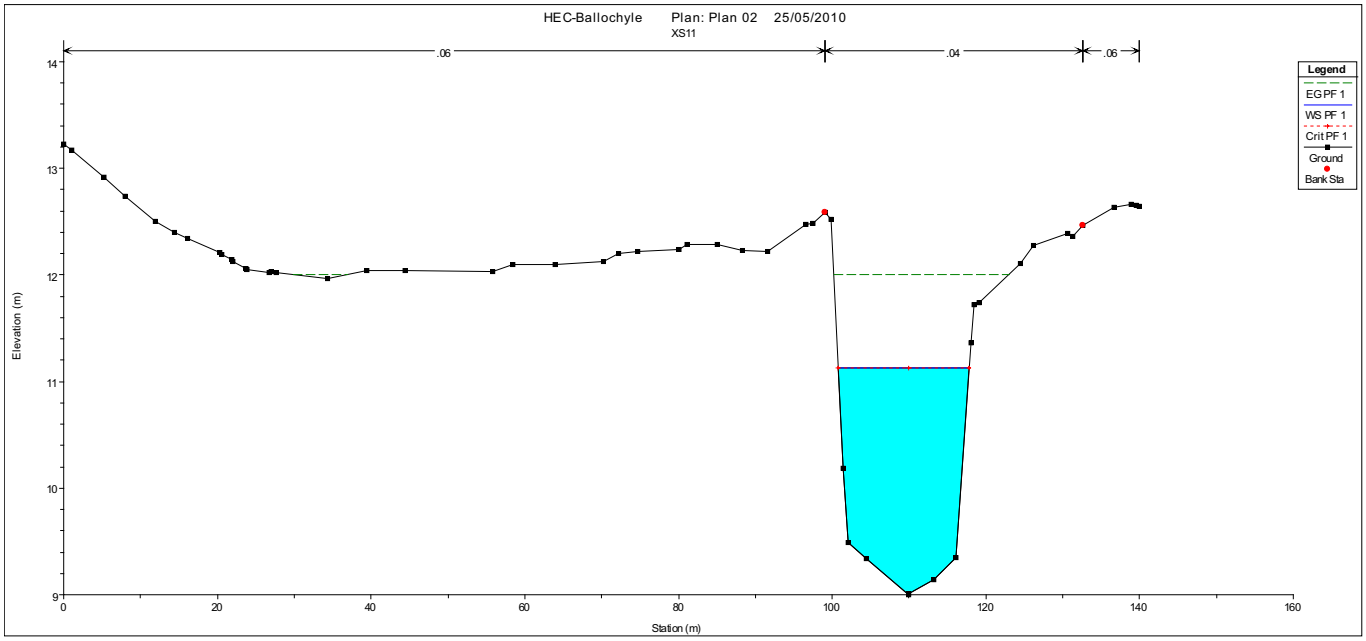

Figure 18. XS11 HEC-RAS - Water Surface Elevation is 11.13 mAOD

Clustering and Local Character

Micro Context

There are five buildings on the same side of the track as our proposed dwelling. The planning officer seems to disregard these building as relevant due to their agricultural nature, however built context does not differentiate between current and / or future usage - these buildings exist therefore they are relevant when considering the clustering of buildings at Ballochyle and their presence we feel fatally undermines the repeated assertion that the access track forms a definitive enclosure for development within this building cluster.

We find it very difficult to understand why the planning officer considers that the proposed dwelling would constitute “cramming of buildings close to the Ballochyle farm buildings” when the proposed dwelling is some 41 metres from the existing steading. The existing house to the north (Ballochyle Cottage 1) is located only 43m from the steading and this is not mentioned. (See Figure 1 overleaf). This fact it would seem undermines any claim that the position of the proposed dwelling would constitute “cramming”.

Also the “historical” status that the planning officer bequeaths on the Ballochyle Farm Steading belies the fact that the building is only 86 years old, not historically listed in any way nor of any unique or distinctive architectural character, steadings of this nature are commonplace and there are another two courtyard steading type buildings within less than 500m of the Ballochyle Steading. While we do not seek to diminish our client’s existing house or the sterling work they have done to restore it and preserve it, we feel it is unfair to place such a huge and unwarranted premium on this building and the preservation of its “setting”. As previously noted the proposed dwelling will be no closer to the steading than the existing cottage to the north and the proposed dwelling is arguably more harmonious with the steading in form, materiality and detail than Cottage 1 is.

Topographically context

The proposed siting of the longhouse has been very carefully considered with the existing topography. This proposal has been designing with the aid of 3d topographical land modelling and computer building modelling to ensure that the proposal is harmonious with its topographical and arboreal context. In a rural location we feel that this is as important, if not more so than harmony with the existing built context. (See figure 2 overleaf)

The proposed dwelling has been conceived as a continuation of the ridge that runs west from the site and forms a topographical continuum that encloses and rounds off the Ballochyle cluster at the location of the proposed dwelling. This topography and existing arboreal features create a sheltered site and the placing of a dwelling at this location in turn creates a private amenity area between the dwelling and the river. We feel that this siting is perfectly logical and not only complements the topography but rounds off this cluster of buildings whilst creating a beautiful setting for a rural home. (See figure 3 overleaf)

