

Argyll and Bute Council
Comhairle Earra Ghaidheal agus Bhoid

Customer Services
Executive Director: Douglas Hendry



Kilmory, Lochgilphead, PA31 8RT
Tel: 01546 602127 Fax: 01546 604444
DX 599700 LOCHGILPHEAD
e.mail –douglas.hendry@argyll-bute.gov.uk

5 November 2010

NOTICE OF MEETING

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held in the **ISLE OF LISMORE PUBLIC HALL, LISMORE** on **FRIDAY, 12 NOVEMBER 2010** at **1:15 PM**, which you are requested to attend.

Douglas Hendry
Executive Director - Customer Services

BUSINESS

- 1. APOLOGIES FOR ABSENCE**
- 2. DECLARATIONS OF INTEREST (IF ANY)**
- 3. TRUSTEES OF REVEREND FELL: APPLICATION FOR DEMOLITION OF TWO BUILDINGS AND ERECTION OF TWO DWELLINGS: PORT MOLUAG, LISMORE (REF: 09/01676/PP)**
Report by Head of Planning and Regulatory Services (Pages 1 - 18)

DISCRETIONARY HEARING PROCEDURE NOTE (Pages 19 – 24)

PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE

Councillor Rory Colville
Councillor Vivien Dance
Councillor Daniel Kelly
Councillor Neil Mackay
Councillor Bruce Marshall
Councillor Roderick McCuish
Councillor James McQueen

Councillor Robin Currie
Councillor Mary-Jean Devon
Councillor David Kinniburgh
Councillor Donald MacMillan
Councillor Alister McAlister
Councillor Alex McNaughton
Councillor Al Reay

Contact: Melissa Stewart

Tel. No. 01546 604331

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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

Reference No: 09/01676/PP

Planning Hierarchy: Local

Applicant: The Trustees of the Rev J.A. Fell

Proposal: Demolition of 2 buildings and erection of 2 dwellinghouses

Site Address: Land at Port Moluag, Isle of Lismore, Argyll and Bute

DECISION ROUTE

(i) **Local Government (Scotland) Act 1973**

(A) THE APPLICATION

(i) **Development Requiring Express Planning Permission**

- Demolition of 2 buildings and the erection of 2 dwellinghouses
- Alterations/improvements to an existing private vehicular access
- Installation of 2 septic tanks and 2 soakaways
- Installation of a private water supply

(ii) **Other specified operations**

- None
-

(B) RECOMMENDATION:

Recommend that planning permission be granted subject to:

- 1) The conditions and reasons contained within this report; and
 - 2) A Discretionary Local Hearing being held in advance of the determination of the application in view of the number of representations which have been received.
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(C) HISTORY:

No planning history relevant to the proposed development site.

(D) CONSULTATIONS:

Area Roads Manager

Response received 18th February 2010 – no objection subject to conditions

Council's Flood Risk Engineer

Response received 10th June 2010 – no objection

Legal and Protective Services

Response received 25th January 2010 – no objection subject to conditions

Scottish Environment Protection Agency

Response received 29th January 2010 – no objection but please see advisory comments which can be viewed within section 'Note to Applicant' below

Scottish Natural Heritage

Response received 22nd February 2010 – no objection subject to conditions and advisory comments which can be viewed within section 'Note to Applicant' below

Scottish Water

Response received 26th January 2010 – no objection as no mains services in the vicinity of the site.

West of Scotland Archaeology Service

Response received 27th January 2010 – no objection subject to conditions and advisory comments which can be viewed within section 'Note to Applicant' below

(E) PUBLICITY:

The proposal was advertised under (Regulation 20 – Advert Local Application). The publication date was 21st January 2010 and the closing date was 11th February 2010.

(F) REPRESENTATIONS:

Twenty seven letters of representation have been received from;

- Owner/Occupier, Kilmoluag House, Isle of Lismore, Oban, Argyll and Bute, PA34 5UL (letter dated 23.02.2010)
- Mr T. Bradberry, 25 Johns Road, East Craigs, Corstorphine, Edinburgh (letter not dated but received by the Local Planning Authority on the 02.02.2010)
- Ms L. MacKinnon, Flat 5, 65 Partickhill Road, Glasgow, G11 5AD (e-mail sent 09.02.2010)
- Mrs G. Dixon-Spain, Sailean, Isle of Lismore, Oban, Argyll and Bute, PA34 5UL (e-mail sent 09.02.2010)
- Mr R. Dixon-Spain, Sailean, Isle of Lismore, Oban, Argyll and Bute, PA34 5UL (e-mail sent 09.02.2010)

