

Argyll and Bute Council
Comhairle Earra Ghaidheal agus Bhoid

Customer Services
Executive Director: Douglas Hendry



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29 August 2011

NOTICE OF MEETING

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held in the **KINTYRE COMMUNITY EDUCATION CENTRE, STEWART ROAD, CAMPBELTOWN** on **MONDAY, 5 SEPTEMBER 2011** at **1:00 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. MR M MACDONALD: APPLICATION FOR CHANGE OF USE OF LAND TO FORM 9 HARD STANDING AREAS FOR HOLIDAY LET LODGES/CARAVANS, FORMATION OF NEW ACCESS AND INSTALLATION OF TREATMENT PLANT WITH PARTIAL SOAKAWAY: LAND SOUTH OF BELLOCHANTUY COTTAGES, CAMPBELTOWN (REF: 11/00281/PP)(Pages 1 - 14)**

PROCEDURE NOTE (Pages 15 – 20)

PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE

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

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

Contact: Fiona McCallum

Tel. No. 01546 604406

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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: 11/00281/PP

Planning Hierarchy: Local Development

Applicant: Mr M MacDonald

Proposal: Change of use of land to form 9 No. hard standing areas for siting of holiday let lodges/caravans, formation of new access and installation of treatment plant with partial soakaway

Site Address: Land South of Bellochantuy Cottages, Bellochantuy

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Installation of 9 hard standing areas to accommodate 9 static caravans/lodges for holiday use;
- Installation of private waste water treatment system;
- Formation of new vehicular access onto public road

(ii) Other specified operations

- Connection to public water main;
 - Planting, landscaping and boundary treatment
-

(B) RECOMMENDATION:

It is recommended that the application is approved subject to:

- 1) the conditions and reasons below;
 - 2) a discretionary local hearing being held in view of the community council objection and the level of representation from local residents which is significant in the context of a small settlement. .
-

(C) HISTORY:

08/00058/DET – Erection of 5 dwelling houses (3 terraced and 2 detached) formation of new access and installation of sewage treatment system - Approved

(D) CONSULTATIONS:

Area Roads Manager (Report dated 25/3/11) - No objection subject to the following conditions:

1. Connection to the public road. A dropped kerb to be installed between the public and private road, Private access road to be surfaced for a minimum distance of 5 metres from the connection to the public road.
2. Parking for a minimum of 1 vehicle per plot. Minimum number of spaces 10.
3. Refuse collection point to be provided adjacent to the public road.
4. Screening to be provided between the private and public road. Actual method of screening to be agreed with the Area Manager and Development Services. Screening such as a fence or hedge should be acceptable.
5. The private road should not encroach on the public road drainage ditch. Minimum separation of 2 metres from the back of the road side ditch.
6. Existing vehicular field access at the south west of the application site to be restricted to pedestrian use only. Bollards or fence to be installed to prevent vehicles from taking access.
7. The pedestrian access to have a fence or railing positioned between the site boundary and public road. Details to be agreed with Roads & Amenity Services.
8. A hard standing to be provided adjacent to the pedestrian access and on the public road verge opposite. Details to be agreed with Roads & Amenity Services.
9. Turning head to be provided at the end of the private access.
10. 'Pedestrians in road ahead' signs to be erected on the A83 Kennacraig - Campbeltown Road. Sign Diagram 544.1. Location to be agreed with Roads & Amenity Services.

Public Protection Unit (Email dated 21/7/11) - Advises that the site layout complies with licensing requirements and raises no objections.

Local Biodiversity Officer (Email dated 27/7/11) – no objections but slight amendments to the submitted details but planting and landscaping plan generally acceptable.

West of Scotland Archaeology Service (e-mail dated 16/3/11) - No objections.

Historic Scotland (Letter dated 23/3/11) - No objections as the site represents an infill/extension to the existing settlement (consistent with comments on previous application 08/00058/DET)

West Kintyre Community Council (e-mail dated 26/3/11) - raised concerns over the access and the its ability to absorb additional traffic, impact on amenity of existing properties, concerns over flooding and the access area is currently used by children as a play area.

(E) PUBLICITY:

The proposal has been advertised in terms of regulation 20, closing date 8/4/11.

