

**Argyll and Bute Council**  
Comhairle Earra Ghaidheal agus Bhoid

Customer Services  
Executive Director: Douglas Hendry



Kilmory, Lochgilphead, PA31 8RT  
Tel: 01546 602127 Fax: 01546 604435  
DX 599700 LOCHGILPHEAD  
e.mail –douglas.hendry@argyll-bute.gov.uk

25 January 2012

## NOTICE OF MEETING

A meeting of the **ARGYLL AND BUTE LOCAL REVIEW BODY** will be held in the **COMMITTEE ROOM 1, KILMORY, LOCHGILPHEAD** on **WEDNESDAY, 1 FEBRUARY 2012** at **2:00 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. **CONSIDER NOTICE OF REVIEW: LAND NORTH EAST OF CONISBY, BRUICHLADDICH, ISLE OF ISLAY**
  - (a) Notice of Review and Supporting Documents (Pages 1 - 36)
  - (b) Comments from Interested Parties (Pages 37 - 62)
  - (c) Applicant's Response to Comments from Interested Parties (Pages 63 - 64)

## ARGYLL AND BUTE LOCAL REVIEW BODY

Councillor Daniel Kelly (Chair)  
Councillor Alex McNaughton

Councillor Neil Mackay

Contact: Fiona McCallum Tel: 01546 604406

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Ref:  
AB1

**ARGYLL AND BUTE COUNCIL**  
WWW.ARGYLL-BUTE.GOV.UK/\*\*

OFFICIAL USE

12 December  
2011Date Received  
FMcC

**NOTICE OF REVIEW**

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

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

(1) APPLICANT FOR REVIEW	
Name	Kilchoman Distillery Co. Ltd.
Address	Rockside Farm
	Bruichladdich
	Isle of Islay
Postcode	PA49 7UT
Tel. No.	01496 850011
Email	anthony.wills@kilchomandistillery.com

(2) AGENT (if any)	
Name	Stewart Consulting
Address	1 Victoria Buildings
	34 Union Street
	Lochgilthead
Postcode	PA31 8JS
Tel. No.	01546 606067
Email	martin@bowmanstewart.co.uk

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

(4) (a) Reference Number of Planning Application

(b) Date of Submission

(c) Date of Decision Notice (if applicable)

(5) Address of Appeal Property

Land north-east of Conisby,  
Bruichladdich,  
Isle of Islay.

**(6) Description of Proposal**

Erection of bonded warehouse including security fence, hardstanding and access improvements.

**(7)**

**Please set out the detailed reasons for requesting the review:-**

See Attached.

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

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

- (a) Dealt with by written submission
- (b) Dealt with by Local Hearing
- (c) Dealt with by written submission and site inspection
- (d) Dealt with by local hearing and site inspection

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


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

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

No.	Detail
1	This notice and attached detailed reasons
2	5 no. site photographs
3	Letter to planning and client dated 14/04/11, 31/03/11 and 12/07/11
4	Drawings: 1768-LOC; -02A; -03B; -04A, -05B; -06
5	
6	
7	
8	
9	
10	

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

Submitted by  
(Please Sign)



Dated

07/12/2011

**Important Notes for Guidance**

1. All matters which the applicant intends to raise in the review must be set out in or accompany this Notice of Review
2. All documents, materials and evidence which the applicant intends to rely on in the Review must accompany the Notice of Review UNLESS further information is required under Regulation 15 or by authority of the Hearing Session Rules.
3. Guidance on the procedures can be found on the Council's website – [www.argyll-bute.gov.uk/](http://www.argyll-bute.gov.uk/)
4. If in doubt how to proceed please contact 01546 604406 or email [localreviewprocess@argyll-bute.gov.uk](mailto:localreviewprocess@argyll-bute.gov.uk)
5. Once completed this form can be either emailed to [localreviewprocess@argyll-bute.gov.uk](mailto:localreviewprocess@argyll-bute.gov.uk) or returned by post to *Committee Services (Local Review Board), Kilmory, Lochgilphead, Argyll, PA31 8RT*
6. You will receive an acknowledgement of this form, usually by electronic mail (if applicable), within 14 days of the receipt of your form and supporting documentation.

If you have any queries relating to the completion of this form please contact Committee Services on 01546 604406 or email [localreviewprocess@argyll-bute.gov.uk](mailto:localreviewprocess@argyll-bute.gov.uk)

**For official use only**

Date form issued

Issued by (please sign)

Argyll and Bute Council  
Kilchoman Distillery Company Ltd

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

Planning reference 10/00263/PP

### **Background**

Kilchoman Distillery is the first new distillery to be built on Islay for over a century and currently employs 11 people which increases by a further 3 or 4 during the busy summer months when we cater for many visitors. Although we are small in comparison with all the neighbouring distilleries on Islay our spirit has already won many awards and is building up an excellent reputation both in the UK and around the world. 85% of our production is exported to 15 different markets worldwide including France, Germany, Japan and the USA. We outgrew our existing bonded warehouse on site over a year ago and now desperately require a new facility as close as is practicable to the distillery and in the meantime we are paying to use spare space at Bowmore and Bruichladdich. This cannot continue much longer.

Reasons for requesting the review:

- 1) Initial verbal consultations with both the senior planning officer and the local planning officer gave reason to believe that an application for this bonded store would be supported by the planning department. After visiting the site Mr Tim Williams was of the opinion that "the development would not be seen from the public road and no problem was anticipated with such an application". Mr

Richard Kerr, the then senior planning officer within the area concurred. This pre-application advice was identified in the original online planning application under pre-application advice details confirming that a meeting was held and stating “no significant difficulty, hidden from road and within rural opportunity area”. This was not continued on the fresh application dated 9 February 2010 as it was not a specific question within the paper version of the application for planning permission.

- 2) Although no claim for locational need or special circumstances was made in the application, this site was identified by the applicant as being moderately close to the distillery therefore keeping travel distances to a minimum. The proposed site is 8km from the distillery. Other sites investigated included:

Port Charlotte - 12km

Whin Park at Bridgend - 14km

Glenegeedale - 29km

Port Ellen - 34km

The relatively close proximity of the proposed site to the distillery minimises transport costs and the development impact on the general environment consistent with policy LP ENV 1 in terms of traffic generation.

STRAT DC5 does allow support for development in the open country side of medium or large-scale development of a development with a locational need to be on or in the near vicinity of the proposed site. Due to the requirement for frequent transfer of produce and personnel, the closer the bonded store is to the distillery the better.