- Mr I. A. MacKinnon, Kyle Rhea, Port Ramsay, Isle of Lismore, Oban, Argyll and Bute, PA34 5UN (letter dated 10.02.2010)
- Mr J. Gilchrist, 8 Port Ramsay, Isle of Lismore, Oban, Argyll and Bute, PA34 5UN (e-mail sent 10.02.2010)
- Mr Y. Paine, Ballimackilichan Isle of Lismore, Oban, Argyll and Bute (e-mail sent 10.02.2010)
- Mr D. Drysdale, Stac an Fhuran, Port Kilcheran, Isle of Lismore, Oban, Argyll and Bute, PA34 5UG (e-mail sent 10.02.2010)
- Mr J. C. Raymond, Strathlorne, Isle of Lismore, Oban, Argyll and Bute, PA34 5UL (e-mail sent 10.02.2010)
- Mrs F. Drysdale, Stac an Fhuran, Port Kilcheran, Isle of Lismore, Oban, Argyll and Bute, PA34 5UG (e-mail sent 10.02.2010)
- Ms E. Buckle, 8 Port Ramsay, Isle of Lismore, Oban, Argyll and Bute, PA34 5UN (e-mail sent 10.02.2010)
- Mr and Mrs S. Inch (notified via e-mail sent 10.02.2010)
- Mr S. M. Ross, An Cala, Isle of Lismore, Oban, Argyll and Bute, PA34 5UL (letter dated 10.02.2010)
- Mrs M. MacKinnon, Kyle Rhea, Port Ramsay, Isle of Lismore, Oban, Argyll and Bute, PA34 5UN (letter dated 10.02.2010)
- Mr J. Wormleighton, Craignich, Isle of Lismore, Oban, Argyll and Bute, PA34 5UG (letter dated 11.02.2010)
- Mr I. A. MacKinnon (Chairperson for Comann Eachdraidh Lios Mor (Lismore Historical Society), Isle of Lismore, Oban, Argyll and Bute, PA34 5UL (letter dated 28.02.2010)
- Dr M. Currie (Secretary for Lismore Community Council), Achuaran Farm, Isle of Lismore, Oban, Argyll and Bute, PA34 5UL (letter dated 28.02.2010)
- Ms F. McCann, 57 Crondall Lane, Farnham, Surrey, GU9 7DG (e-mail sent 12.04.2010)
- Ms P. Dowling, An Cala, Isle of Lismore, Oban, Argyll and Bute, PA34 5UL (e-mail sent 12.04.2010)
- Mr J. McCann, 46 Poplar Way, Midhurst, West Sussex, GU29 9TA (e-mail sent 12.04.2010)
- Ms L. McCann, The Laurels, The Street, Graffham, West Sussex, GU28 0QA (e-mail sent 12.04.2010)
- Ms J. M. Allan, Mo Dhachaidh, Isle of Lismore, Oban, Argyll and Bute, PA34 5UL (e-mail sent 13.04.2010)
- Mrs V. Hain, 29 Hockenhull Lane, Chester, CH3 8LB (e-mail sent 24.04.2010)
- Mr M. Hain, 29 Hockenhull Lane, Chester, CH3 8LB (e-mail sent 24.04.2010)
- Ms V. Cumberbirch, The Firs, 36 Southwold Road, Wrentham, Beccles, Suffolk, NR34 7JF (e-mail sent 02.05.2010)
- Mr and Mrs W. Hain, Birketstr. 2 89312 Günzburg Germany 89312 (e-mail sent 02.05.2010)

The concerns raised may be summarised as follows:

- It appears that one of the proposed dwellinghouses will be situated in the middle of several mature trees and undergrowth where otters have had their home for several years. Consequently, I would like to kindly request that the proposed dwellinghouses are relocated.

Comment: During the determination process of this application Scottish Natural Heritage have been consulted and have been advised of this representation. They have not objected subject to conditions and advisory comments which can be viewed within section 'Note to Applicant' below. Recommended Condition 5 requires a pre-commencement otter survey and the applicants are reminded of their responsibilities towards protected species in the associated note.

- The proposed development site is one of significant historical, cultural and religious significance. It is considered that the proposal for the erection of 2 dwellinghouses would have an adverse impact on all of the above.
- The proposed development site is located immediately adjacent to an ancient chapel which is by local tradition, thought to be the original place of worship. The proposed development would have an adverse impact upon the chapel.
- A freshwater spring or well, known as 'Tobar na Slainte' which is also of historical significance, lies within the proposed development site and would be destroyed by the proposed access arrangements.
- The proposed private vehicular access would be built over the top of an existing old roadway which runs north from the proposed development site. Consequently, the proposed access will destroy the remains of an historic route.
- The proposed private water supply, according to the plans, would be taken from the site of a former whisky-still which is an important remain and may have historical significance.

Comments re the above: During the determination process of this application the Area Roads Manager and the West of Scotland Archaeology Service were both consulted and recommended no objection subject to conditions (Conditions 4 and 8 respectively).

- The proposed access, parking and turning area would cover a large proportion of the existing arable land which is present within this area of Port Moluag. This land should be excavated prior to the commencement of any works on site.

Comment: This is a non material planning consideration.

- Development is likely to compromise free access to this part of the raised beach. This shall consequently limit the use for islanders and visitors who currently enjoy the beauty and tranquillity of coastal walks which this area has to offer.

Comment: The proposal for the demolition of 2 existing buildings and erection of 2 dwellinghouses shall not limit access to this particular area.

- A major concern within the local community is that both of the proposed dwellinghouses shall be occupied as holiday homes or second homes.

Comment: The application is for 2 dwellinghouses. Control over potential occupancy of the dwellinghouses as holiday lets or second homes is outwith the jurisdiction of the Local Planning Authority.

- Several mature trees will have to be felled in order to allow for the erection of 2 dwellinghouses within this location.

Comment: In the interests of visual amenity and to safeguard as many trees on the site as possible, a condition has been attached (Condition 6) in order to limit tree removal to the minimum necessary and to safeguard adjoining trees from construction.

- The proposed development will have a detrimental visual impact upon the surrounding area when viewed from the Lynn of Lorn and from the passenger ferry port at Port Appin.

Comment: The proposal will not cause a significant detrimental visual impact upon the surrounding area as the size, scale, proportion and design of both proposed dwellinghouses is acceptable and complies with policy in the Local Development Plan and associated Design Guidance..

- The proposed development site will be at risk from flooding particularly during very stormy weather experienced at high tide.

Comment: During the determination process of this application the Council's Flood Risk Assessor has been consulted and has recommended no objection in relation to potential flood risk issues.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) Environmental Statement:** No
- (ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No
- (iii) A design or design/access statement:** Yes

The agent acting on behalf of the client submitted a 'Design Statement' which provided information in relation to the location of the application site, a description of the two existing buildings, general design principles primarily in relation to the roof, walls and windows and details of the proposed access and landscaping arrangements.