(F) REPRESENTATIONS:

Representations have been received on behalf of eight individuals as follows:

Ms Susan Sanders, 3 New Cottages, Bellochantuy, Campbeltown PA28 6QE (10.03.11)
Mr and Mrs Mayberry, 2 Bellochantuy Cottages, Bellochantuy, Campbeltown (19.03.11)
Mr and Mrs E R Baker, Island View, Bellochantuy, Campbeltown, PA28 6QE (18.03.11)
Mr H Walker, 1 Bellochantuy Cottages, Bellochantuy, Campbeltown, PA28 6QE (20.03.11)
Sally Nicholson, Jura View, Bellochantuy, Campbeltown PA28 6QE (25.03.11)
J McAllister, 2 Old Cottages, Bellochantuy, Campbeltown, PA28 6QE (27.03.11)

(i) Summary of issues raised

- Proposed access is council owned and local children use this area for playspace.

Comment: The current access road provides access to residential properties and is not formal playspace therefore the planning system cannot treat it as such. The site already has consent for development for residential purposes which would increase traffic usage of the area in question.

- Safety of proposed access road and general lack of parking in the proposals.

Comment: The applicant is required to provide parking space within the site as per the Area Roads Manager comments. The access road ought not to be blocked with parked cars as a result of the development and a turning head is provided within the site.

- Amenity impact from holiday makers

Comment: This has been considered and planting and boundary treatment to lessen an impact will be imposed via a recommended planning condition. It should also be noted that Environmental Health has not objected to the proposal on grounds of adverse impact upon residential amenity.

- People crossing the A83 is dangerous

Comment: The council's Area Roads Manager has requested a condition for signage prior to entry to the village on the A83 indicating the possibility of people crossing.

- Access is used as a bus stop for school children

Comment: There is no reason to conclude that this arrangement will be affected by the presence of the development.

- Access for construction will be difficult and cause problems for local residents.

Comment: The council's Area Roads Manager has not raised any issues with the quality of the access and construction traffic is not a material planning consideration.

- Site levels have previously been raised

Comment: There is no evidence to suggest that the site levels have been raised, nor if they have indeed been, that this has given rise to any adverse impact on adjacent properties (see comment on flood risk below)

- At times of extreme rainfall the beach is impacted by sewage as the outfall pipe is damaged at the hotel.

Comment: The method of sewage treatment has yet to be agreed but whatever the method it will require consent from SEPA. The aforementioned outfall pipe is outwith the remit of this application, however SEPA will be made aware of these concerns. The application is for a septic tank and soakaway system of waste water treatment therefore the outfall pipe will not be utilised by this proposal.

- Exacerbated flood risk to local properties

Comment: There is no evidence to suggest that the site acts as a flood plain for the small watercourse running east to west behind the Bellochantuy Cottages. There appears to be a general drainage ditch to the west of the site possibly allowing water from the fields and the site itself to flow into. The site is well outwith the coastal flooding risk zone according the SEPA flood map. However, the applicant will be required via a recommended suspensive planning condition to ensure a suitable sustainable drainage system (SuDS) is in place to cope with all sources of surface water without impacting on adjacent properties. This condition will require the system to not only treat the water via SuDS but also to properly manage the volume of water entering the site from all potential sources – although this is expected to be general surface water i.e. rainwater.

- The proposal will devalue properties in the area.

Comment: This is not a material planning consideration

- The area has archaeological concerns

Comment: The site is adjacent a dun and therefore Historic Scotland has been consulted on the impact of this monument. HS has not objected to the site as it has consent for 5 dwellings already and they do not consider the current proposal to impact further beyond the current consent to which they did not raise objections.

(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: | No |
| (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

(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

STRAT DC 1 – Development within the Settlements
STRAT DC 9 – Historic Environment and Development Control

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment
LP ENV 16 – Impact on Scheduled Ancient Monuments
LP ENV 19 – Development Setting, Layout and Design
LP TOUR 1 – Tourist Facilities and Accommodation, including Caravans
LP SERV 1 – Private Sewage Treatment Plants and Wastewater Systems
LP SERV 4 – Water Supply
LP TRAN 4 – New and Existing Public Roads and Private Access Regimes
LP TRAN 6 – Vehicle Parking Provision
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.**

Argyll & Bute Sustainable Design Guidance (2006)
The Town & Country Planning Act (Scotland) 1997
The Planning etc. (Scotland) Act, 2006
SPP Scottish Planning Policy 2010

(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:** Yes

Representations have been received from 8 individuals and the community council, which is significant in the context of a small settlement. Accordingly a discretionary local hearing has been recommended.

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

The site is located within the 'settlement' zone for Bellochantuy and has a previous planning permission for five dwellings. It is subject to policy STRAT DC1 of the approved structure plan and LP TOUR1 of the adopted local plan. These policies support the principle of development of tourism development in the 'settlement' boundary subject to certain stipulations including size of the development and appropriateness of the site.