The proposed site comprises very poor quality agricultural land adjacent to existing industrial / agricultural buildings. STRAT DC4 – Development and Rural Opportunity Areas states “in special cases a medium or large-scale development may be supported if this accords with an area capacity evaluation which demonstrates that the specific development proposed will integrate



sympathetically with the landscape and settlement pattern and will entail or result in at least one of the following outcomes:

“...to a development with a locational need to be on or in the near vicinity of the proposed site”.

It is considered that the proposed development would integrate sympathetically with the landscape and adjacent agricultural/engineering buildings and would result in satisfying locational need. It is also the closest available site to the distillery.

- 3) There were no objections to the proposed development either from adjacent proprietors or consultees.
- 4) The proposed development is essential to the viability and retention of a new local distillery which employs 11 people. Failure to obtain a site suitable for a bonded warehouse within a reasonable distance of the distillery could jeopardise this business, employment and the local economy.
- 5) The proposed bonded warehouse would create 2 new jobs and allow further expansion of the distillery business which also supports STRAT DC 5 B2 “a positive development opportunity yielding ... economic development.”
- 6) Policy LP BUS 2 Business and Industry Proposals within the Countryside Development Control Zones states “Proposals for the development of new, or extensions to existing business and industrial development in the Countryside Development Zones will only be permitted where  
... (B) proposals are for medium or large-scale development in the rural opportunity areas or for small-scale developments in the sensitive countryside where the applicant can demonstrate a clear operational need for a specific location within these countryside zones”. The proximity of the site to the distillery is a relevant issue. This policy also goes on to state that “in all cases the proposals will also require to meet the following criteria:

iii) Technical standards in terms of parking, traffic circulation, vehicular access and servicing, and pedestrian access are met in full” – this is satisfied by this site.

iv) The design, scale and siting of the new development respect the landscape/townscape character and appearance of the surrounding area” - this criteria is also satisfied in view of the adjacent existing development.

v) Good quality agricultural land is avoided, if poor quality land is available close by.” The site consists of poor quality agricultural land adjacent to agricultural buildings.

7) Other potential sites were examined as noted above in paragraph 2. Apart from the increased distance of travel from the distillery, each of these sites would have a significant impact on the amenity of the surrounding area as follows:

i) The site at Port Charlotte would be in the centre of the village between the road and the shore, probably contrary to conservation area policy LP ENV 14 and LP BUS 1 (C) and (F) and would create significant objections from local residents. The current owner is understood to be intending to develop the site for housing.

ii) The site at Glenegedale (on the landward side of the A846 at Islay airport) would have a significant visual impact and may be resisted by the airport authority. The identified owner did not own all the necessary land.

iii) The site at Glenegedale to the north of the link road and adjacent to the B8016 would have a severe visual and amenity impact on the surrounding dwellings contrary to policy LP BUS 1 (C).

iv) The site identified at Port Ellen at Imeravail would again have a significant visual impact on a generally residential area and contrary to policy LP BUS 1 (C). Also, the travel distance from the distillery would be excessive.

v) The site identified at Whin Park Bridgend is in the control of the Islay Estates Company. A close examination of this proposed area was made in conjunction with the Islay Estates Company but agreement could not be reached on a realistic commercial basis.

In conclusion, the development of the application site should be approved because

1. The site is suitable in landscape and existing land use terms being hidden from the road, on very poor agricultural land and adjacent to existing farm/engineering buildings.
2. Other potential sites are either too far from the distillery inconsistent with environmental sustainability, would have a severe visual impact and erode the residential character of areas or be commercially unviable.
3. Failure to allow the development of a bonded store within reasonable distance of the distillery would jeopardise the economic viability of an existing business employing 11 people and the employment of a further two staff.

I trust that the Local Review Body will approve this application for planning permission.

Martin Stewart  
Stewart Consulting/Bowman Stewart  
2<sup>nd</sup> December 2011

Kilchoman Distillery Bonded Warehouse

Submission for planning decision review.

Planning ref10/00263/PP

Photographs of proposed site.



1. Looking from south west. House in the foreground is the nearest dwelling to the site. The site is on the far side of the agricultural buildings.



2. The site is on the left of the agricultural buildings



3. The site extends down through the rushes.



4. The site is on the right.



5. This view is from the north east with the access road in the foreground. The site is in front of the agricultural buildings.

Stewart Consulting

27<sup>th</sup> October 2011



12<sup>th</sup> July 2011

The Planning Department  
Argyll and Bute Council  
67 Chalmers Street  
Ardrishaig  
Argyll PA30 8DX

Dear Sir or Madam

**Bonded Warehouse, Islay**

I refer to my letter dated the 31<sup>st</sup> March 2011.

I understand my architect, Martin Stewart, of Martin Stewart Consultants, had a meeting about the above last week and I can give you more information with regard our abortive attempts to find alternative sites to build our warehouse.

The only viable alternative to the identified site at Conisby was Whin Park. Although Islay Estates were willing to have a warehouse erected at Whin Park their terms weren't economically viable.

The ground rent proposal failed due to the building reverting to the landlord's at the end of the initial term

The proposal was for them to put up the building and lease to Kilchoman for an initial term of 10 years, however, through the discussions they demanded the following:

- 15 year lease minimum rather than 10
- 3 yearly rent reviews based on RPI (this meant that the rent by the 3/4<sup>th</sup> review could be way ahead of the property market).
- Guarantees for the full lease obligation from the directors rather than £500k (cost of warehouse) reducing by £50k per annum over 10 years. The guarantee had to remain in place regardless of how well the business was doing and regardless of the strength of Kilchoman Distillery's balance sheet.
- The lease might have been outside of the act which would have meant that we would have had no security of tenure at the site beyond year 15.

Islay Estates moved the goal posts quite substantially on several occasions on the basis that they had to be sure that they were going to get their 90/100% finance repaid come what may. This gave Kilchoman no room to manoeuvre and we therefore withdrew from the negotiations.

Yours faithfully

Anthony Wills  
Managing Director

MS/SW 1768

14 April 2011

Head of Planning  
Argyll and Bute Council  
67 Chalmers Street  
ARDRISHAIG  
PA30 8DX

Dear Sirs

**Kilchoman Distillery Company Ltd - Proposed Bonded Warehouse at Land North East of Conisby, Bruichladdich, Isle of Islay**

I refer to my application on behalf of Mr Anthony Wills and subsequent discussions with your staff and would ask you to determine this application as soon as practical. I enclose a copy of a letter dated 31 March 2011 from Mr Wills, Managing Director of Kilchoman Distillery Company Ltd, in support of this application.