- (iv) A report on the impact of the proposed development e.g. retail impact, transport impact, noise impact, flood risk, drainage impact etc:** No

(H) PLANNING OBLIGATIONS

- (i) Is a Section 75 agreement required:** No

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

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- (J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application**

- (i) List of all Development Plan Policy considerations taken into account in assessment of the application**

Argyll and Bute Structure Plan (2002)

Policy 'STRAT DC 5 – Development in Sensitive Countryside' states that encouragement shall only be given to small scale infill, rounding-off,

redevelopment and change of use of building development or to single dwellinghouses on bareland crofts or single additional dwellinghouses on individual crofts subject to consistency with Policy 'STRAT AC 1 (C)'.

Policy 'STRAT DC 8 – Landscape and Development Control' states that development which, by reason of location, siting, scale, form, design or cumulative impact, damages or undermines the key environmental features of a visually contained or wider landscape or coastscape shall be treated as 'non-sustainable' and is contrary to this policy.

Argyll and Bute Local Plan 2009

Policy 'LP ENV 1 – Development Impact on the General Environment' states that in all development control zones the Council will assess applications for planning permission for their impact on the natural, human and built environment.

Policy 'LP ENV 2 – Development Impact on Biodiversity (i.e. biological diversity)' states that where there is evidence to suggest that a habitat or species of local importance exists on a proposed development site, the Council will require the applicant, at his/her own expense, to submit a specialist survey of the site's natural environment.

Policy 'LP ENV 6 – Development Impact on Habitats and Species' states that in considering development proposals, the Council will give full consideration to the legislation, policies and conservation objectives, that may apply to the Habitats and Species listed under Annex I, II and IV of the Habitats Directive.

Policy 'LP ENV 7 – Development Impact on Trees/Woodland' states that in accordance with Schedule FW 2, the Council will ensure, through the development control process, that adequate provision is made for the preservation of and when considered appropriate the planting of new woodland/trees.

Policy 'LP ENV 9 – Development Impact on National Scenic Areas (NSA's)' states that development in or adjacent to National Scenic Areas that would have a significant adverse effect on a National Scenic Area will be refused unless it is demonstrated that; the objectives of the designation and overall integrity of the area will not be compromised, and where acceptable, development must also conform to Appendix A of the Local Plan. In all cases the highest standards, in terms of location, siting, landscaping, boundary treatment, materials and detailing will be required within a National Scenic Area.

Policy 'LP ENV 17 – Development Impact on Sites of Archaeological Importance' states that there is a presumption in favour of retaining, protecting, preserving and enhancing the existing archaeological heritage and any future discoveries found in Argyll and Bute. When development is proposed that would affect a site of archaeological significance, an assessment of the importance of the site will be provided by the prospective developer as part of the application for planning permission.

Policy 'LP ENV 19 – Development Setting, Layout and Design' states that all development shall be sited and positioned so as to pay regard to the context within which it is located, development layout and density shall effectively integrate with the countryside setting of the development and the design of developments and structures shall be compatible with their surroundings.

Policy 'LP CST 2 – Coastal Development on the Undeveloped Coast (Sensitive Countryside Zone)' states that applications for development on the undeveloped coast will not generally be supported unless the development is of a form, location and scale consistent with Policy 'STRAT DC 5'.

Policy 'LP CST 4 – Development Impact on the Natural Foreshore' states that development will only be acceptable on the natural foreshore so long as it does not damage nor undermine the general public access down to and along the foreshore and the attractive appearance of the foreshore itself and value of outlooks over and across the foreshore from land or sea.

Policy 'LP HOU 1 – General Housing Development' states that there is a general presumption in favour of housing development where there are no unacceptable environmental, servicing or access impacts.

Policy 'LP SERV 1 – Private Sewage Treatment Plants and Wastewater (i.e. drainage) Systems' states that connection to the public sewer as defined in the Sewerage (Scotland) Act 1968 will be a prerequisite of planning permission for all development proposals in the main settlements identified in the plan with a population equivalent of more than 2000 and wherever significant development (large scale) is proposed. Elsewhere, connection to the public sewer will be required, unless the applicant can demonstrate that the proposal is not likely to result in or add to existing environmental, amenity or health problems.

Policy 'LP SERV 4 – Water Supply' states that there is support in principle for the use of private water supplies where a public water supply is not, or could not be made available. This support is subject to the private water supply being of adequate quality and quantity to serve the proposed development without prejudicing the lawful interests of neighbouring properties or land and water users. Applicants will be required to submit full details of the proposed private water supply arrangements with their application, including a report by independent and suitably qualified engineers demonstrating that the proposed water supply has sufficient capacity and quality to supply existing water users and the proposed new development.

Policy 'LP TRAN 4 – New and Existing, Public Roads and Private Access Regimes' states that in the case of a new private access, it shall be constructed to incorporate adequate visibility splays to the satisfaction of the Area Roads Engineer at the access's junction with the public road network.

Policy 'LP TRAN 6 – Vehicle Parking Provision' states that off-street car and vehicle parking shall be provided for development on the following basis: the car parking standards (including disabled parking) set out in Appendix C shall be applied to those specified categories of development.

Appendix A: Sustainable Siting and Design Principles

Appendix C: Access and Parking Standards

- (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**

Scottish Planning Policy (Feb 2010)

The Town & Country Planning Act (Scotland) 1997

The Planning etc. (Scotland) Act, 2006

Argyll and Bute Council; Sustainable Design Guidance

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

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

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

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

(O) Requirement for a hearing (PAN 41 or other): Yes

A 'Discretionary Local Hearing' is recommended in view of the fact that there have been 27 objections received and having regard to the fact that this is a significant number in the context of a relatively small island community.