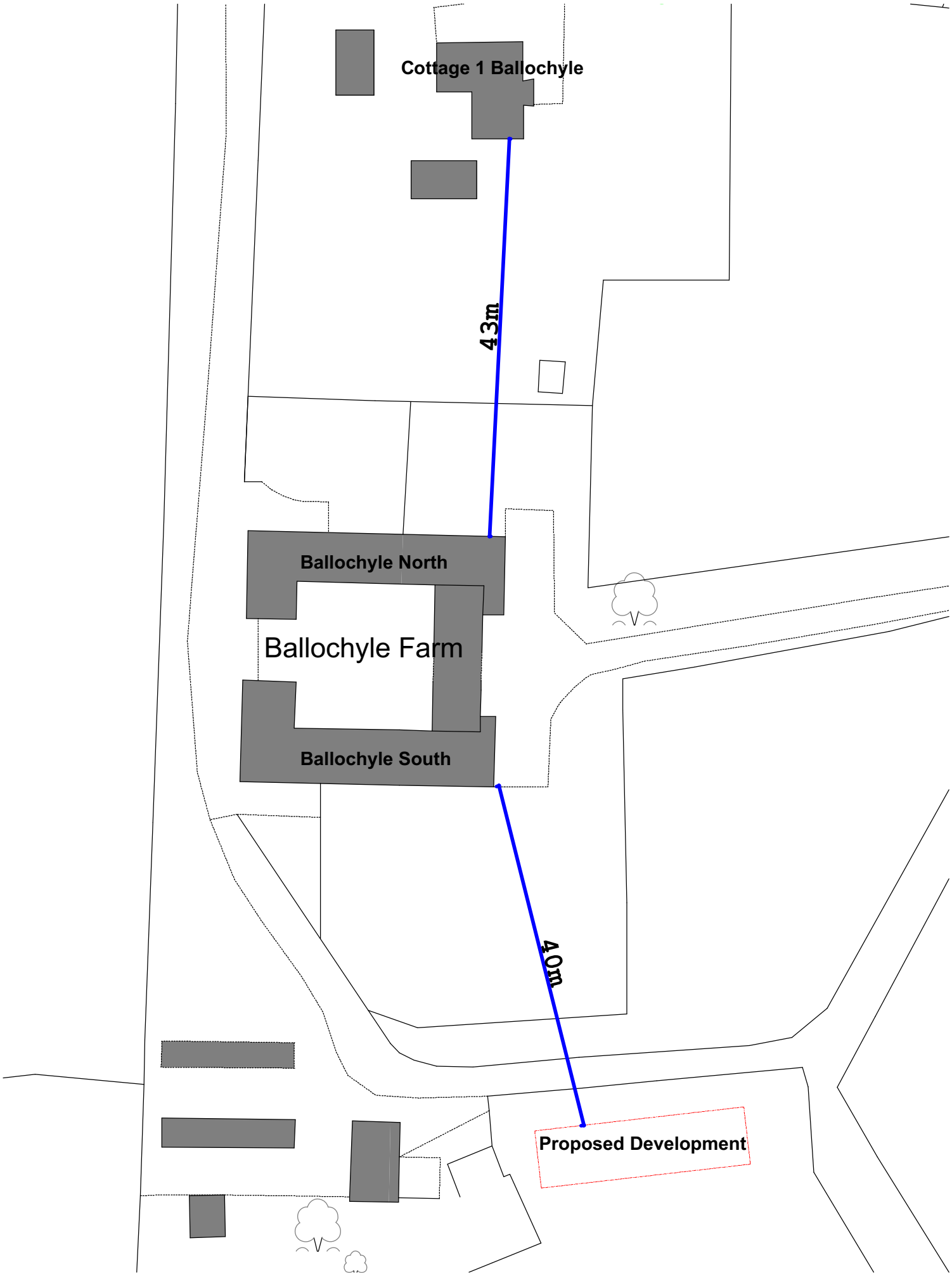

figure 1 - seperation

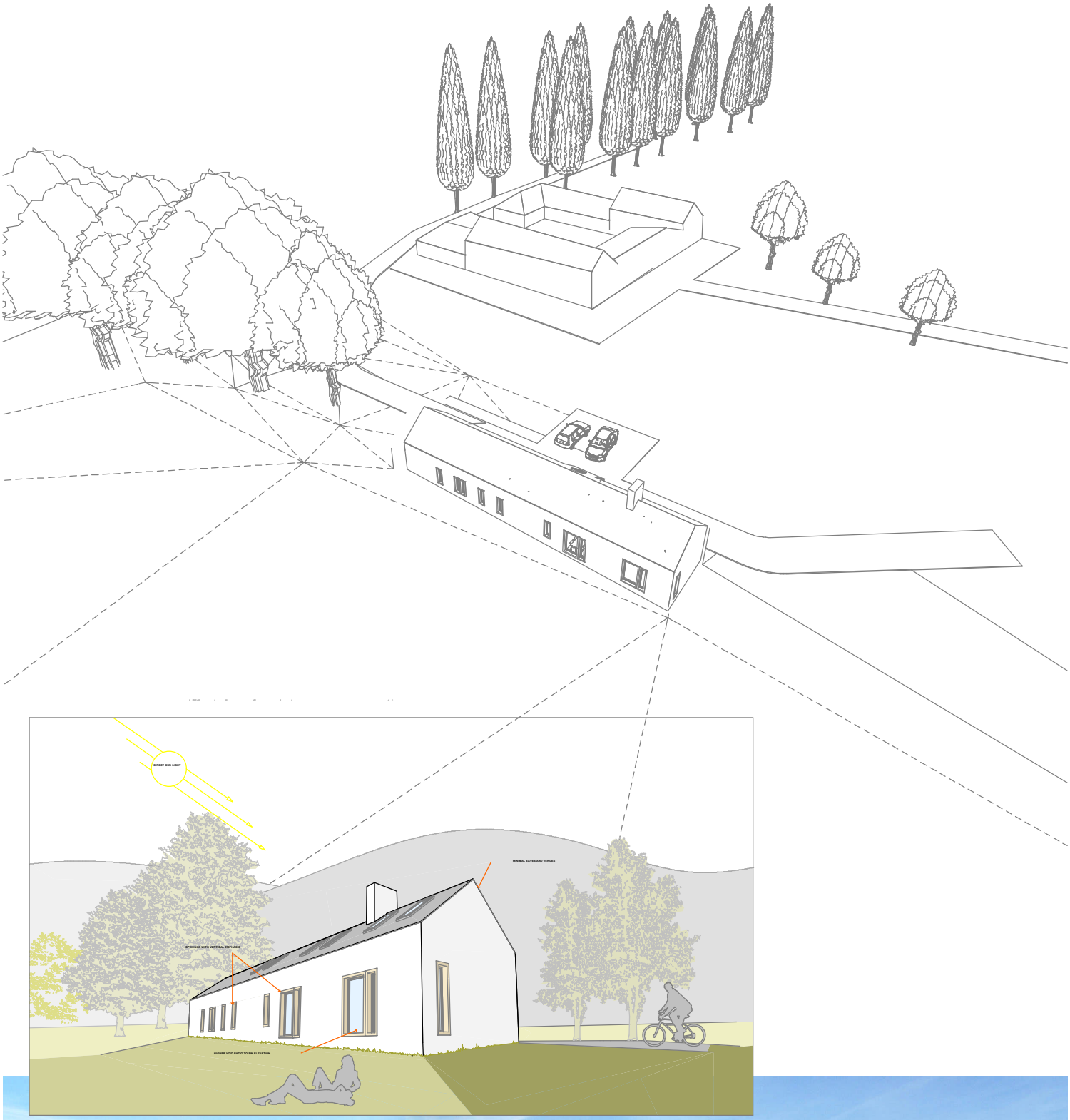

figure 2 - advanced information modelling

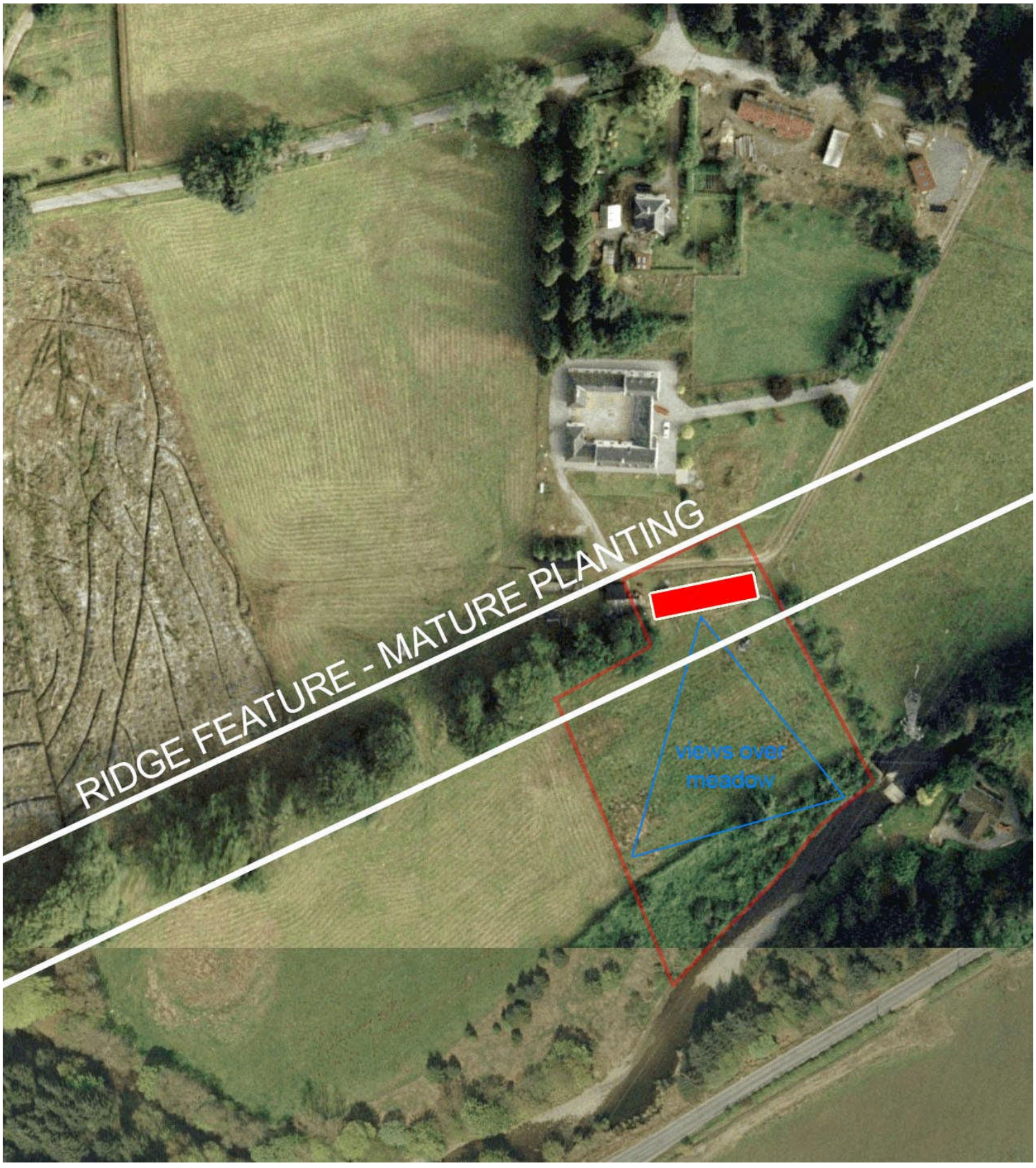

figure 3 - harmony with topography

Conclusion

We are well aware that reason 1 cited for refusal is purely subjective and as such we cannot offer a definitive evidential back up to our assertions beyond what we have presented in the design report and the additional information shown in this report. However that is the nature of architecture and planning and we feel that the weight of evidence that we show supports the assertion that this building is consistant with Local Plan policy regarding housing in RoAs is compelling.

We feel that not only have we strived to propose a development of the highest design quality we have also expended a huge amount of effort gathering site information through surveys and site visits and spent a huge amount of time disseminating and developing this information.

We therefore find it very difficult to concede that the building that we are proposing has been designed to nothing short of an exemplar standard in the context of the Argyll and Bute design guide and that we have agonised over this proposal at an exhaustive level of detail and that the reasons for refusal do not correlate at all with our conclusions.

The planning officer's constant referral to "other suitable sites in the RoA" is in our opinion irrelevant. There is no indication that *any* of these other pieces of ground will *ever* be proposed for development of any nature. However our proposed development site is being discounted on the distant chance that someone might, sometime in the future, propose a development on these other unspecified sites. The only proposal that carries any weight whatsoever in this process is the proposal as put forward here. Planning determinations, we feel should not based on the "possible" but the "actual" - and carefully considering the benefits that development can bring to an area.

