

**MINUTES of MEETING of ARGYLL AND BUTE LOCAL REVIEW BODY held in the
COMMITTEE ROOM 1, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 1 FEBRUARY 2012**

Present: Councillor Daniel Kelly (Chair)
Councillor Neil Mackay Councillor Alex McNaughton

Attending: Iain Jackson, Governance Officer (Adviser)
Charles Reppke, Head of Governance and Law (Adviser)
Fiona McCallum, Committee Services Officer (Minute Taker)

**1. CONSIDER NOTICE OF REVIEW: LAND NORTH EAST OF CONISBY,
BRUICHLADDICH, ISLE OF ISLAY**

The Chair welcomed everyone to the meeting and advised that parties to the Review were not permitted to address the Local Review Body (LRB). He advised that the only participants entitled to speak would be the Members of the LRB and Mr Jackson who would provide procedural advice if required.

The Chair advised that his first task would be to establish whether or not the LRB felt they had sufficient information before them to reach a decision on the Review.

Councillor McNaughton advised that he felt that there was enough information before Members to allow them to determine the Review.

Councillor Mackay confirmed that he was content that the Members had enough information before them but sought advice on the relevancy of an ACE and asked at what point this would be required.

Mr Jackson referred Members to the Planner's comments on the Appellant's submission and advised that it would be necessary for the Members to determine whether or not this proposal was a 'special case' in terms of policy LP BUS 2. He advised that if the Members determined that this was a 'special case' then it would be for the LRB to request that an ACE be carried out.

Councillor Mackay advised that he had read all the paperwork at length and that he considered the application to be within the requirements of LP BUS 2. He also advised that he did not think the Appellant had failed the sequential test and therefore did not contravene policies STRAT DC 4 or STRAT DC 5.

Councillor McNaughton advised that he agreed with Councillor Mackay's comments.

Councillor Mackay asked Mr Jackson to clarify whether the ACE was a requirement of the Local Plan or Section 43B of the Act.

Mr Jackson confirmed that he would need to seek advice on this and asked for an adjournment of the meeting

Councillor Kelly confirmed that he was in agreement with Councillor Mackay and Councillor McNaughton and that he did not think that an ACE was necessary. It was agreed to adjourn the meeting at 2.15 pm to allow Mr Jackson to clarify whether not there was a need for an ACE in order to comply with the provisions of STRAT DC 4 and STRAT DC 5.

The LRB reconvened at 2.20 pm and Mr Reppke, Head of Governance and Law, joined the meeting in order to give advice.

Mr Reppke advised that if the Members were minded to uphold the Appeal and grant planning permission for this proposal then it would be necessary for them justify their decision with a competent Motion and that they would also have to agree appropriate conditions and reasons to attach to the consent and that it was his opinion that the LRB would not be in a position to do this today. Mr Reppke advised the LRB that they could adjourn the meeting today and request from Planning appropriate conditions and reasons if the LRB were minded to uphold the Appeal and grant planning permission. He advised that these conditions and reasons would be forwarded to the Appellant who would have the opportunity to comment on these before the LRB met again to determine the case.

Councillor Mackay advised that he was confident that he would be able to produce a competent Motion today to justify why planning permission should be granted for this proposal but accepted that he would not be in a position to produce conditions and reasons to attach to the consent and that it would be appropriate in the circumstances to have the Planning Department submit draft conditions and reasons for consideration by the Members at a further meeting of the LRB in order that a final decision could be made.

Decision

The LRB agreed:-

1. To request from Planning appropriate conditions and reasons to be attached to any consent should the LRB be minded to approve the Notice of Review request; and
2. To adjourn the meeting and reconvene at a suitable date in Kilmory, Lochgilphead.

**The Argyll and Bute Local Review Body re-convened on Wednesday
7 March 2012 at 2.00 pm in the Council Chamber, Kilmory,
Lochgilphead**

Present: Councillor Daniel Kelly (Chair)
Councillor Neil Mackay
Councillor Alex McNaughton

Attending: Charles Reppke, Head of Governance and Law (Adviser)
Fiona McCallum, Committee Services (Minute Taker)

The Chair welcomed everyone to the meeting and advised that parties to the Review were not permitted to address the Local Review Body (LRB). He advised that the only participants entitled to speak would be the Members of the LRB and Mr Reppke who would provide procedural advice if required.