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

This application seeks planning permission for the demolition of 2 existing buildings and the erection of 2 dwellinghouses on land at Port Moluag, Isle of Lismore. The application site is located on the south eastern shores of the Isle of Lismore situated upon land at Port Moluag which lies to the south west of the minor settlement of Port Ramsay and to the north east of the minor settlement of Achnacroish.

With reference to the 'Argyll and Bute Local Plan' Proposal Maps Folder 2009, the application site is situated within the 'Sensitive Countryside' development control zone. With reference to the Argyll and Bute Structure Plan 2002, Policy 'STRAT DC 5 'Development in Sensitive Countryside' states that encouragement shall only be given to small scale infill, rounding-off, redevelopment and change of use of building development or to single dwellinghouses on bareland crofts or single additional dwellinghouses on individual crofts subject to consistency with Policy 'STRAT AC 1 (C)'. Consequently, and in relation to all of the above, the proposal constitutes a form of redevelopment of the site of existing buildings and therefore satisfies the requirements of Policy 'STRAT DC 5'.

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

(R) Reasons why planning permission should be granted

The proposal for the demolition of 2 existing buildings and the erection of 2 dwellinghouses on land at Port Moluag, Isle of Lismore, is acceptable. The proposed development constitutes a form of redevelopment which consequently satisfies Policy 'STRAT DC 5' and the proposal will conform with the settlement character of the

surrounding area which is predominantly characterised by sporadic, single dwellinghouses and farm units which are set back from the natural foreshore.

Furthermore, the proposal will adhere to the specific landscape guidelines as defined in the Landscape Character Assessment of the Argyll and Firth of Clyde as the proposed development will conserve and restore existing dry-stone walls/dykes (via condition) and will complement the existing development pattern and respect the landscape character within the locality. The proposed development will help conserve the landscape setting of archaeological sites within the surrounding area - primarily St Moluag's Chapel and Tirefour Castle/Broch - as neither of the proposed dwellinghouses shall be visible from any of these sites. It is concluded that in terms of siting and design, the proposal will not cause any significant adverse landscape or visual impact upon the special qualities of the Lynn of Lorn National Scenic Area.

In relation to all of the above, the proposal satisfies Policies 'STRAT DC 5' and 'STRAT DC 8' of the Argyll and Bute Structure Plan 2002 and Policies 'LP ENV 1', 'LP ENV 2', 'LP ENV 6', 'LP ENV 7', 'LP ENV 9', 'LP ENV 17', 'LP ENV 19', 'LP CST 2', 'LP CST 4', 'LP HOU 1', 'LP SERV 1', 'LP SERV 4', 'LP TRAN 4' and 'LP TRAN 6' of the Argyll and Bute Local Plan 2009. It is considered that there are no other material considerations, including the matters raised by third parties, which would warrant the refusal of planning permission.

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

N/A – the proposal is in accordance with the Local Development Plan.

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

Author of Report: Walter Wyllie

Date: 30th September 2010

Reviewing Officer: Richard Kerr

Date: 1st October 2010

**Angus Gilmour
Head of Planning**

CONDITIONS AND REASONS RELATIVE TO APPLICATION 09/01676/PP

1. That the development to which this permission relates must be begun within three years from the date of this permission.

Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997.

2. The development shall be implemented in accordance with the details specified on the application form dated 28th October 2009 and the approved drawing reference numbers:

- Plan 1 of 11 (L (Ex) 001 Rev A) (Location Plan at a scale of 1:2500)
- Plan 2 of 11 (L (Ex) 102 Rev A) (Location Plan at a scale of 1:1250)
- Plan 3 of 11 (L (Ex) 103 Rev A) (Site Plan as Existing at a scale of 1:500)
- Plan 4 of 11 (L (PL) 102 Rev A) (Site Plan as Proposed at a scale of 1:500)
- Plan 5 of 11 (L (Ex) 113) (Existing Elevations of West Cottage at a scale of 1:50)
- Plan 6 of 11 (L (Ex) 112) (Existing Elevations of South Cottage at a scale of 1:50)
- Plan 7 of 11 (L (PL) 104 Rev A) (Proposed Elevations and Roof Plan of West Cottage all at a scale of 1:50)
- Plan 8 of 11 (L (PL) 106 Rev A) (Proposed Elevations and Roof Plan of South Cottage all at a scale of 1:50)
- Plan 9 of 11 (L (PL) 103) (Proposed Ground and Loft Floor Plan and Cross – Sectional Drawing of West Cottage all at a scale of 1:50)
- Plan 10 of 11 (L (PL) 105) (Proposed Ground and Loft Floor Plan and Cross – Sectional Drawing of South Cottage all at a scale of 1:50)
- Plan 11 of 11 (L (PL) 107) (Flood Prevention Details for Proposed West and South Cottages at a scale of 1:500 and 1:200)

unless the prior written approval of the Local Planning Authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

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

3. Prior to the development commencing, a full appraisal to demonstrate the wholesomeness and sufficiency of the private water supply to serve the development shall be submitted to and approved in writing by the Local Planning Authority. This assessment shall be carried out by a qualified and competent person(s). Such appraisal shall include a risk assessment having regard to the requirements of Schedule 4 of the Private Water Supplies (Scotland) Regulations 2006 and shall on the basis of such risk assessment specify the means by which a wholesome and sufficient water supply shall be provided and thereafter maintained to the development. Such appraisal shall also demonstrate that the wholesomeness and sufficiency of any other supply in the vicinity of the development, or any other person utilising the same source or supply, shall not be compromised by the proposed development. Furthermore, the development itself shall not be brought into use or occupied until the required supply has been installed in accordance with the agreed specification.

Reason: In the interests of public health and in order to ensure that an adequate private water supply in terms of both wholesomeness and sufficiency can be provided to meet the requirements of the proposed development and without compromising the interests of other users of the same or nearby private water supplies.