As for setting a precedent - we do not agree that this application "undermines the character" of the RoA - quite the opposite. We have also established that the site is not at risk from flooding and that the under build suggested is primarily an architectural and topographical feature rather than merely a crude flood alleviation method. The distance of other dwellings to the Ballochyle Steading proves that "cramming" is not an issue, so a negative precedent regarding this aspect cannot be supported either.

In conclusion we maintain, as we always have, that our proposal will enhance the character of the RoA and will also greatly enrich the lives of those who dwell in it. We have hopefully established through our Flood Risk Assessment, Drainage Design Plan and further design information that far from being a "difficult" or "unsuitable" site it is in fact a perfect site for a sustainable, rural family home.

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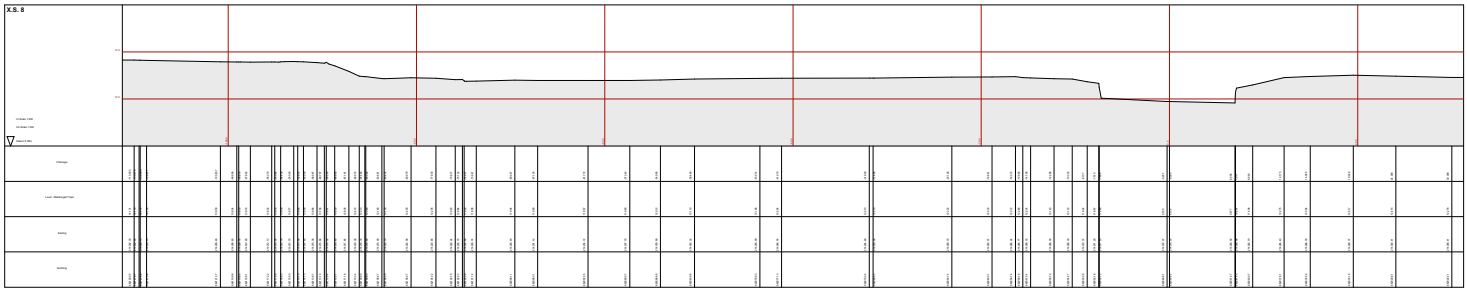

existing site section 8

Project Title	
New House At Ballochyle	
Drawing Title	A1
Existing site section	
	Date
	May 2010
Stage	Scale
planning review	1:200
	Drawn By
Drg No Rev	architect
0704/DR/02	Checked By
	architect

1-1 - 37 Kersland St - Glasgow - G12 8BP
T. 0141 334 8024
E. mail@linearchitecture.net
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Drainage and Ponding

The poor drainage and ponding references in the planning officer's statement of case and the contributor's letter are both wholly unrelated to any inundation of the site from the Little Eachaig River but merely arise from the site's topography and poor drainage management. Both of these items are easily addressed and are described in detail below.