You will appreciate that our initial discussions with your staff were favourable but when assessed against the then emerging local plan the proposals were found to be contrary to Policy LP BUS2.

Significant effort was made by our clients and indeed ourselves to attempt to identify an alternative location on the Island of Islay and sites at Port Charlotte, Octofad, Glenegeedale, Whin Park, and Port Ellen were identified and pursued. However, none of these sites were found to be suitable or commercially viable.

The proposed site at Conisby is adjacent to existing large scale agricultural sheds, is in poor quality agricultural land and partially brown field, and is sited with minimum visual impact and in a rural opportunity area.

It is also sited moderately closely to existing bonded warehouses associated with Bruichladdich Distillery.

I therefore submit/

14 April 2011

I therefore submit that the application site, while partially contrary to the local plan, is an ideal location for this proposal and that no suitable alternative has been found.

Yours faithfully

Martin Stewart

Enc.

cc Mr Anthony Wills



16 APR 2011

31<sup>st</sup> March 2011

The Head of Planning  
Argyll and Bute Council  
67 Chalmers Street  
Ardrishaig  
Argyll PA30 8DX

Dear Sir

**Bonded Warehouse, Islay**

In the Summer of 2009 we identified a piece of land owned by Iain MacPherson to erect a bonded warehouse. The plot is adjacent to David MacPherson's agricultural engineering works. When we submitted this application to the planners, the initial feedback we received was that planning was likely to be turned down as it did not conform to the recently adopted local plan policy.

In the summer of 2010, Martin Stewart, of Stewart Consulting and I met with Peter Bain and Tim Williams and various alternative plots were suggested that would be suitable for our requirements. The most suitable being Whin Park and Glenegedale. A further plot at the disused warehouse in Port Charlotte was subsequently discounted as the present owner, John Mackenzie, was seeking residential planning.

Both the Whin Park and Glenegedale sites were investigated over many months. The Glenegedale site was ruled out completely when it was discovered the owner, John MacKenzie, didn't own some of the land he was trying to sell us. We had long and protracted discussions with Islay Estates about either leasing a plot, or for them to erect and rent us a warehouse. Both were eventually discounted due to the totally unreasonable terms sought by Islay Estates.

It is very difficult to secure land for commercial use on Islay, as most landlords are either unwilling to sell plots or, they are holding out for residential planning and better value for themselves, or the land isn't zoned for industrial use. Kilchoman Distillery is a new business and already employs 8 full time and 3 part time employees. We are now desperate to secure more warehousing for our maturing whisky, and it is vitally important that we do this on Islay. We have now spent one and a half years trying to find suitable land on Islay and the situation is becoming critical.

The malt whisky business is vital to the economy of Islay and I urge you to support our application to erect a warehouse at the Conisby site.

Yours faithfully

Anthony Wills  
Managing Director

**KILCHOMAN DISTILLERY Co Ltd**



Reference No:		
Application Type		
National	Major	Local

Please send your completed application to: Planning Services, Dalriada House, Lochnell Street, Lochgilphead, PA31 8ST

The undemoted applicant hereby makes application for planning permission for the development on this form and on the accompanying plans.  
 This form should not be used for applications for Planning Permission in Principle or an application for an approval of a matter specified in a condition, or Mineral Consent, Listed Building Consent, Conservation Area Consent, Advertisement Consent, Certificates of Lawfulness or Prior Notification as separate application forms are available for these.  
 Note: There is a simpler 'Householder' application form for domestic extensions, garages, dormers etc.  
 Important: Please check whether you also require a building warrant, or permission under any other enactment in addition to planning permission.

1(a) Applicant (IN BLOCK CAPITALS) Full Name <u>MR ANTONY WILLS</u> Address <u>KILCHOMAN DISTILLERY Co Ltd.</u> <u>ROCKSIDE FARM</u> <u>BENICHLADDICH, ISLAY</u> Post Code <u>PA49 7UT</u> e-mail ..... Tel No .....	1(b) Agent (see note 1) Full Name <u>Stewart Consulting</u> Address <u>Buildings &amp; Infrastructure</u> <u>1 Victoria Buildings</u> <u>34 Union Street</u> <u>Lochgilphead Argyll PA31-8JS</u> Post Code <u>Tel: 01546 606067 Fax: 01546 606091</u> e-mail ..... Tel No .....
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2. Description of Proposed Development (see note 2)  
PROPOSED ERECTION OF A BONDED WAREHOUSE INCLUDING ASSOCIATED SECURITY FENCE, HARDSTANDING AND ACCESS IMPROVEMENTS

3. Location of the land to which the development relates (see note 3)  
 (A) Postal address of development  
 .....  
 OR  
 (B) In the case where the land in question has no postal address, a description of the location of the land  
LAND NORTH EAST OF GONISBY BENICHLADDICH, ISLE OF ISLAY

4. Use of site/buildings. Please specify the proposed use class in terms of the Town & Country Planning (Use-Classes) Scotland (Order) 1992  
 (A) Description of uses and operations to be carried out on the site or within the building(s)  
CLASS 6 STORAGE  
 (B) Proposed days and hours of operation  
8am to 8pm - Mon - Sun  
 (C) Will the site/buildings be open to visiting members of the public? (tick as appropriate)  
 Yes  No

5. Site/Floor area (complete as appropriate) (see note 5)  
 Proposed site area of the development (site edged red - taking account of the definition in the notes for guidance)  
1.29 ha.  
 Floor area of building (including all floors) 2040sqm

6. Demolition (see note 6)  
 Will any buildings or structures be demolished in connection with the proposed development?  
 Yes  No   
 If YES, identify the building(s) to be demolished on the site plan.