4. No development shall be commenced on site until the junction serving the private vehicular access has been formed in accordance with the Council's Road Engineers Drawing No. SD 08/004a, with visibility splays measuring 60 metres x 2.4 metres in each direction having been formed from the centre line of the proposed private vehicular access. Prior to work starting on site these visibility splays shall be cleared of all obstructions over 1 metre in height above the level of the adjoining carriageway and thereafter maintained to the satisfaction of the Local Planning Authority.

The proposed private vehicular access shall be constructed to at least base course level prior to any works starting on site and the final wearing surface of the road shall be applied prior to the first occupation of either of the two dwellinghouses hereby approved.

Reason: In the interests of road safety and to ensure the proposed development is served by a safe means of vehicular access and to accord with Policy 'LP TRAN 4' of the Argyll and Bute Local Plan 2009.

5. Prior to any works commencing on site, an otter survey which shall seek to establish their presence and usage within the proposed development site, shall be submitted to and approved in writing by the Local Planning Authority. This assessment shall be carried out by appropriately qualified and competent person(s). Any recommended mitigation measures contained in the duly approved survey identified as being required in advance of, or during the course of, construction shall be implemented in full concurrently with the implementation of the development.

Reason: In accordance with Policy 'LP ENV 6' of the Argyll and Bute Local Plan 2009 and the legislation, policies and conservation objectives, that apply to the Habitats and Species listed under Annex IV of the Habitats Directive.

6. Prior to any works commencing on site, the applicant shall submit a detailed survey of all trees and hedging on or overhanging the site. This survey shall be displayed on a site layout plan and include their location, species, an estimation of their height and canopy spread and shall include any trees around the perimeter which overhang onto the site boundary. Those trees which it is proposed to fell or remove shall be identified separately from those who which are to be retained. Measures to protect those trees to be retained which could be subject to disturbance from access works, excavations, storage of materials or building works or other construction activities, shall be identified and submitted along with the tree survey. No trees on site, other than those identified for removal in the scheme duly approved in writing by the Planning Authority, shall be lopped, topped, felled or removed, either during the construction period, or thereafter . Those trees identified as requiring to be safeguarded shall be protected in accordance with the duly approved measures before development is commenced and shall be retained in place for the full duration of construction activities on site.

Reason: In the interests of visual amenity and to safeguard as many trees on the site as possible.

7. All existing dry-stone walls/dykes as shown on Plan No. (L (PL) 102 Rev A) shall be retained and repaired as part of the development and no sections shall be reduced in height or be removed without the prior written approval of the Local Planning Authority. No timber post and wire fencing techniques or other means of enclosure shall be permitted to be used to enclose boundaries or private areas without the prior written approval of the Local Planning Authority.

Reason: In the interests of visual amenity and in order to reinforce the landscape characteristics of the area.

8. Prior to the commencement of any works on site, the developer shall secure the implementation of an archaeological watching brief, to be carried out by an archaeological organisation acceptable to the Local Planning Authority during all ground disturbances. The retained archaeological organisation shall be afforded access at all reasonable times and allowed to record and recover items of interest and finds. A method statement for the watching brief will be submitted by the applicant, agreed by the West of Scotland Archaeological Service, and approved by the Local Planning Authority prior to the commencement of the watching brief. The name of the archaeological organisation retained by the developer shall be given to the Local Planning Authority and to the West of Scotland Archaeology Service in writing not less than 14 days before development commences.

Reason: To enable the opportunity to identify and examine any items of archaeological interest which may be found on this site, and to allow any action required for the protection, preservation or recording of such remains to occur.

APPENDIX B – RELATIVE TO APPLICATION NUMBER: 09/01676/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

With reference to the 'Argyll and Bute Local Plan' Proposal Maps Folder 2009, the application site is situated within the development control zone of 'Sensitive Countryside'. With reference to the Argyll and Bute Structure Plan 2002, Policy 'STRAT DC 5 Development in Sensitive Countryside' states that encouragement shall only be given to small scale infill, rounding-off, redevelopment and change of use of building development or to single dwellinghouses on bareland crofts or single additional dwellinghouses on individual crofts subject to consistency with Policy 'STRAT AC 1 (C)'. Consequently, and in relation to all of the above, the proposal constitutes a form of redevelopment and therefore satisfies Policy 'STRAT DC 5' and 'LP CST 2'.

B. Location, Nature and Design of Proposed Development

The proposal is for the demolition of 2 ruined former cottages and the erection of 2 single storey dwellinghouses on land at Port Moluag, Isle of Lismore. The buildings to be removed remain to wall head height with intact gables, and as substantial remnant structures they constitute legitimate redevelopment opportunities in terms of local plan policy having regard to the glossary definition of 'redevelopment'.

The application site is located on the south eastern shores of the Isle of Lismore situated upon land at Port Moluag which lies to the south west of the minor settlement of Port Ramsay and to the north east of the minor settlement of Achnacroish. Situated directly to the north of the application site is the existing property of Moluagsway Balure and situated directly to the east is an existing private vehicular access and situated further to the east is open agricultural grazing land. Situated directly to the south of the application site is the Lynn of Lorn and situated directly to the west is the existing property of Tirefour Cottage.

The proposed development site measures approximately 5200 square metres with the actual floor area of each proposed dwellinghouse measuring approximately 104 square metres. The proposed development site is situated on a relatively flat terrace of land which undulates in a gentle declining manner from south west to north east. The proposed development site is situated within a sheltered location from the prevailing south-westerly winds due to existing woodland and a steep coastal slope which rises abruptly by approximately 15 metres to the south west.