Mr Reppke referred to the LRB's request for appropriate conditions and reasons if Members might be minded to approve the Application which were now before the LRB for consideration. He advised that it was important to draw to Members' attention that in order to comply with policies STRAT DC 4 and LP BUS 2 there was a need for an Area Capacity Evaluation (ACE) to be carried out in advance of making a decision on the Application and that this was a key element in the process.

Councillor Mackay agreed with the advice and that an ACE would be required in terms of policy STRAT DC 4 but did not agree that it would be required for policy LP BUS 2.

Mr Reppke advised that if an ACE was carried out to satisfy policy STRAT DC 4 it would be there for policy LP BUS 2.

Councillor Mackay advised that he was keen for this application to be approved as was indicated at the previous meeting. He noted the requirement for an ACE and asked for an adjournment of the meeting to see if he would be possible draw this up now and to reconvene the meeting later in the day.

The Chair ruled and the LRB agreed to adjourn the meeting at 2.15 pm and reconvened at 2.40 pm.

Councillor Mackay advised that he had looked at the requirements for an ACE and made reference to a previous ACE he had drawn up for another Application. He asked if it would be possible in this instance to approve the Application as a departure to policy STRAT DC 4 so that an ACE would not need to be carried out?

Mr Reppke advised that he understood the point Councillor Mackay was trying to make but that this could lead to a risk of challenge at a future date and that it would be unwise to progress in this way. He advised that it would be safer for the LRB and for the Applicant to go down the route of assembling an ACE.

Councillor Mackay referred to the geographical attributes of the area and advised that he was conscious that the ACE needed to be bullet proof as the LRB were seeking to disagree with the Planner's decision to refuse. He advised that he was confident that he would be able to draw up an ACE but as he was not familiar with the area in question would require time to gather more information on the geographical nature of the area.

Councillor Kelly advised that the best way forward would be to adjourn the meeting today to allow Councillor Mackay to prepare an ACE.

Decision

Agreed to adjourn the meeting and reconvene on Wednesday 21 March 2012 in the Council Chamber, Kilmory, Lochgilphead.

The Argyll and Bute Local Review Body re-convened on Wednesday 21 March 2012 at 3.50 pm in the Council Chamber, Kilmory, Lochgilphead

Present: Councillor Daniel Kelly (Chair)
Councillor Neil Mackay
Councillor Alex McNaughton

Attending: Charles Reppke, Head of Governance and Law (Adviser)
Fiona McCallum, Committee Services (Minute Taker)

The Chair welcomed everyone to the meeting.

Mr Reppke advised that the meeting had been adjourned on 7 March 2012 in order that an ACE could be carried out before Members came to a judgement that the application could be accepted and that this ACE should be prepared by the Members of the ABLRB. He advised that the information on the geographical nature of the area had only been provided the previous evening therefore Members had been given only a limited time to consider this information.

Councillor Neil Mackay referred to the terms of the ACE he had prepared which he tabled at the meeting and drew Members attention in particular to section D of the ACE which set the context of the development's ability to be absorbed into the landscape area.

The ABLRB unanimously agreed that this ACE be adopted as a material consideration in the determination of this application and any future application within the defined area of common landscape character and went on to adjudicate the reasons why this application should be approved.

Councillor Mackay advised that the locational and operational need for this development has been established with the ACE, that this proposal was much needed in terms of the economic development of the area and that the whisky industry was important to Islay, to Argyll and Bute and to the national economy of Scotland.

Councillor Kelly advised that this was a very important proposal for Islay and that expansion of the whisky industry on Islay should be encouraged. He noted that the applicant had investigated the possibility of locating the bonded warehouse on another part of Islay and agreed that the development on the proposed site would be good for the company as it

would be close to the production plant.

Councillor McNaughton supported his colleagues and stressed the importance of the whisky industry to Islay and for the whole economy of Scotland and that expansion of this industry would help the economy and totally supported this application.

The ABLRB unanimously agreed that this planning application should be approved on the grounds of economic benefit to the area, locational convenience and the requirement to be close to the plant for production.