APPLICATION FOR PLANNING PERMISSION

7. Is a claim of locational need or special circumstances being made (see note 7)

(A) Is a claim of locational need being made (as in the notes for guidance?) If YES, please give details in a covering statement. Yes  No

(B) Is a claim of special circumstances being made, after reference to the accompanying notes for guidance, includingcroft or farm diversification. If YES, please give details in a covering statement Yes  No

8. Development affecting a Registered Croft (see note 8)

Does the site form part of a registered croft? Yes  No

If so, please supply the croft registration number/reference \_\_\_\_\_ and show on a separate plan the croft boundary on edged in green

Has the croft been the subject of an operational plan approved or submitted to the Crofters Commission If YES, please supply a copy Yes  No

Is there an existing croft dwellinghouse(s) within the boundary of the croft? Yes  No   
If YES, please show the position of the dwellinghouse(s) on the separate plan of the croft boundary

9. Housing development applications (including affordable housing) (see note 9)

For each housing development application please specify the following information: N/A

(A) Types (please tick as appropriate)

Houses	<input type="checkbox"/>	No. of units	<input type="text"/>
Flats	<input type="checkbox"/>	No. of units	<input type="text"/>
Croft houses	<input type="checkbox"/>	No. of units	<input type="text"/>
Other	<input type="checkbox"/>	No. of units	<input type="text"/>

For other, please specify the type (i.e. sheltered housing)

(B) Number of "affordable housing" units

The type and number of "affordable housing" units proposed for the site should be detailed below. It should be noted that any proposal for eight or more dwellinghouses will require a minimum of 25% "affordable housing" units and reference should be made to the Council's policy on affordable housing that is available from the website at [www.argyll-bute.gov.uk](http://www.argyll-bute.gov.uk)

Houses	<input type="checkbox"/>	No. of affordable units	<input type="text"/>
Flats	<input type="checkbox"/>	No. of affordable units	<input type="text"/>

(C) (i) What is the means of providing the proposed affordable housing units (e.g. through a Registered Social Landlord)

(ii) A phasing plan should be included to show at what stage(s) in the development the affordable housing will be provided.

10. Licensed Premises (see note 10)

(A) Are the existing premises used for the sale or consumption of alcohol under a licence granted in terms of the Licensing (Scotland) Act 2005? Yes  No

If YES, please include a copy of the operating plan as submitted to and approved by the Licensing Board.

(B) Is it intended that the existing and/or proposed premises be used for the sale or consumption of alcohol under a licence granted in terms of the Licensing (Scotland) Act 2005? Yes  No

If YES, please include a copy of the proposed operating plan that is to be submitted to the Licensing Board.

11. Access Arrangements (see note 11)

- No change  New vehicular access
- Existing vehicular access to be used
- Existing vehicular access to be altered/improved
- Separate pedestrian access proposed

12. Parking Arrangements (See note 12)

- No change
- Number of existing on-site parking places 0
- Number of additional on-site parking places 3
- Only off-site park available
- In the case of off-site parking, the location of the parking: \_\_\_\_\_

13. Off-site access/road improvements (see note 13)

Is it intended to provide "off-site" access/road improvements? Yes  No

If YES, please give a description of the improvements proposed, which should be included on the application site edged red EXISTING ACCESS TRACK AND JUNCTION WITH CLASSIFIED ROAD IMPROVED AND UPGRADED.

14. Drainage Arrangements (tick one box only) (see note 15) N/A.

- Connection to existing public sewer
- Connection to existing private sewer/septic tank  Single septic tank or biodisc proposed
- Two or more septic tanks or biodiscs proposed  Other type of private system (specify on plans)
- Please specify type of outfall for septic tank(s) or biodisc(s) .....

15. Water supply arrangements (tick one box only) (see note 14) N/A

- Connection to existing public main  Proposed connection to public main
- Existing private supply to be used  Proposed private supply

Please identify the proposed private water supply source, any proposed pipes and storage arrangements on the Site Plan within the site edged in red.

16. Proposed Materials (Complete as appropriate) (see note 16)

- Outside Walls: Material PROFILLED STEEL / CONCRETE WITH SMOOTH RENDUR Colour TBC / RENDUR - DARK GREY.
- Roof Covering: Material PROFILLED STEEL Colour TBC
- Hard-standings: Material TYPE 1 / CONCRETE Colour DARK GREY.
- Access Roads/footways: Material TYPE 1 Colour DARK GREY
- Windows: Material N/A Movement ..... Colour .....

17. Are any trees to be cleared from the site? (see note 17)

Not Applicable  Yes  No  If YES, show details of trees to be retained/felled/replanted on Site Plan.

18. Commercial & Industrial Development (see note 18)

- Nature of proposed Uses/Operations/Processes BONDED STORE
- Number of Employees: Existing 2 Additional jobs created 2
- Provision for Loading/Unloading WITHIN SITE

19. Tourist related Development (see note 19) N/A

- (A) Proposed type of tourist use(s) .....
- (B) With respect to tourist related development, the type of accommodation proposed
  - Self contained units  Caravans  Tent pitches
  - In the case of hotels/boarding houses etc, number of bedrooms .....
  - Other .....
- (C) During which months of the year will the accommodation be available? .....

20. Landscaping

Is it intended to carry out landscaping within the site? Yes  No

If YES, a separate scaled landscaping plan should be submitted giving details of the numbers, type, specification of all trees and plants to be included in the scheme, together with a planting schedule and maintenance proposals.

21. Woodland Management

Is it intended to carry out any Woodland Management as part of the proposal? Yes  No

If YES, a separate scaled plan of the woodland should be included together with the proposed management plan, including felling, re-stocking, control of undergrowth and planting proposals.

22. Are any biodiversity improvements proposed? Yes  No   
 If YES, a separate scaled plan of the proposed improvements and schedule of works should be included

THIS SECTION MUST BE COMPLETED IN EVERY CASE

Ownership Certificates Under Regulation 15(2) of The Town and Country Planning  
 (Development Management Procedure) (Scotland) Regulations 2008

Does the land or any part of the land to which this application relates constitute or form part of an agricultural holding (see note (b) overleaf) YES  NO

I HEREBY CERTIFY THAT 21 DAYS BEFORE THE DATE OF THE APPLICATION : (Tick one box only)

No person (other than the applicant) was the owner of any of the land to which the application relates, or an agricultural tenant. OR;	<input type="checkbox"/>
The applicant DOES NOT OWN all the land involved in the application site, but has given a copy of the requisite Regulation 15(1) Notice to the owner(s) (see note (a) overleaf) or agricultural tenant (see note (b) overleaf) of any part of the application site, who are listed below in Section A. OR;	<input checked="" type="checkbox"/>
The applicant has been unable to notify all owners / agricultural tenants of the application site, after having taken the measures detailed in Section B to identify them.	<input type="checkbox"/>

Those Notified in terms of Regulation 15(3) of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 are:

**SECTION A**

Name of Owner/ Agricultural Tenant	Address	Date Notified
Mr I. MACPHERSON	LOCHVIEW, CONISBY, BEUCHEADDICH ISLE OF SLA7	10/02/10

Details of the measures taken to identify notifiable parties in terms of Regulation 15(3) of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 who the applicant has been unable to notify under Regulation 15(1) of said Regulations:

**SECTION B**

.....