With regards to design, both properties are contemporary in appearance but are sympathetic to their location. They are single storey with attic accommodation, and long and narrow (one room wide) in shape, with a ridged and arch-sectioned zinc roof. The roof overhangs a deck at one end of the building where it takes on a prow shape giving the roof an overall appearance which is reminiscent of an upturned boat hull. The walls are to be constructed in a mixture of stone and natural finish timber boarding, with largely glazed panels rather than conventional windows.

Both proposed dwellinghouses will measure approximately 2.95 metres in height to the highest point of the curved roof, 12.4 metres in length and 2.85 metres in width. It is important to acknowledge that despite their contemporary design, the buildings proposed retain the simple rectangular layout and narrow gable width of the existing ruined cottages, which helps ensure that both of the proposed dwellinghouses will reflect the general form and scale of the existing buildings. The location and scale of both proposed dwellinghouses will ensure that they are constructed over the footprint of the

existing buildings and will involve no more than three times the cubic volume of those buildings, thereby satisfying the glossary definition of appropriate 'redevelopment' in the 'Argyll and Bute Local Plan' 2009.

In greater detail with regards to building materials, the outside walls of both proposed dwellinghouses will be finished in a combination of horizontal natural coloured timber boarding which shall reflect the site's former use as a boat building yard and a natural stone reclaimed from the demolition of the existing buildings. The roof covering for both proposed dwellinghouses will be finished in a grey coloured zinc material which will be able to accommodate the curved roof form and withstand any high winds which are likely to be experienced in this exposed location. The use of zinc as an appropriate roofing material is recognised by the Argyll and Bute Council's Sustainable Design Guide for its ability to provide an elegant roof solution which reflects the use of corrugated iron on many highland buildings. The desire for large sections of glass and large windows particularly upon the eastern elevations and the southern gables, in order to maximise views and solar gain, has been balanced with the recognition that large sections of glass and large windows could potentially result in long distance reflection. However, this has been avoided primarily via the design of the proposed windows by ensuring that there are large roof projections over the floor to ceiling window areas which are present upon the southern gables which will reduce long distance reflections. Also, the floor to ceiling glass areas which are present upon the eastern elevations have been divided by a stone pillar reducing the amount of glass.

Therefore, in relation to all of the above, the scale, form, proportions, materials, detailing and colour of both of the proposed dwellinghouses are acceptable. With reference to Policies 'LP ENV 1' and 'LP ENV 19' of the Argyll and Bute Local Plan 2009, both seek to ensure that the Council assesses applications for their impact on the natural, human and built environment and that all development shall be sited and positioned so as to pay regard to the context within which it is located and that development layout and density shall effectively integrate with the countryside setting of the development. On the basis of the foregoing it is concluded that the proposal satisfies Policies 'LP ENV 1' and 'LP ENV 19'.

C. Natural Environment

The proposed development site is situated within the Lynn of Lorn National Scenic Area (NSA).

With reference to the Argyll and Bute Local Plan 2009, Policy 'LP ENV 9 – Development Impact on National Scenic Areas (NSA's)' states that development in or adjacent to National Scenic Areas, that would have a significant adverse effect on a National Scenic Area, will be refused unless it is demonstrated that; the objectives of the designation and overall integrity of the area will not be compromised, and where acceptable, development must also conform to Appendix A of the Local Plan. In all cases the highest standards, in terms of location, siting, landscaping, boundary treatment, materials and detailing will be required within a National Scenic Area. Having regard to the comments in Section B above, it is considered that the scale, form, proportions, materials, detailing and colour of both of the proposed dwellinghouses are acceptable which will consequently ensure that the proposed development will not have an adverse effect upon the Lynn of Lorn National Scenic Area. Therefore, in light of the above, the proposal satisfies Policy 'LP ENV 9'.

It has been raised in several letters of representation objecting to this proposed development that there are otters present within the proposed development site. Consequently, during the determination process of this application Scottish Natural Heritage have been consulted and indicated that a survey to investigate the presence

and usage of otters within the proposed development site should be carried out prior to the commencement of any works on site. Consequently and in relation to the above, a condition (see Condition 5) has been attached in the grating of planning permission for this particular proposal which shall ensure that the above study is carried out to the satisfaction of the Local Planning Authority prior to the commencement of any works on site. Therefore, subject to the requirements of (Condition 5) being satisfied, the proposal complies with Policies 'LP ENV 2' and 'LP ENV 6' of the Argyll and Bute Local Plan 2009.

With regards to the proposed development having a detrimental impact upon existing trees and woodland, a condition has been attached (see Condition 6) which shall ensure that a detailed tree survey and protection measures must be submitted to the Local Planning Authority prior to the commencement of any works on site and be implemented during construction. Therefore, subject to the requirements of (Condition 6) being satisfied, the proposal complies with Policy 'LP ENV 7' of the Argyll and Bute Local Plan 2009.

D. Built Environment

The proposed development site is located within an Archaeological Consultation Trigger Area primarily due to its close proximity to St Moluag's Chapel and the possible earlier settlement at Port Moluag, which is depicted on the 1st edition Ordnance Survey map 1869. The historical character of the area, with its visible associations with its past and its strategic importance which led to the Brochs and other historical features, give it a special historical character. However, it is important to acknowledge that both of the proposed dwellinghouses are not visually prominent from the key sensitive view looking north from Tirefour Castle/Broch. Consequently, the proposed development will not impinge upon the landscape setting of, or cause a detrimental impact upon, St Moluag's Chapel or the Tirefour Castle/Broch. The West of Scotland Archaeology Service have been consulted and have recommended no objection subject to conditions and advisory comments which can be viewed within section 'Note to Applicant' above. Therefore, the requirements of (Condition 8) will ensure that any existing archaeological heritage is retained, protected and preserved, which shall consequently ensure that the proposed development will not cause a detrimental impact upon the historical character of the surrounding area. The proposal therefore complies with Policy 'LP ENV 17'.