Decision

The ABLRB unanimously agreed:-

1. That the Area Capacity Evaluation (ACE) prepared by Councillor Neil Mackay and appended to this Minute be adopted as a material consideration in the determination of this application and any future application within the defined area of common landscape character; and
2. To uphold the Notice of Review and grant planning permission subject to the following conditions and reasons:-

- (a) The proposed development shall be carried out in accordance with the details specified in the application form dated 9th February 2010; and the stamped approved drawings numbered 1 of 6 to 6 of 6.

Reason: In order to ensure that the proposed development is carried out in accordance with the details submitted and the approved drawings.

- (b) Prior to the commencement of development details of the proposed colour and type of roof covering and upper wall sheeting shall be submitted to and approved in writing by the Planning Authority. Notwithstanding the provisions of condition 1 above, the development shall thereafter be implemented in accordance with these duly approved details.

- (c) Prior to the commencement of development, details of the proposed finished floor levels of the bonded store building relative to an identifiable fixed datum located outwith the application site shall be submitted to and approved in writing by the Planning Authority. Notwithstanding the provisions of condition 1 above, the development shall thereafter be implemented in accordance with these duly approved details.

Reason: In the interests of visual amenity and to assist in the integration of the development into its surroundings.

- (d) The proposed building shall be used solely as a bonded whisky warehouse ancillary to the operation of Kilchoman Distillery and for no other use or purpose whatsoever, including any use within Class 6 and Class 4 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (or as subsequently amended). Should the bonded whisky warehouse which is the subject of this permission no longer be required to serve the operational needs of Kilchoman Distillery then it shall be permanently demolished / dismantled and the site cleared to the satisfaction of the Planning Authority.

Reason: In accordance with the use specified in the applicant's submission and in order to underpin the justification for considering the development to be a "special case" having due regard to the provisions of policies STRAT DC 4 and STRAT DC 5 of the Argyll and Bute Structure Plan 2002 and policy LP BUS 2 of the Argyll and Bute Local Plan 2009 which would all otherwise seek to resist large scale business/industrial development within the countryside development control zones.

- (e) The developer shall secure the implementation of an archaeological watching brief, to be carried out by an archaeological organisation acceptable to the Planning Authority, during all ground disturbance. The retained archaeologist shall be afforded access at all reasonable times and allowed to record, recover and report items of interest and finds. A method statement for the watching brief shall be submitted by the applicant and agreed by the West of Scotland Archaeology Service and approved by the Planning Authority prior to commencement of the watching brief. The name of the archaeological organisation retained by the developer shall be given to the Planning Authority and to West of Scotland Archaeology Service in writing not less than 14 days before development commences.

Reason: To allow for the correct recording and recovery of any sensitive archaeological remains or features, in the interests of the preservation and protection of the historic environment.

- (f) Prior to work starting on site, the access hereby permitted shall be formed in accordance with the Council's Highway Drawing No. SD 08/001 Rev a. and shall have visibility splays of 42 metres by 2.4 metres, formed from the centre line of the proposed access. The gradient of the access shall not exceed 1 in 15 within 4.5 metres of the edge of the existing carriageway and shall thereafter not be steeper than 1 in 7. Prior to work starting on site these visibility splays shall be cleared of all obstructions over 1.05 metres in

height above the level of the adjoining carriageway and thereafter shall be maintained clear of all obstructions over one metre in height to the satisfaction of the Planning Authority.

Reason: In the interest of road safety.

(g) Prior to work starting on site full details of a parking and turning area for an articulated lorry within the application site, drawn up in consultation with the Area Roads Manager, shall be submitted to and approved in writing by the Planning Authority. Notwithstanding the provisions of condition 1 above, the development shall thereafter be implemented in accordance with these duly approved details with the parking and turning area to be provided prior to the first use of the building.

Reasons: In the interests of road safety.

(Reference: Notice of Review and supporting document and further written submissions, submitted and ACE prepared by Councillor Neil Mackay, tabled)

Appendix

ACE Assessment for Land North East of Conisby, Bruichladdich, Isle of Islay

A Purpose of Assessment

This has been developed by the LRB in response to a request for a review to a refusal of permission for a bonded warehouse.