The site is considered capable of absorbing a 'small scale' development of holiday caravans. Permission is sought for 9 static caravans/lodges for general holiday accommodation. The proposed scale of the development is appropriate in terms of the size of the site and the layout which is achieved. The development is to augment an existing tourism business on the opposite side of the road comprising the Argyll Hotel and a small caravan site.

The site lies adjacent a linear development of five houses and would appear as an extension of the village development pattern. Houses are mixed in form, massing and style from large detached units to smaller semi-detached properties; a similar pattern is replicated in an offset position on the opposite side of the road with the existing caravan park, and row of residential properties and the Argyll Hotel.

There are no objections from consultees. The Area Roads Manager has recommended a number of conditions to address road safety issues, the Local Biodiversity Officer has recommended some amendments to the landscaping and planting plan and the Environmental Health Officer considers the site likely to be capable of meeting site licensing requirements.

Objections have been received from the community council and eight individuals which is a significant response in the context of the 'minor settlement' of Bellochantuy hence prompting the referral of the application to Committee for decision.

With the above assessment in mind, the proposal is considered consistent with the provisions of the development plan and is recommended for approval subject to the conditions and reasons below.

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

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

1. The proposal will provide a tourist facility within the 'settlement' zone of Bellochantuy to supplement the existing tourism facilities in the settlement.
 2. The proposal can be sufficiently controlled through on-site boundary treatment and conditions so as not to cause an adverse impact on existing properties.
 3. The proposal conforms to the relevant development plan policies and that there are no other material considerations, including issues raised by third parties, which would warrant anything other than the application being determined in accordance with the provisions of the development plan.
-

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

N/A

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

Author of Report: David Love

Date: 4th July 2011

Reviewing Officer: Richard Kerr

Date: 13th July 2011

**Angus Gilmour
Head of Planning and Regulatory Services**

CONDITIONS AND REASONS RELATIVE TO APPLICATION 11/00281/PP

1. The proposed holiday letting units hereby approved shall not be occupied by any one person, family or group for any more than three months in any one calendar year, unless otherwise agreed in writing by the Planning Authority

Reason: In accordance with the proposed use, as the holiday letting unit by reason of its siting and lack of curtilage would be unsuitable for use as permanent residential accommodation.

2. Prior to the commencement of works, the exact specifications, appearance, materials and orientation of the proposed units shall be submitted to and agreed in writing with the Local Planning Authority. For the avoidance of doubt the caravans should be timber clad unless otherwise agreed in writing with the local planning authority. The development shall be implemented in accordance with the approved details and shall be retained as such unless any subsequent variation thereof is agreed in writing by the Planning Authority.

Reason: In the interests of visual and site amenity.

3. No development shall commence on site until details of a Sustainable Urban Drainage System (SUDS) have been submitted and approved by the Planning Authority in writing. Such details shall include a drainage layout plan which shall include full details of the surface and foul water discharge from the site and shall include any mitigation measures required to address surface water runoff from the site. The development shall thereafter be carried out in accordance with this plan.

Reason: To ensure that there is a satisfactory drainage system in place for the development in the interests of health and amenity.

4. Prior to the occupation of any of the proposed lodges/caravans a dropped kerb shall be installed between the public and private road. The private access road is to be surfaced for a minimum distance of 5 metres from the connection to the public road. Additionally, the proposed private access road should not encroach on the public road drainage ditch, with a minimum separation of 2 metres from the back of the road side ditch.

Reason: In the interests of road safety.

5. Prior to the commencement of works, a site plan demonstrating parking for a minimum of 1 vehicle per plot with a total minimum number of 10 spaces provided shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Area Roads Manager. These spaces will be constructed in accordance with the approved details prior to the occupation of any of the approved plots.

Reason: In the interests of road safety.

6. A refuse collection point is to be provided adjacent to the public road, in accordance with details which shall be agreed in advance in writing by the Local Planning Authority in consultation with the Area Roads Manager.

Reason: In the interests of site management, waste management and amenity of site users.

7. The development shall not begin until details of a scheme of boundary treatment, surface treatment and landscaping works have been submitted to and approved in writing by the Council, as Planning Authority: Details of the scheme to include –
- i) location and design, including materials, of any walls, fences, hedges and gates;
 - ii) surface treatment of means of access and hardstanding areas;
 - iii) screening in the form of hedging and/or fencing to be provided along the site boundary between the private and public road.