Topography
We have enclosed a detailed topographical survey of the application field and from this drawing extract (Drawing no: 0704_DR_01) it is clear to see from the topographical data that there is a clear depression immediately in front of the proposed dwelling. This depression is at lowest point 11.886m OSD, the river bank bounding the site is at 12.005m – 12.800m OSD. From this data it is very simple to extrapolate where the ponding and drainage issues that are shown on the photographs from the contributor originate from. This is a simple ponding and drainage issue cause by both the field being a very gentle "U" shape in section and a localised depression in the field. We have included a full and comprehensive proposed drainage plan (Drawing no: 0704_DR_03) that will successfully and permanently cure this simple drainage issue.

It should also be very clearly established at this point that ALL of the included photographs show water ponding due to poor surface water drainage and absolutely none of the photographs indicate the site being inundated by the Little Eachaig River. A site inspection reveals disused cross site drainage trenches that have, over time and due to a lack of maintenance silted up indicating that this field's poor drainage is more to do with a lack of management rather than an intrinsically badly drained site.

Vegetation:
The planning officer's statement of case refers to the site's vegetation as an indication of the site's "marshy and damp conditions". This conclusion is not in fact borne out by either an examination of the site's topography or indeed the nature of the site's vegetation. The paragraph above deals with the topographical circumstances that cause the site's poor surface water drainage; below is an explanation of the vegetation and its proposed management.

The predominate vegetation that is being referred to is the Common Rush *(junctus effuses*). The presence of these rushes indicates that the soil has a low ph value and is low in nutrients. The presence of these rushes does not necessarily indicate terminal drainage problems. A simple site visit will show this to be the case as the adjacent field to the west of the proposed site is merely one half of a larger field that also compromises the application site. The adjoining field is at approximately the same OSD level and is used for grazing. This area of the field has a higher ph level through either spraying or increased nutrients which results in no rushes. A simple course of spraying on the application field combined with the reinstatement of the field drainage as per the enclosed drainage plan would banish the rushes and the planning

officer's assessment of turning this area into a mown lawn as "futile" is not supported by any close examination of the site's topography or vegetation.

Conclusion

To repeatedly refer to the proposed development site's current poor drainage as evidence of flood risk is disingenuous, especially in light of the enclosed independent Flood Risk Assessment. We do not feel that this site's current poor surface water drainage in any way compromises the proposed use of this area as an occasional garden area and in no way offers comment on the site's likelihood of flooding.

The overwhelmingly positive aspects of this dwelling's landscape setting are we feel being diminished in favour of a very negative interpretation of minor issues. The design intent for this entire field is as a south facing; sheltered meadow vista that sweeps down from the proposed dwelling to the river bank. All living areas within the proposed dwelling have commanding views over this vista. The potential of this field can only be appreciated after a site visit where one can stand where the proposed living areas of the proposed dwelling will be and look out over this stretch of open space. This captivating setting and connection with the landscape is the prime reason for choosing this site for a dwelling.

Flooding

Please find enclosed a detailed, independent Flood Risk Assessment (FRA) by Transtech Ltd. This is a comprehensive report and states that there is no risk of flooding to the proposal site and that our proposed FFL is in fact more than 1m clear of the 1 in 200 year flood level (12.43m OSD). As a consequence the proposed dwelling could theoretically be constructed with no land raising, merely a standard 200mm FFL to external ground level foundation construction based on an average cross-site level of the dwelling's footprint being 12.75m OSD. Therefore we dispute the planning officer's reasoning that this proposal will establish a precedent for land raising as a method to combat flooding.

However as previously stated the main reason for raising the FFL to 13.5m OSD is to ensure the main living storey of the dwelling is level with the parking area and affords a commanding view over the meadow and the river. We have previously stated the clear architectural reasoning for having a public and private face to the building and this level change accentuates this duality. Besides which we also agree with the precautionary approach and feel that the proposed FFL of 13.5m OSD both reinforces the architectural rational behind the building and affords total protection against any risk of flooding.

It is worth noting that we now have no objections from SEPA, no objections from Argyll and Bute Flood Alleviation Officer and an independent, Quality assured Flood Risk Assessment from a widely respected specialist engineering company stating that the proposed site is free from flood risk. We feel that this combined body of verifiable evidence should be sufficient to discharge the precautionary stance adopted by the planning officer in regard to this site's risk from flooding.

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SuDs and Foul Water Drainage

We find the planning officer's defence of the lack of information requests slightly puzzling as this application not only took five months to determine but the same planning officer dealt with the earlier withdrawn scheme (09/00612/DET) which was almost identical apart from the inclusion of a private water supply. Therefore this application has been sitting on the case officer's desk with the same foul drainage and SuDs proposals from May 2009 to January 2010, during which time we instigated at least two meetings, instigated numerous telephone conversation and sent emails requesting if additional information was required. Not once was a request for any further information regarding SuDs, Foul drainage or flooding ever requested.

We have now included a detailed SuDs drainage design and a detailed proposal for foul water treatment. This represents further considerable expenditure for my clients for works which we still maintain are not required at this stage, especially if the planning officer has objections in principle for the scheme itself. However we are professionally obligated to advise our clients that this information is now a necessity as it has been re-iterated in the planning officer's response to our initial statement of appeal.

We therefore maintain our earlier stance that this is a matter for Building Standards; however these drainage proposals are included here to demonstrate not just feasibility but detail and will hopefully discharge reasons for refusal 3 & 4.

It should be noted at this stage that after investigations with the Land Registry our client owns lands all the way to the river boundary as shown on the revised ownership plan (Drawing number 0704/LR/01). This extended ownership allows our clients added flexibility in coming to the best drainage solution for this site but does not affect the red line boundary of the application.