.....

.....

**DECLARATION**

I hereby certify that I, the applicant/applicant's agent, have given correct and complete information and given the requisite notices to all parties who have a notifiable interest in terms of Regulation 15(1) of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008.

SIGNED STEWART CONSULTING DATE 09/02/10

Warning :

Jul 09



If any person issues any certificate which purports to comply with the requirements of Regulation 15 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 which contains a statement which he knows to be false or misleading in a material particular, or recklessly issues a certificate which purports to comply with those requirements and which contains a statement which is false or misleading in a material particular, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

**NOTES**

- (a) In terms of Regulation 15 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, an owner is defined as any person who in respect of any part of the land is the proprietor of the dominium utile or is the lessee under a lease thereof of which not less than 7 years remains unexpired. In the case of Mineral Extraction Applications, the definition of owner also extends to persons entitled to an interest in any mineral in, or under the land.
- (b) In the Agricultural Holdings (Scotland) Act 1991, the expression "Agricultural Holding" means the aggregate of the agricultural land comprised in a lease, not being a lease under which the said land is let to the tenant during his continuance in any office, appointment or employment held under the landlord.

**PERSONAL INFORMATION**

The information provided by you and by other relevant parties will be used to help determine whether or not planning permission should be granted. Your planning application will be processed by employees of Argyll and Bute Council. The completed application form and any other information you provide will be available for public inspection in Council offices and may be shared with other appropriate professionals and service providers and will be displayed on the Council's website. However, in terms of the Council's website, personal information of the applicant in terms of phone number, signature and e-mail address will be deleted.

**LIST OF SUPPORTING DOCUMENTATION**

Please tick as appropriate

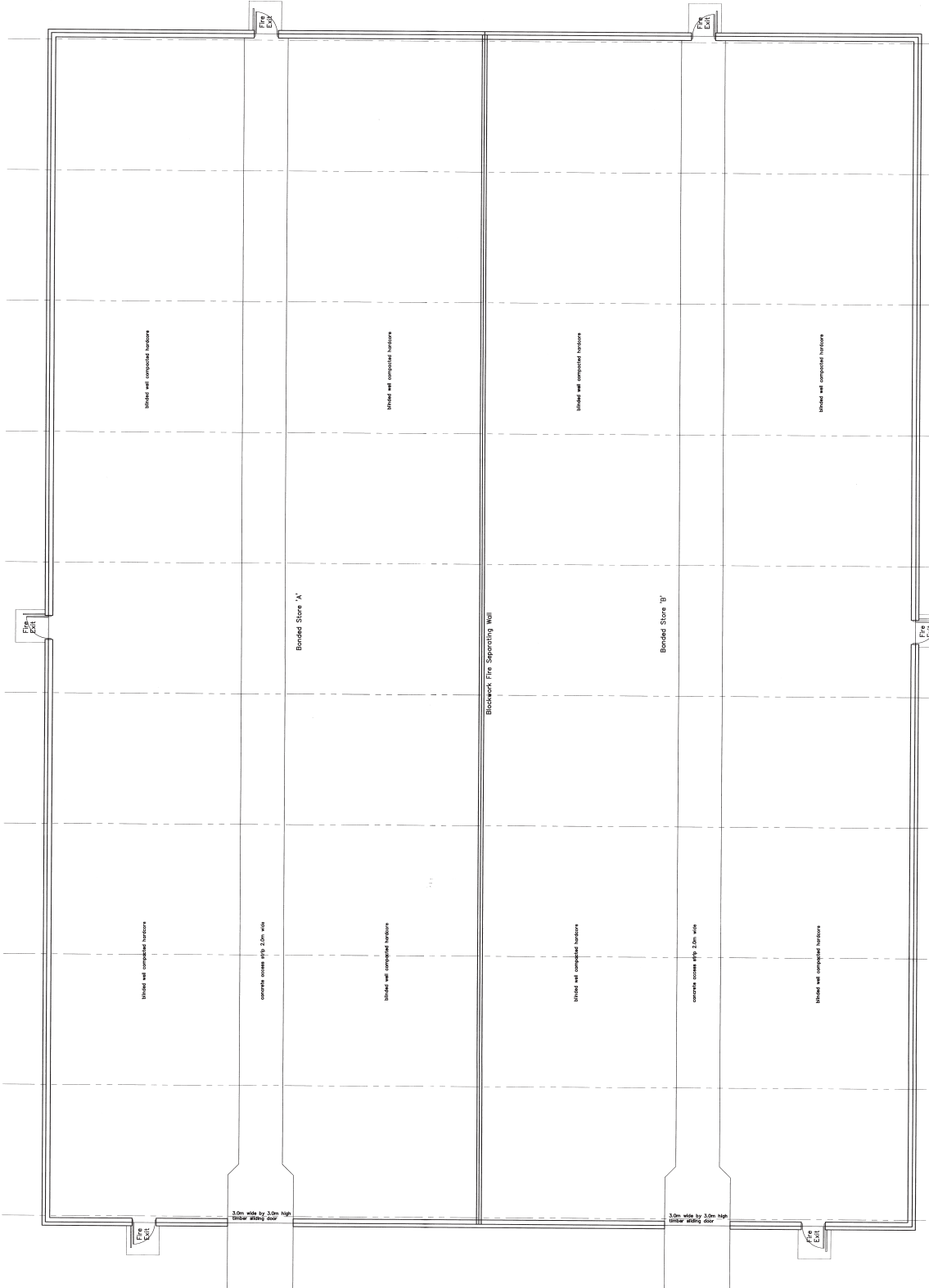
- (i) Pre-application Consultation Report.....
- (ii) Design or Design/Access Statement.....
- (iii) Environmental Impact Statement .....
- (iv) Environmental Impact Assessment Screening or Screening/Scoping Opinion.....
- (v) Flood Risk Assessment.....
- (vi) Drainage Impact Assessment/SUDS.....
- (vii) Transport Plan.....
- (viii) Transport Assessment .....
- (ix) Retail Impact Assessment.....
- (x) Licensed premises operating plan.....
- (xi) Other (please specify) .....