E. Landscape Character

The landform of the surrounding area is predominantly undulating south-east facing loch side escarpment extending from sea level to an elevation of approximately 20 metres above sea level. The landscape is characterised by predominantly small rocky knolls, hollows, crags and promontories. The land cover of the surrounding area is predominantly open semi-rough grazing with large areas of better quality improved grazing within the higher ground which is situated to the north west of the proposed development site. Small copses of deciduous trees are sporadically distributed particularly within the more sheltered areas, which are essential to preserve as this provides a sub-division between the heavily human influenced agricultural landscapes situated within the higher ground, from the relatively sheltered coastal strip.

With reference to the Argyll and Bute Structure Plan 2002, Policy 'STRAT DC 8 – Landscape and Development Control' states that development which, by reason of location, siting, scale, form, design or cumulative impact, damages or undermines the key environmental features of a visually contained or wider landscape or coastscape shall be treated as 'non-sustainable' and is contrary to this policy. In relation to all of the

above, the proposal for the redevelopment of the two existing buildings within the proposed development site will conform with the existing development pattern and landscape characteristics and will compliment the landscape character within this location. The proposal will therefore not cause an adverse visual impact upon the wider landscape or the National Scenic Area, which shall consequently ensure that the proposal satisfies Policy 'STRAT DC 8' of the Argyll and Bute Structure Plan 2002.

F. Road Network, Parking and Associated Transport Matters

With regards to access arrangements, it is proposed to carry out alterations/improvements to an existing private vehicular access which leads down into the proposed development site off of the existing UC 1/4 Balure public road. During the determination process of this application the Area Roads Manager was consulted and recommended no objection subject to conditions. It is considered therefore that subject to the requirements of Condition 4 being satisfied, the proposed access arrangements are acceptable and will satisfy Policy 'LP TRAN 4' and 'LP TRAN 6' of the Argyll and Bute Local Plan 2009 which both seek to ensure that developments are served by an appropriate means of vehicular access and have a sufficient parking and turning area within the proposed development site.

G. Infrastructure

With regards to drainage arrangements, it is proposed to install a septic tank and a soakaway within the curtilage of each proposed dwellinghouse. During the determination process of this application, Protective Services and the Scottish Environment Protection Agency were consulted and recommended no objection subject to conditions and various advisory comments which can be viewed within section 'Note to Applicant' above. It is considered therefore that the proposed drainage arrangements are acceptable and satisfy Policy 'LP SERV 1' of the Argyll and Bute Local Plan 2009 which seeks to ensure that where connection to a public sewer is not feasible due to locations which are remote from any settlement, the proposed private drainage arrangements will not cause any environmental, amenity or health problems.

With regards to water supply arrangements, it is proposed to take a private water supply from an existing burn. During the determination process of this application, Protective Services were consulted and both recommended no objection subject to conditions and various advisory comments which can be viewed within section 'Note to Applicant' below. It is considered therefore that subject to the requirements of Condition 3 being satisfied, the proposed water supply arrangements are acceptable and will satisfy Policy 'LP SERV 4' of the Argyll and Bute Local Plan 2009 which seeks to ensure that there is support in principle for the use of private water supplies where a public water supply is not, or could not be made available.



APPLICATION SITE



COMMITTEE PLAN RELEVANT TO APPLICATION:
09/01676/PP



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ARGYLL AND BUTE COUNCIL

PROCEDURE NOTE FOR USE AT

- | | |
|--|--------------------------|
| (1) Statutory Pre Determination Hearing | <input type="checkbox"/> |
| (2) Pan 41 Hearing | <input type="checkbox"/> |
| (3) Council Interest Application | <input type="checkbox"/> |
| (4) Discretionary Hearing | X |

HELD BY THE PLANNING, PROTECTIVE SERVICES & LICENSING COMMITTEE

1. The Director of Customer Services will notify the applicant, all representees and objectors of the Council's decision to hold a Hearing and to indicate the date on which the hearing will take place. The hearing will proceed on that day, unless the Council otherwise decides, whether or not some or all of the parties are represented or not. Statutory consultees (including Community Councils) will be invited to attend the meeting to provide an oral presentation on their written submissions to the Committee, if they so wish.
2. The Director of Customer Services will give a minimum of 7 days notice of the date, time and venue for the proposed Hearing to all parties.
3. The hearing will proceed in the following order and as follows.
4. The Chair will introduce the Members of the Panel, ascertain the parties present who wish to speak and outline the procedure which will be followed.
5. The Director of Development and Infrastructure's representative will present their report and recommendations to the Committee on how the matter should be disposed of.
6. The applicant will be given an opportunity to present their case for approval of the proposal and may include in their submission any relevant points made by representees supporting the application or in relation to points contained in the written representations of objectors.
7. The consultees, supporters and objectors in that order (see notes 1 and 2), will be given the opportunity to state their case to the Council.
8. All parties to the proceedings will be given a period of time to state their case (see note 3). In exceptional circumstances and on good case shown the Panel may extend the time for a presentation by any of the parties at their sole discretion.

Ref: ABH1/2009

9. Members of the Panel only will have the opportunity to put questions to the Director of Development and Infrastructure's representative, the applicant, the consultees, the supporters and the objectors in that order.
10. At the conclusion of the question session the Director of Development and Infrastructure's representative, the applicant, any consultees present, the supporters and the objectors (in that order) will each be given an opportunity to comment on any particular information given by any other party after they had made their original submission and sum up their case.
11. The Chair will ascertain from the parties present that they have had a reasonable opportunity to state their case.
12. The Panel will then debate the merits of the application and will reach a decision on it. No new information can be introduced at this stage.
13. The Chair or the Committee Services Officer on his/her behalf will announce the decision.
14. A summary of the proceedings will be recorded by the Committee Services Officer.
15. If at any stage it appears to the Chair that any of the parties is speaking for an excessive length of time he will be entitled to invite them to conclude their presentation forthwith.