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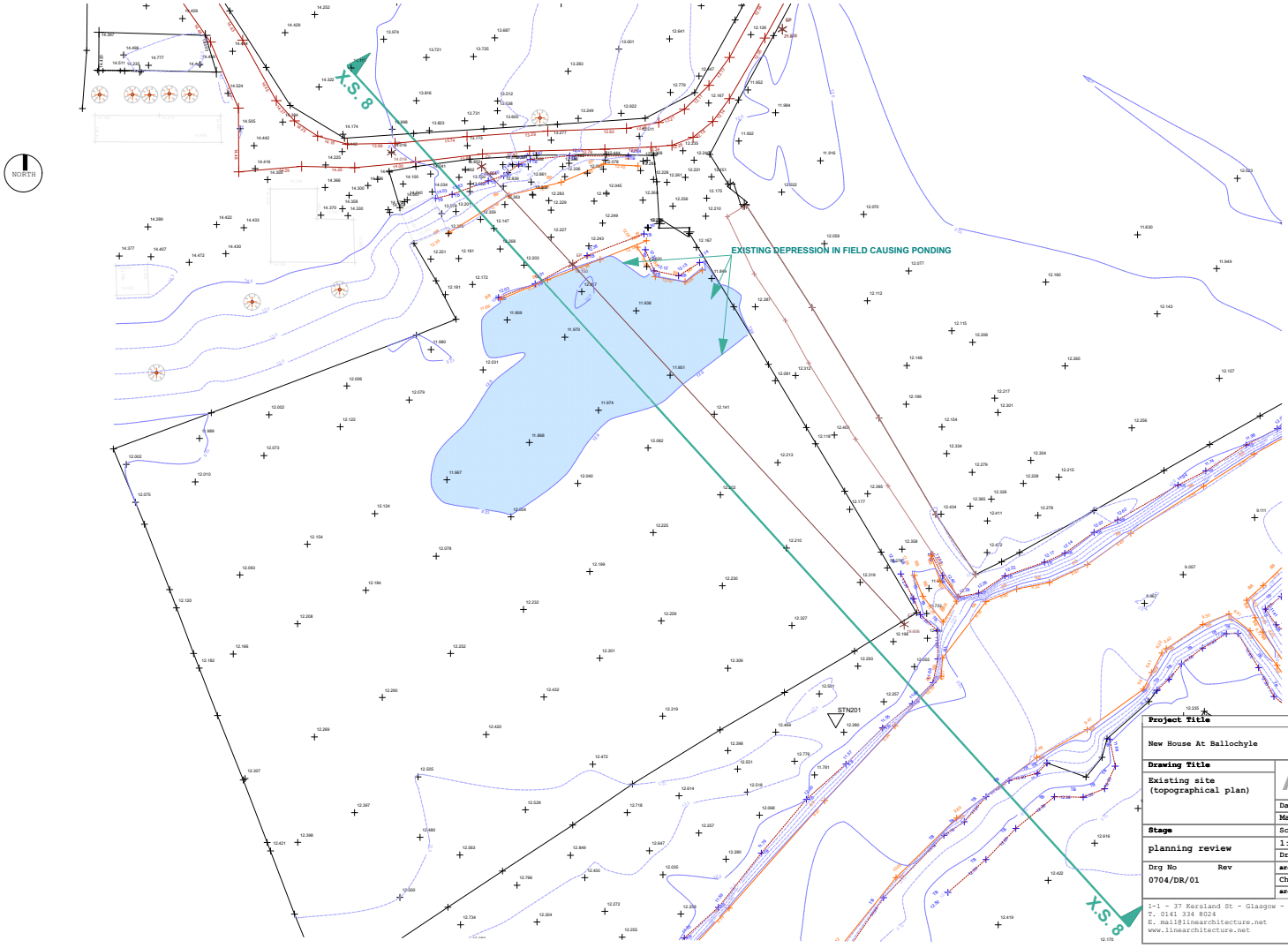

Project Title	
New House At Ballochyle	
Drawing Title	A1
Existing site (topographical plan)	
	Date: May 2010
Stage	Scale: 1:200
planning review	Drawn By: architect
Drg No: 0704/DR/01 Rev:	Checked By: architect

1-1 - 37 Kersland St - Glasgow - G12 8BP
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E. mail@linearchitecture.net
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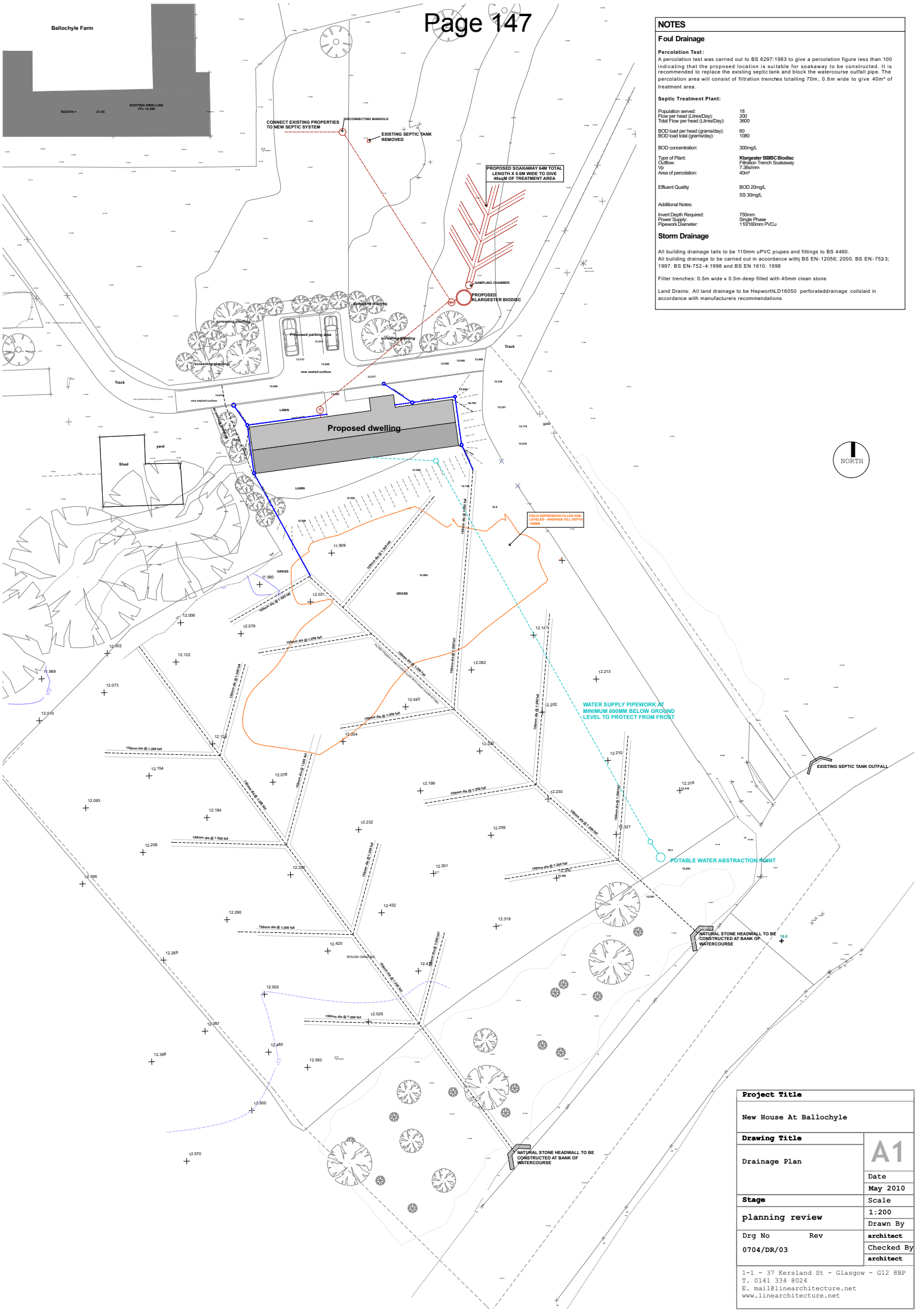

NOTES

Foul Drainage

Percolation Test :
A percolation test was carried out to BS 6297:1983 to give a percolation figure less than 100 indicating that the proposed location is suitable for soakaway to be constructed. It is recommended to replace the existing septic tank and block the watercourse outfall pipe. The percolation area will consist of filtration trenches totalling 70m , 0.6m wide to give 40m² of treatment area.