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Rev	Revision note	Date	Signature/Checked
1	Primary Plans	15/10/09	



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Client	Kilchoman Distillery
Project	Proposed Bonded Store, Conisby, Bruchladdich, Isle of Islay
Drawing	Layout plan
Date	October 2009
Scale	1:100
Drawn by	amcd
Checked by	1768-02
Rev	A

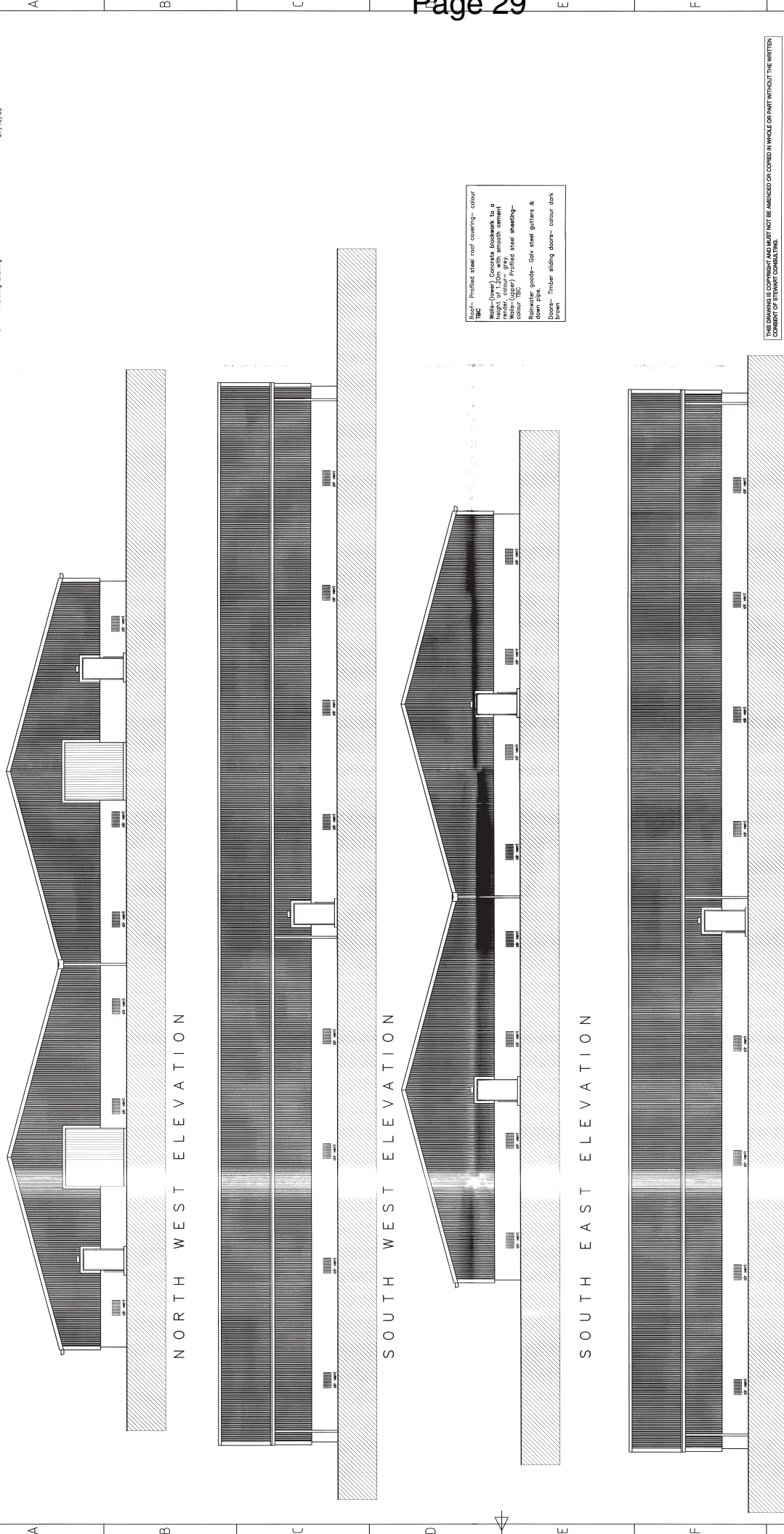
**stewart consulting**  
buildings & infrastructure

Martin C Stewart Ltd., 1 Victoria Buildings, 34 Union Street, Lochgilblhead, Argyll, PA31 8NS  
t:01456 661007 f:01456 661001 www.stewartconsulting.co.uk info@stewartconsulting.co.uk

L A Y O U T P L A N

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Rev	Revision note	Date	Signature	Checked
A-	Preliminary issue	15/10/09		
B-	Planning drawing	27/10/09		



Roof- Profiled steel roof covering- colour  
 blue  
 Walls- Clay brickwork blockwork to a  
 height of 1.20m with smooth cement  
 render colour- grey  
 Windows- Colour-7 Profiled steel sheeting-  
 colour- blue  
 Rainwater goods- Galv steel gutters &  
 down pipes  
 Doors- Timber sliding doors- colour dark  
 brown

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 CONSENT OF STEWART CONSULTING

Client		Kilchoman Distillery	
Project		Proposed Bonded Store, Conisby, Bruichladdich, Isle of Islay	
Drawing Elevations			
Date	Scale	Drawn by	Revised
October 2009	1:100	amod.	1768-03
		Rev. B	