The land in question extends to approximately 1.3 hectares with the proposed warehouse located west of the A847 public highway and adjacent to an existing agricultural building to the north east of Conisby.

The application site occupies an elevated location above the 30m AOD and located approximately 300m west of a grouping of 6 dwellings which sit adjacent to the A847, and 200m north east of the existing residential properties Tigh Na Torraig and Tigh an Tobair would sit at the eastern edge of the Conisby settlement area.

The Council's adopted guidance requires that the findings should be made available to applicants and/or agents and to Members in advance of the determination of any related planning application(s) in order that, if necessary, there is an opportunity to prepare a response to the findings for consideration by Committee at the time of the application(s) is/are determined and the ACE is given consideration as part of the determination process.

The area to be assessed should be identified as a wider 'area of common landscape character' within the prospective development site(s) is/are located. ACE's will be considered by Members at the same time as the related development proposal(s) is/are being determined, and once endorsed will become a material consideration in respect of any future applications within that ACE compartment.

B Area of Common Landscape Character

The application site is an open exposed and undeveloped parcel of land adjacent to an existing farm steading and lies partly within a section of rural opportunity area and partly within an area of sensitive countryside with an existing disused farm access track leading across open land from the site of the proposed building to the public road some 450m to the east.

The ACE compartment to be reviewed is the Conisby area of Islay. The common features of the landscape in this area of Argyll and Bute are in general terms –

- Diverse landscape character;
- Lowland moor with bog and few settlements;
- Upland plateau of inaccessible open moorland;

- Sand dunes, mudflats and machair bays;
- Marginal farmland pastures along valleys;
- Exposed rocky moorland with steep cliffs to the sea.

Islay is the most southerly of the Hebridean Islands. A complex geology results in diverse landscape character, from the large scale undulating moorland plateau, to extensive areas of low-lying bog with large sandy beaches, tidal mudflats and sand dunes. The landscape of Colonsay as well as the transition between lowland and upland moors on Islay are mosaics of marginal farmland. The islands have a rocky coastline with steep cliffs and narrow inlets; the north west coast benefits from wind-blown shell sand, giving a fertile agricultural soil, and peat, which is found on the moorland plateau, is used for distilling whisky.

As specified in the SNH Landscape Assessment of Argyll and the Forth of Clyde 1996.

Within the small ACE compartment there are small clusters of mixed use buildings; namely residential, industrial, agricultural and commercial buildings; served by the public road and private tracks of varying landscape quality and impact.

The application site lies adjacent to existing development and will have a limited visual impact despite the scale of the development.

C Key Environmental Features

Most of the ACE compartment is rugged rural land. Some given over to farming and other parts being more akin to moorland with a rugged and wild appearance lacking in significant cultivation or man-made alterations to that rural landscape.

There are however, pockets of development clustered around specific landscape features with an arc of broken development running from Bruichladdich Distillery along the coast past Spring Bank House as outlined on aerial photograph 1 then weaving in an undulating manner on past the site for development to Conisby and then returning again in an undulating manner to the Distillery.

Within that compartment there are two areas of unspoilt land punctuated by the arc of broken development. The key environmental features comprise open moorland, improved fields and fenced rough grazing fields throughout the majority of the ACE compartment, with the broken areas of development land.

D Capacity to Absorb Development Successfully

The character of this rural area is one of moorland with rough grazing and managed fields in use for agriculture.

Interspersed within this are small pockets of development

associated with the development of the island for agriculture, distilling and residential and commercial property to support the island lifestyle.

The site is close to an existing farm setting and would have the appearance of a very large farm building and would be larger than all the existing buildings taken together in that location.

The site is well screened from the road by virtue of the rising landform and the positioning of the building set back from the foregoing ridge. There would be distant views from Bridgend and beyond but it is perceived that nevertheless the development could be accommodated within the wider landscape.

The location of the proposed development adjacent to the existing development will mirror the existing character of landscape development which has pockets of development in an arc following the roadway and as such can be accepted as being consistent with the settlement strategy in this area of assessment as delineated on the plan.

The site is contained by existing development and the roadway on three sides and is contained by the existing arc of development from Bruichladdich into the undeveloped area of land between Conisby and the site back towards the coastline.