Septic Treatment Plant:

Population served:	18
Flow per head (Litres/Day):	200
Total Flow per head (Litres/Day):	3600
BOD load per head (grams/day):	60
BOD load total (grams/day):	1080
BOD concentration:	300mg/L
Type of Plant:	**Klargester BBBC Biodisc**
Outflow:	Filtration Trench Soakaway
Vp	7.38s/mm
Area of percolation:	40m²
Effluent Quality	BOD 20mg/L
	SS 30mg/L
Additional Notes:	
Invert Depth Required:	750mm
Power Supply:	Single Phase
Pipework Diameter:	110/160mm PVCu

Storm Drainage

All building drainage tails to be 110mm uPVC piupes and fittings to BS 4460.
All building drainage to be carried out in accordance withj BS EN- 12056; 2000. BS EN- 7523; 1997. BS EN-752-4:1998 and BS EN 1610: 1998

Filter trenches: 0.5m wide x 0.5m deep filled with 40mm clean stone

Land Drains: All land drainage to be HepworthLD16050 perforateddrainage coilslaid in accordance with manufacturers recommendations

Project Title	
New House At Ballochyle	
Drawing Title	A1
Drainage Plan	
	Date
	May 2010
Stage	Scale
planning review	1:200
	Drawn By
Drg No Rev	architect
0704/DR/03	Checked By
	architect

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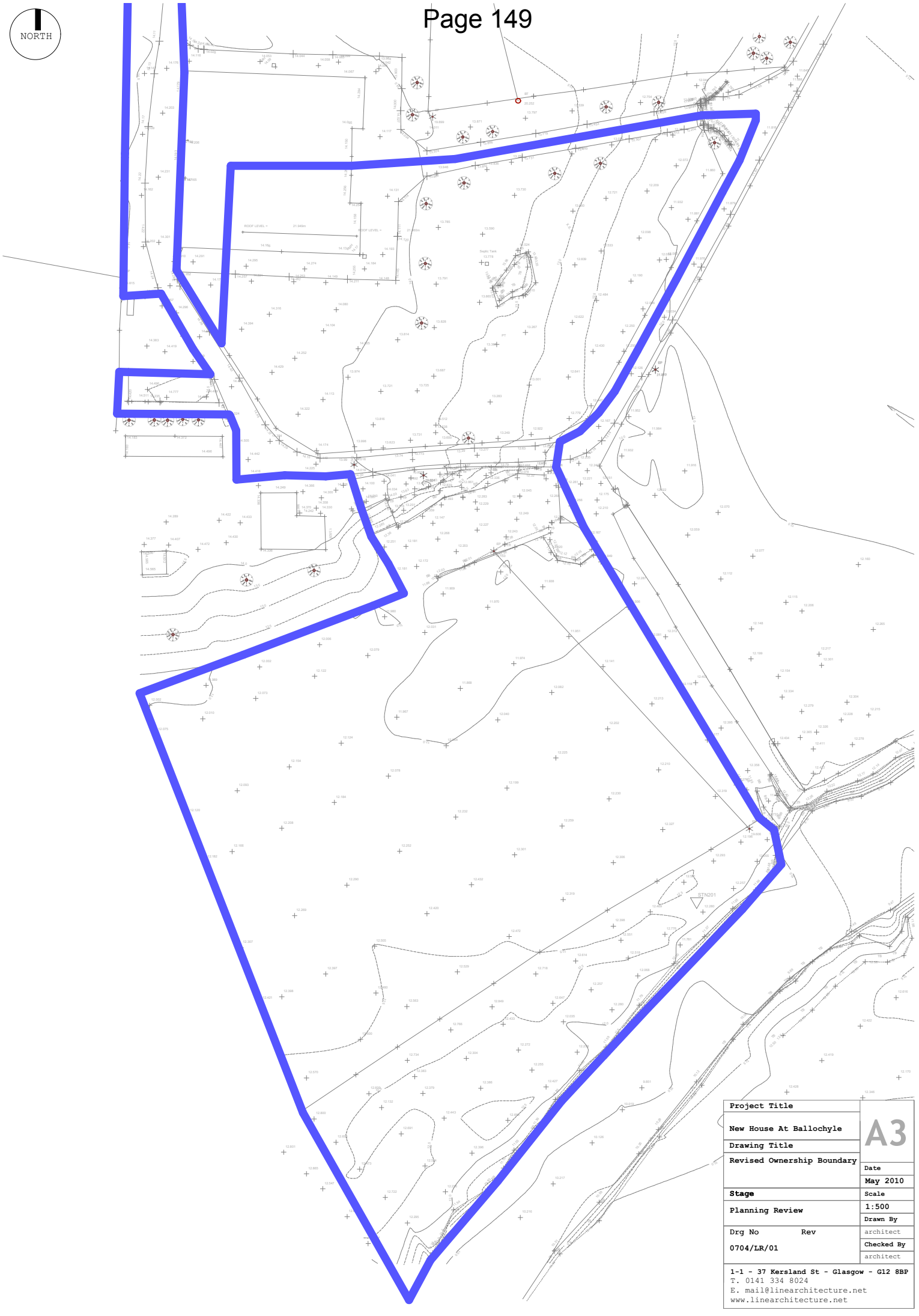

Project Title	A3
New House At Ballochyle	
Drawing Title	
Revised Ownership Boundary	**Date**
	May 2010
Stage	**Scale**
Planning Review	1:500
	Drawn By
Drg No Rev	architect
0704/LR/01	**Checked By**
	architect

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Milton House, Milton Avenue, Dunoon, PA23 7DU
Tel: (01369) 708606 or 708607; Fax: (01369) 708609

Date: 9th July 2010

Our Ref: 09/01308/PP
Your Ref. 10/0005/LRB
Case Officer: Brian Close;
Direct Line: (01369) 708604

Local Review Body
c/o Committee Services
Argyll and Bute Council
Kilmory
Lochgilphead
Argyll PA31 8RT

Dear Sir/Madam,

TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2008;
REFUSAL OF PLANNING PERMISSION REF. 09/01308/PP FOR THE ERECTION OF A DWELLINGHOUSE, FORMATION OF CAR PARKING, INSTALLATION OF SEPTIC TANK AND CREATION OF PRIVATE WATER SUPPLY AT LAND SOUTH WEST OF COTTAGE 3 BALLOCHYLE FARM, SANDBANK, DUNOON, ARGYLL PA23 8RD.

With reference to the Notice and request for further information issued 28th June 2010 I enclose written submissions in respect of section (8) points 1-6.

I can also confirm that copies have also been sent to all relevant parties as specified in The Schedule.

I trust that this information is in order but please do not hesitate to contact the department at the number above should you require any further information.