NOTE

- (1) Objectors who intend to be present and speak at a hearing are encouraged to appoint one or a small number of spokespersons to present their views to concentrate on the matters of main concern to them and to avoid repetition. To assist this process the Council will provide a full list of the names and addresses of all objectors.
- (2) Supporters who intend to be present and speak at a hearing are encouraged to appoint one or a small number of spokespersons to present their views to concentrate on the matters of main concern to them and to avoid repetition. To assist this process the Council will provide a full list of the names and addresses of all supporters.
- (3) Councillors (other than those on the Panel) who have made written representations and who wish to speak at the hearing will do so under category (1) or (2) above according to their representations but will be heard by the Panel individually.
- (4) Recognising the level of representation the following time periods have been allocated to the parties involved in the Hearing.

Ref: ABH1/2009

The Director of Development Services' representative – not more than half an hour

The Applicant - not more than half an hour.

The Consultees - not more than half an hour.

The Supporters - not more than half an hour.

The Objectors - not more than half an hour.

- (4) The purpose of the meeting is to ensure that all relevant information is before the Panel and this is best achieved when people with similar views co-operate in making their submissions.
- (5) Everyone properly qualified as a representee recorded on the application report who wishes to be given an opportunity to speak will be given such opportunity.
- (6) The Council has developed guidance for Councillors on the need to compose a competent motion if they consider that they do not support the recommendation from the Director of Development and Infrastructure which is attached hereto.

I:data/typing/planning/procedure note

COMPETENT MOTIONS

- Why is there a need for a competent motion?
 - Need to avoid challenge by “third party” to local authority decision which may result in award of expenses and/or decision being overturned.
 - Challenges may arise from: judicial review, planning appeal, ombudsman (maladministration) referral. All appeal/review processes have rights to award expenses against unreasonable/unlawful behaviour.
- Member/Officer protocol for agreeing competent motion:
 - The process that should be followed should Members be minded to go against an officer’s recommendation is set out below.
- The key elements involved in formulating a competent motion:
 - It is preferable to have discussed the component parts of a competent motion with the relevant Member in advance of the Committee (role of professional officers). This does not mean that a Member has prejudged the matter but rather will reflect discussions on whether opinions contrary to that of professional officers have a sound basis as material planning considerations.
 - A motion should relate to material considerations only.
 - A motion must address the issue as to whether proposals are considered consistent with Adopted Policy or justified as a departure to the Development Plan. Departure must be determined as being major or minor.
 - If a motion for approval is on the basis of being consistent with policy reasoned justification for considering why it is consistent with policy contrary to the Head of Planning’s recommendation must be clearly stated and minuted.
 - If a motion for approval is on the basis of a departure reasoned justification for that departure must be clearly stated and minuted. Consideration should be given to holding a PAN 41 Hearing (determined by policy grounds for objection, how up to date development plan policies are, volume and strength of representation/contention)
 - A motion should also address planning conditions and the need for a Section 75 Agreement.
 - Advice from the Scottish Government on what are material planning considerations is attached herewith. However, interested parties should always seek their own advice on matters relating to legal or planning considerations as the Council cannot be held liable for any error or omission in the said guidance.

DEFINING A MATERIAL CONSIDERATION

1. Legislation requires decisions on planning applications to be made in accordance with the development plan (and, in the case of national developments, any statement in the National Planning Framework made under section 3A(5) of the 1997 Act) unless material considerations indicate otherwise. The House of Lord's judgement on *City of Edinburgh Council v the Secretary of State for Scotland* (1998) provided the following interpretation. If a proposal accords with the development plan and there are no material considerations indicating that it should be refused, permission should be granted. If the proposal does not accord with the development plan, it should be refused unless there are material considerations indicating that it should be granted.
2. The House of Lord's judgement also set out the following approach to deciding an application:
 - Identify any provisions of the development plan which are relevant to the decision,
 - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies,
 - Consider whether or not the proposal accords with the development plan.
 - Identify and consider relevant material considerations for and against the proposal, and
 - Assess whether these considerations warrant a departure from the development plan.
3. There are two main tests in deciding whether a consideration is material and relevant:
 - It should serve or be related to the purpose of planning. It should therefore relate to the development and use of land, and
 - It should fairly and reasonably relate to the particular application.
4. It is for the decision maker to decide if a consideration is material and to assess both the weight to be attached to each material consideration and whether individually or together they are sufficient to outweigh the development plan. Where development plan policies are not directly relevant to the development proposal, material considerations will be of particular importance.
5. The range of considerations which might be considered material in planning terms is very wide and can only be determined in the context of each case. Examples of possible material considerations include:
 - Scottish Government policy, and UK Government policy on reserved matters
 - The National Planning Framework
 - Scottish planning policy, advice and circulars
 - European policy
 - A proposed strategic development plan, a proposed local development plan, or proposed supplementary guidance

Ref: ABH1/2009

- Guidance adopted by a Strategic Development Plan Authority or a planning authority that is not supplementary guidance adopted under section 22(1) of the 1997 Act
 - A National Park Plan
 - The National Waste Management Plan
 - Community plans
 - The Environmental impact of the proposal
 - The design of the proposed development and its relationship to its surroundings
 - Access, provision of infrastructure and planning history of the site
 - Views of statutory and other consultees
 - Legitimate public concern or support expressed on relevant planning matters
6. The planning system operates in the long term public interest. It does not exist to protect the interests of one person or business against the activities of another. In distinguishing between public and private interest, the basic question is whether the proposal would unacceptably affect the amenity and existing use of land and buildings which ought to be protected in the public interest, not whether owners or occupiers of neighbouring or other existing properties would experience financial or other loss from a particular development.