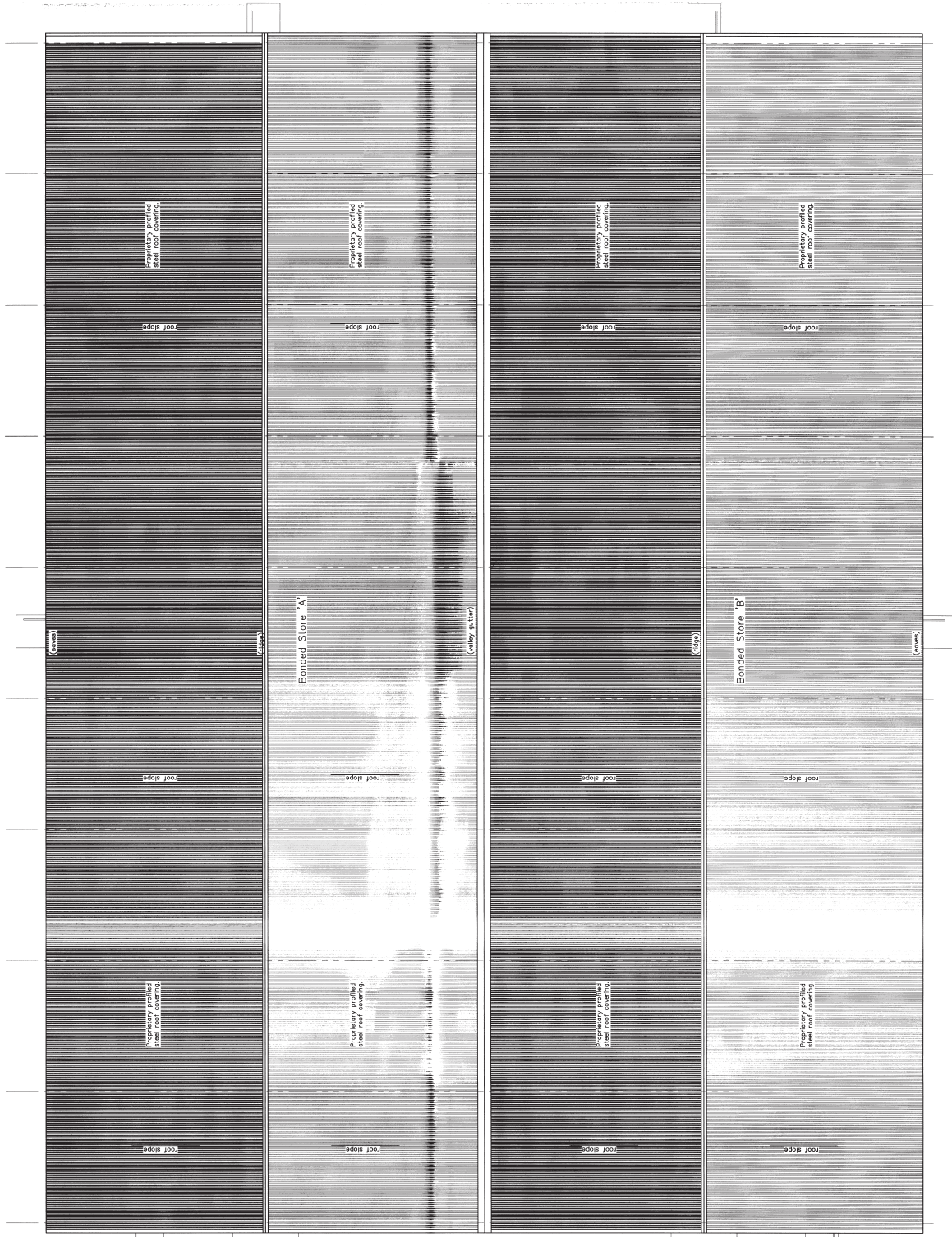
**stewart consulting**  
 buildings & infrastructure

Martin C Stewart Ltd., 1 Victoria Buildings, 24 Union Street, Lochgilphead, Argyll, PA31 8BS  
 t: 01546 606117 f: 01546 606111 www.stewartconsulting.co.uk info@stewartconsulting.co.uk

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Rev	Revision note	Date	Signature/Checked
A-	Preliminary Issue	27/10/09	



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Client  
**Kilchoman Distillery**  
 Project  
**Proposed Bonded Store,**  
**Conisby, Bruchladdich,**  
**Isle of Islay**

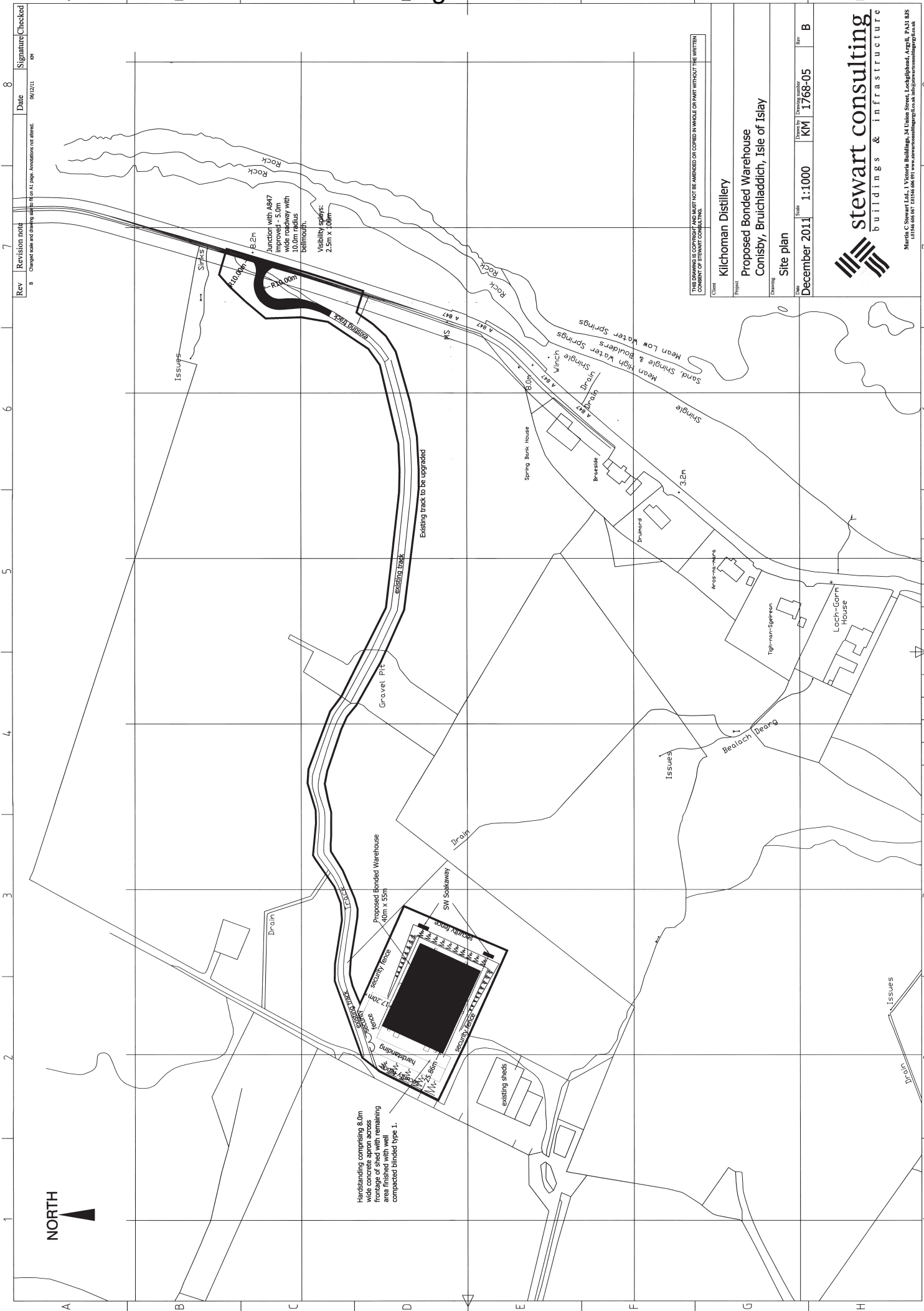
Drawing  
**Roof plan**  
 Date  
**October 2009** Scale  
**1:100** Drawing number  
**1768-04** Rev  
**A**