Yours faithfully

BAK

Planning Officer,
Development Management
Bute and Cowal

Enc.

REQUEST FOR FURTHER INFORMATION BY WRITTEN SUBMISSIONS FOLLOWING APPEAL TO LOCAL REVIEW BODY 17TH JUNE 2010

1. In terms of SuDS, insufficient information was provided at the time of the original Report of Handling hence a further reason for refusal. Only indicative information was lodged at this stage and contrary to the appellant's agent's comments that this is a matter for Building Control, full details also require to be submitted in support of the detailed planning application.

   The additional information submitted in respect of a Sustainable Urban Drainage System could, in consultation with Building Standards, potentially be addressed via a suspensive planning condition.

   Building Standards were consulted and their informal comments are attached.

2. The original Report of Handling dated 21st January 2010 numbered the reasons for refusal as 1-4. The numbers (1, 5, 6 and 7) in the Agenda Pack appear to have been a typographical error and the four reasons for refusal remain as originally recommended in the Report of Handling.

3. Building Standards and Public Protection have been contacted on the suitability of the proposed bore hole for drinking water and comments are attached.

   The additional information submitted in respect of a private water supply could, in consultation with Building Standards and Public Protection, potentially be addressed via a suspensive planning condition.

4. The Appeal Statement indicates in the site history that a previous application (ref. 06/01964/DET) was refused where one of the reasons for refusal was the poor condition of the estate road connecting with the Glen Massan Road. The Appeal Statement does however indicate that this private road has recently been improved so is not an obstacle to development as was previously. For the avoidance of doubt, the private track from Ballochyle House to Glen Lean is considered unsuitable for additional vehicular traffic. [Refer also to Council's Statement of Case in the Agenda Pack p47-49 'description of site' and para 1.]

   Attached is the original Roads response who have confirmed that they have no further comments to add.

5. The previous application ref. 06/01964/DET for the 'house on stilts' within the floodplain was refused on 6th December 2006. A letter from the department to the appellant's agent dated 17th January 2008 indicated that a revised scheme with alternative design that was still sited within the active floodplain could result in a similar recommendation. The agent was advised at that time to discuss the matter fully with SEPA where a Flood Risk

Assessment would be required in support of any future application. A pre-application meeting was held in Milton House at the request of the applicant on 29th May 2009, but while no minutes were taken, the discussion concentrated on matters regarding the provision of a private water supply and previous grounds for refusal. It is highly unlikely from the previous grounds of refusal that any form of acceptance would have been given by the Case Officer at this meeting to a revised scheme other than to advise the applicants of the risk in lodging such an application and the right of appeal should the revised scheme receive a similar recommendation. A revised application ref. 09/01308/PP was lodged 3rd September 2009. [Refer also to Council's Statement of Case in the Agenda Pack p48-49 para 1.]

6. The original Report of Handling indicated that, despite suggested floor levels, the department has adopted a precautionary approach regarding potential flooding and the need to develop within the functional floodplain of the Little Eachaig River when there are more suitable development sites (that would not require land raising) contained within the wider Rural Opportunity Area.

In terms of any similar land raising schemes, a recent unimplemented permission (ref. 09/00566/DET) for the erection of two dwellinghouses on land to the north of 1 Dalinlongart Cottage, Sandbank was granted on the basis that no land raising was required and a suitable freeboard established for finished floor levels. Whilst a small part of the rear garden area lay within the indicative floodplain of the Little Eachaig River, this was regarded as insignificant in terms of the submitted Flood Risk Assessment and physical attributes of the river at this location. It is interesting to note that an earlier scheme for three dwellings (ref. 07/01836/DET) was refused where one of the two reasons for refusal was the requirement to land-raise by creating a platform for development. This was considered to result in an unnatural landform with the proposed development built on an artificial mound that would be incapable of integrating with its rural surroundings.

APPENDIX

(i) **Additional comments received from Garreth Garrett, Building Standards, Team Leader, Cowal and Bute – email dated 7th July 2010**

***Flood risk**: the building regulations ask that Building Standards seek advice from the local planning authority and SEPA. From the documents provided it would seem that both SEPA and the Councils own flood alleviation officer have no objections to building on this site, and therefore neither would we. We would as a matter of course ask for field drains etc to be installed, depending upon lie of the land etc.*

***SUDS system**: this is commonly used to disperse the rainwater from the building into the land, and in general we would have no objection to its installation. Without percolation tests having been undertaken, I could not comment as to how large a SUDS system would be required.*

***Biodisk system using a ground soakaway**: again a commonly used system. Without percolation tests having been carried out it is difficult to comment, however we have allowed houses to be formed within poor draining land with the biodisk unit connected to `pods` containing peat, which are replaced every few years. Sorry that I cannot remember the name of this system right now.*

***Provision of drinking water**: this is not covered within the building regulations.*

(ii) **Additional comments received from Jim Rennie, Public Protection, Environmental Health Officer, Cowal and Bute – internal memo dated 5th July 2010**

No further comment to add to the initial response to the application. In trying to answer Cllr. Kelly's enquiry regarding the suitability of the proposed bore hole, I would refer him to the Water Quality Assessment prepared by TransTech Limited (dated 9/7/2009) which advises:

1. *Water from a borehole is a practical proposal.*
2. *Water from the borehole will be recharged from the River Little Eachaig by percolation.*
3. *Chemical parameter failures (under the limits imposed by the Private Water Supplies (Scotland) Regulations 2006) is limited to Iron and colour, which can be treated by the methods detailed in the report. (Note that this sample was taken from the River Little Eachaig directly and not from any test bore).*
4. *Microbiological testing will be required but treatment is best achieved using a UV system.*

I note also that TransTech advises approaching a specialist contractor to offer further advice on this matter.

(iii) Original Roads response to the application dated 12th October 2009 attached who confirm that they have no further comments to add.

Please note that the informal comments from Building Standards, Public Protection and Roads above do not represent a formal response which may be made separately. They are included to address area of overlap raised in points 1,3 and 4 above.