All the hard and soft landscaping works shall be carried out in accordance with the scheme approved in writing by the Council as planning authority, within six months of the site being brought into use for the approved purpose. This plan shall be consistent with the suggestions made by the Local Biodiversity Officer under the consultation response dated 27/7/11. All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting season following the commencement of the development unless otherwise agreed in writing with the Council, as Planning Authority.

Reason: In the interests of visual amenity, in order to integrate the development with its surroundings and maintain the landscape character of the area.

8. Prior to the commencement of occupation of any of the any of the proposed lodges/caravans, the existing vehicular field access at the south-west of the application site shall be restricted to pedestrian use only with bollards or a fence installed to prevent vehicles from taking access. This pedestrian access shall have a fence or railing positioned between the site boundary and public road and a hard standing will be provided adjacent to the pedestrian access and on the public road verge opposite. The exact details of this crossing point shall be agreed in writing with the Local Planning Authority in consultation with the Area Roads Manager prior to implementation.

Reason: To prevent the potential use of two vehicular access points, the provision of a safe, pedestrian only access and in the interests of road safety.

9. No occupation of any of the proposed lodges/caravans shall be permitted until 'Pedestrians in Road Ahead' signs have been installed on the A83 Kennacraig - Campbeltown Road (Sign Diagram 544.1). The exact location of the signs shall be agreed in writing with the local planning authority in consultation with the Area Roads Manager.

Reason: In the interests of road safety.

10. The development shall be implemented in accordance with the details specified on the application form dated 17/2/11 and the approved drawing reference numbers:

Plan 1 of 2 (Location Plan at scale of 1:2500)
Plan 2 of 2 (Site Plan at scale of 1:500)

unless the prior written approval of the 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 (as amended).

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

NOTE TO APPLICANT

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

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 11/00281/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The site is located within the ‘settlement’ zone for Bellochantuy and as such is subject to policy STRAT DC1 of the approved structure plan and LP TOUR1 of the adopted local plan. These policies support the principle of development of tourism development in the ‘settlement’ boundary subject to certain stipulations including size of the development and appropriateness of the site.

The site is considered capable of absorbing a ‘small scale’ development of holiday caravans. The nine units for which permission has been sought are appropriate in terms of to the size of the site and the layout which is achieved. The aforementioned policies support the principle of the development in the site.

B. Location, Nature and Design of Proposed Development

The site is located within the village of Bellochantuy on the eastern side of the A83. To the north is a linear group of houses, east is an open field likely used for pasture, west is the A83 and across from this is an existing caravan park, the hotel and main nucleus of the village and to the south the land rises steeply up to a dun.

The proposal is for 9 static caravans/lodges for general holiday accommodation. The site will be managed from the existing hotel/caravan park facility on the opposite side of the road.

Planting is proposed along the north and west boundaries. The planting on the northern boundary will reduce impact on neighbours and the Area Roads Manager has requested the planting between the site and the A83 along the western boundary.

Specific details of the caravans/lodges have not been provided but such details will form a condition of any consent. In order to reduce the visual impact of the caravans the planning authority has a preference for timber cladding and this has been built into the relevant condition.

The council’s Public Protection Service has confirmed that the layout, playspace area, LPG gas tank locations and the numbers conform to their standards for licensing.

C. Built Environment

The site lies adjacent a linear development of five houses and would appear as an extension of the village development pattern and which is replicated on the opposite side of the A83 public highway with an existing caravan park, and a row of buildings which include residential properties and the Argyll Hotel. Houses are mixed in form, massing and style from large detached units to smaller semi-detached properties.

D. Road Network, Parking and Associated Transport Matters.

The applicant proposes to take access off an existing access serving the 4 semi-detached Bellochantuy Cottages. The Council’s Area Roads Manager has requested several conditions covering access improvements, on-site parking to prevent visitors parking on the access road, planting along the western boundary of the site with the A83 and the existing access in the south west corner of the site to be blocked off.

Subject to the imposition of these conditions, the proposal, including the access amendments and improvements, is consistent with LP TRAN4.

E. Infrastructure

The applicant proposes to connect to the public water main and provide a private waste water treatment facility. Further details of the waste water system will be assessed under the building standards application and via authorisation from SEPA under the Controlled Activities Regulations.