OPERATIONAL SERVICES
BUTE & COWAL AREA
OBSERVATIONS ON PLANNING APPLICATION

Planning No: 09/01308/PP
Contact: FARRELL PR
Tel: 01369708600

Grid Reference: NS 1482 Dated: 08/08/09 Received: 21/09/09

Applicant: Mrs F Boyd
Proposed Development: Erection of dwelling
Location Ballochyle Farm
Type of Consent: Detailed
Ref No(s) of Drg(s) submitted: Location & Site plans and details (11 + report)

RECOMMENDATION	No objections subject to conditions

Proposals Acceptable Y or N

1. General

(a) General impact of development	Y
(b) Safety Audit Required	N
(c) Traffic Impact Analysis	N
(d) Flooding Assessment	N

2. Existing Roads

(a) Type of Connection (Road Junct/Footway Crossing)	Y
(b) Location(s) of Connection(s)	Y
(c) Sightlines 120 x2.5 m	Y
(d) Pedestrian Provision	Y

Proposals Acceptable Y or N

3. New Roads N/A

(a) Widths	
(b) Pedestrian Provision	
(c) Layout (Horizontal/ Vertical alignment)	
(d) Turning Facilities (Circles/Hammerheads)	
(e) Junction Details (Locations/Radii/Sightlines)	
(f) Provision for PU	

Proposals Acceptable Y or N

4. Servicing & Car Parking

(a) Drainage	Y
(b) Car Parking Provision	Y
(c) Layout of Parking Bays/ Garages	Y
(d) Servicing Arrangements/ Driveways	Y

5. Signing N/A

(a) Location	
(b) Illumination	

Item Ref	COMMENTS
1, 2 4	This development is accessed from A815 Sandbank via a private road. The available sightlines at the existing access on to the A815 meet the requirements. There should be parking available for 2 vehicles and a turning area within the development. At present access is not available from the A815 due to the condition of an existing bridge. Access to the site will be from U15 Glenmasson Road which has 7.5t weight 7'6"wide and 30' length restrictions in place or B836 from an existing access west of the Rumbling Bridge. The sightlines at this access to be a minimum of 120 x2.5m in both directions. Any hedge, wall or fence within the visibility splays must be maintained at a height not exceeding 1m above the carriageway.

Item Ref	CONDITIONS
2, 4	The available sightlines at the existing access on to the A815 meet the requirements. There should be parking available for 2 vehicles and a turning area within the development. The sightlines at the access to B836 to be a minimum of 120 x2.5m in both directions. Any hedge, wall or fence within the visibility splays must be maintained at a height not exceeding 1m above the carriageway.

Notes for Intimation to Applicant

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

*Relevant Section of the Roads (Scotland) Act 1984

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Local Review Group
Argyll & Bute Council
Kilmory
Lochgilphead
Argyll
PA31 8RT

1 Ballochyle Estate
Sandbank
Dunoon
Argyll
PA23 8RD

Tel/Fax: 01369 701 173
Mob: 07831 386 601
Date: 26th July 2010

Dear Sirs

Refusal of Planning Permission Ref. 09/01308/PP
Erection of a Dwellinghouse, Formation of Car Parking, Installation of Septic Tank and Creation of Private Water Supply at Land South West of Cottage 3 Ballochyle Farm.

I refer to my letter of 27th October 2009 to Planning Services at Milton House in Dunoon concerning the planning application regarding the above proposal. I raised three concerns at the time covering 1. Private water supply from a bore hole, 2. Vehicle access to the site and 3. Future access over the track that would separate the proposed house from its parking area.

From correspondence that I have received from Argyll & Bute Council's Planning Department in Dunoon it would seem that drinking water from a bore hole is a practical proposal and any water treatment that may be required could be dealt with using a UV system. I would however still like an assurance that bore hole testing to assess its feasibility would be carried out before any building took place as the Ballochyle Estate private water supply could not be expected to extend to yet another additional user. The granting of planning permission four or five years ago to allow the splitting of the two original houses in the Ballochyle Farm steading into four dwellings has already doubled the potential water demand from that building.

With regard to my points 2 and 3 I have still not had any assurance that these issues will be dealt with so as to protect the rights of existing estate residents.

I would also like to raise the issue of flood risk. SEPA state in their submission of 19 November 2009 that at point 1.3 their assessment is based on historic records, namely the maximum water level recorded at their former Dalinlongart Gauging Station during November 1979. I was living on the estate at that time and working out of Economic Forestry's office on the estate (now the SNH/National Park office) and although the river level may have been high during that month the office did not suffer any flood damage.

However on October 20th 1998, after twelve hours of constant heavy rain in the Dunoon area the Little Eachaig burst its banks upstream of Ballochyle Farm and all the fields on the west side of the river were flooded and the water entered the forestry office and rose to a height of 150mm above floor level.

The forestry office was sold to SNH in 2000 and a similar flooding incident happened within the first two years of the new ownership when flood water again entered the building.

During 2008/09 two gabion basket walls were erected on either side of the Little Eachaig River at the point where the Dalinlongart Gauging Station and weir used to be located. The walls were built on the river bed thus reducing the width of the river bed. I am not a water engineer but my fear is that by reducing the river bed width and by preventing the river from spreading outwards, due to the walls, as it rises in a flood situation the effect would be to raise the level of the river upsteam from the walls which would increase the likelihood of the river bursting its banks.

The house proposed by Ffiona Boyd may not be at risk of flooding due to the preventative land raising measures that have been proposed but it has been brought to my attention recently that house building is being considered for other sites close to and on the fields that have flooded in the past. The risk of flooding is a serious issue and I would like it to be given due consideration by the local review body.

Yours Sincerely

Tom Pierson

CC
Local Review Body, Argyll & Bute Council
Ffiona Boyd C/O Linearchitecture
Ross McLaughlin, Argyll & Bute Council
Senior Roads Engineeer, Argyll & Bute Council
Area Roads Manager, Bute & Cowal, Argyll & Bute Council
Area Environmental Health Manager, Argyll & Bute Council
SEPA, East Kilbride
SEPA, Aberdeen
Kirsteen Manual, Ballochyle

BALLOCHYLE

BY DUNOON

ARGYLL

PA23 8RD

Local Review Body

Review reference number: **10/0005/LRB**

Planning Application Reference: **09/01308/PP**

To whom it may concern,

I would like to make 2 comments in response to the request for further information, Potable Water and Flooding.

Water Supply:
Is the Little Echaig River drinkable?

Drinking or **potable water** is water of sufficiently high quality that can be consumed or used without risk of immediate or long term harm. Free from disease-producing organisms, poisonous substances, chemical, biological & radioactive contaminations which would make it unfit for human consumption & many other uses.

As previously mentioned, the Glen Kin burn joins the little Echaig at the rumbling bridge. Seepage, from the original local tip at Straunshaul, runs into the Glen Kin burn & in turn the Little Echaig. I would be most interested to see the full documentation of water testing, based on the points noted. One would assume that clarification of whether or not the little Echaig is a suitable water source to be paramount in planning being accepted as the bore hole is now the only form of water supply.

If the water does not pass, does the subsoil through which the water passes on its way to the borehole filter out everything detrimental, bacteria and virus, thus making it safe to drink by humans? On Page 3, point ii analysis is limited to iron content and colour. As stated, a microbiological test is required at an early stage.

Flooding & Drainage:

It is suggested the surrounding land should have a field drainage system. Presumably they empty into the Little Echaig River? When that river is in flood what stops the river flowing up the pipes and thus depositing silt and soil, blocking them up?

Have SEPA changed their mind? Initially they acknowledged flood risk, now they say there is none. Have they taken into account the eye witness account of those in the Scottish Woodlands offices nearby who graphically describe the river flooding with photographs, for it invaded their offices, this has happened twice in the past decade, let alone the 1-200 year time span detailed by Trans Tech Limited.

Yours sincerely,

Kirsteeen Manuel

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