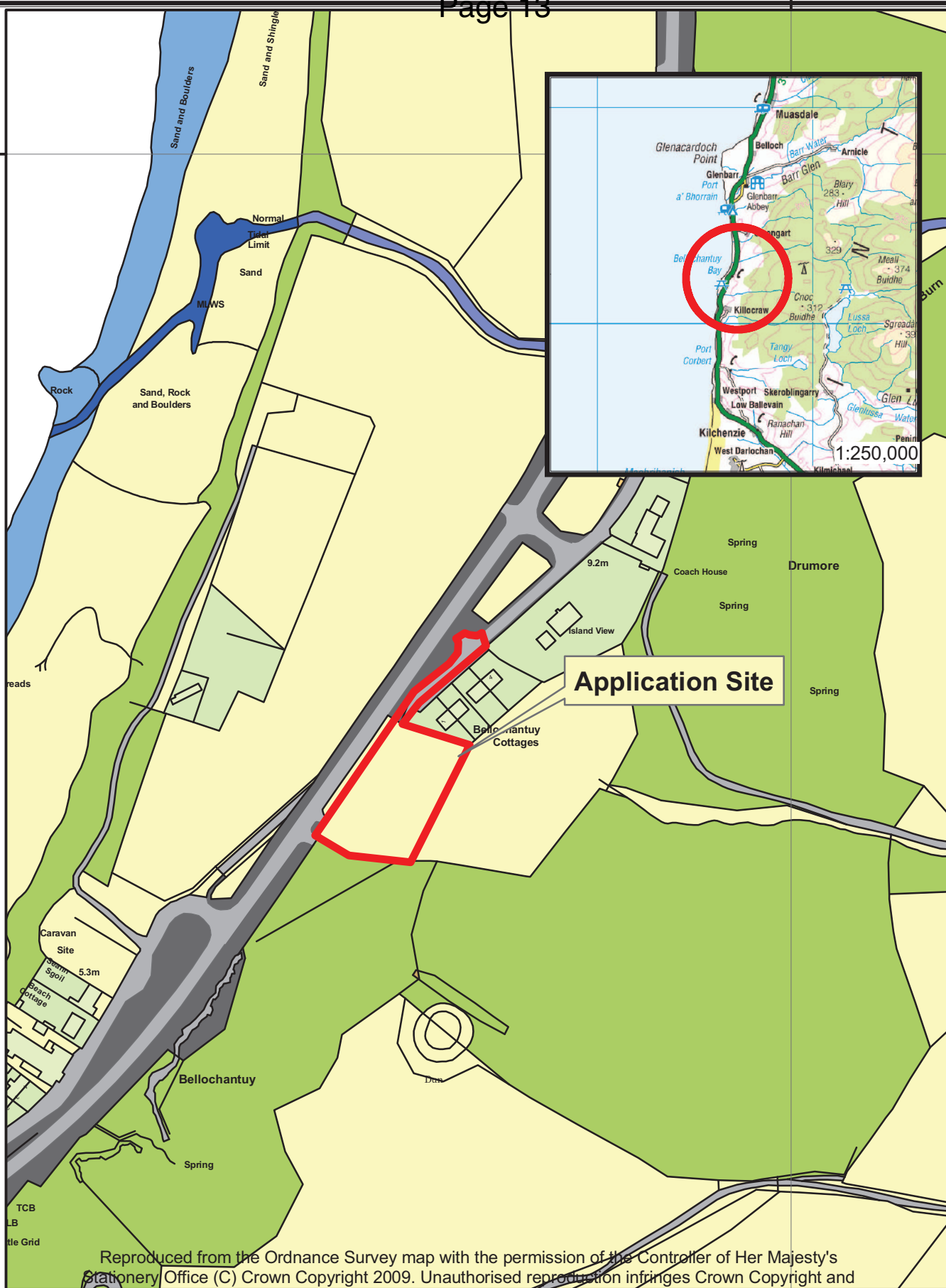
F. Other Key Policy Matters

The site is outwith the coastal flood zone for Bellochantuy. There is no evidence to suggest that there is any other source of flooding. Therefore any problem is likely to drainage related and surface water not having a suitable controlled outlet. It should be noted that a recommended condition of any consent requires the applicant to provide a sustainable drainage system which sufficiently treats and controls surface water to avoid adverse impact on neighbouring properties. This condition also requests that the volume of water be considered and managed.

The applicant has submitted a suggested landscaping and planting document listing species suitable for the high wind and salty area. This has been reviewed and amended by the council's Local Biodiversity Officer who is satisfied with the general approach to the landscaping requirements.

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**Location Plan relative to
Application Ref: 11/00281/PP**



Date: 13.07.11

Scale: 1:2,500

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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

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- 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.