Morris C Stewart Ltd., 1 Victoria Buildings, 34 Union Street, Loughjohade, Argyll, PA33 3RS  
 Author date 05/10/09  
[www.stewartconsulting.co.uk](http://www.stewartconsulting.co.uk)  
[info@stewartconsulting.co.uk](mailto:info@stewartconsulting.co.uk)

ROOF PLAN

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Rev	Revision note	Date	Signature/Checked
B	Checked table and drawing sheets on A1 paper. Amendments on sheet.	06/12/11	SK

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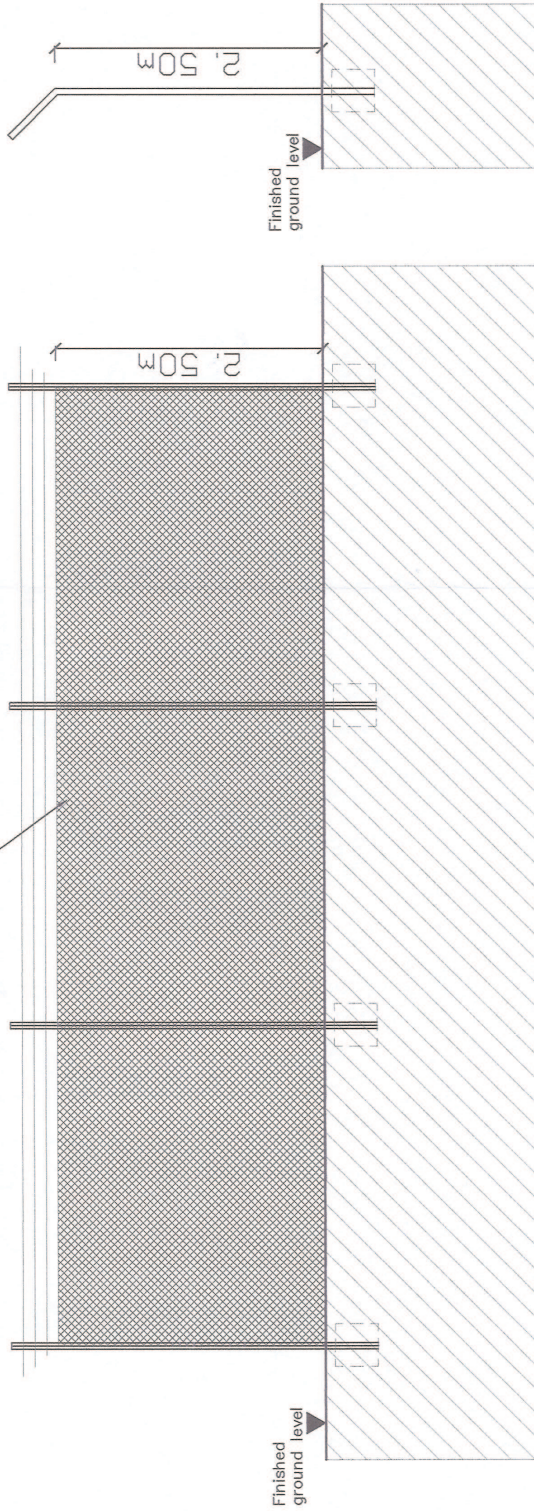
Client: Kilchoman Distillery  
 Project: Proposed Bonded Warehouse  
 Conisby, Bruichladdich, Isle of Islay  
 Drawing: Site plan  
 Date: December 2011  
 Scale: 1:1000  
 Drawing number: KM 1768-05  
 Rev: B



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Rev	Revision note	Date	Signature	Checked

Proprietary security chain link fence with galvanised steel chain link and cranked posts. All installed in accordance with manufacturer's details and written instructions.



FENCE ELEVATION

FENCE SECTION

		Client Kilchoman Distillery
Project Proposed Bonded Store, Conisby, Bruchladdich, Isle of Islay		Scale 1:50
Drawing Fence details		Date November 2009
Martin C Stewart Ltd., 1 Victoria Buildings, 31 Union Street, Leith, Edinburgh, Scotland Tel: 0131 666 6671 www.stewartconsultingbuildingsandinfrastructure.co.uk		Drawn by 1768-06

A B C D E F G H

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**STATEMENT OF CASE**

**FOR**

**ARGYLL AND BUTE COUNCIL  
LOCAL REVIEW BODY**

**REFUSAL OF PLANNING PERMISSION FOR  
THE ERECTION OF A BONDED WAREHOUSE –  
LAND NE OF CONISBY, BRUICHLADDICH, ISLE  
OF ISLAY**

**LOCAL REVIEW BODY REF. 11/0010/LRB**

**PLANNING PERMISSION APPLICATION  
REFERENCE NUMBER 10/00263/PP**

**29<sup>TH</sup> DECEMBER 2011**

## **STATEMENT OF CASE**

The planning authority is Argyll and Bute Council ('the Council'). The appellant is Kilchoman Distillery. ('the appellant').

The planning application, reference number 10/00263/PP, for a site for the erection of a ("the appeal site") was refused under delegated powers on the 3<sup>rd</sup> October 2011. The planning application has been appealed and is subject of referral to a Local Review Body.

### **DESCRIPTION OF SITE LOCATION**

The application site relates to approximately 1.3ha (including access road) with the proposed warehouse located west of the A847 public highway and adjacent to three existing agricultural buildings to the north east of Conisby. The application site occupies an elevated location above the 30m AOD contour and located approximately 300m to the west of a grouping of six dwellings (Lochgorm House – Spring Bank House) which sit adjacent to the A847 and 200m north east respectively of the existing residential properties Tigh Na Torraig and Taigh An Tobair which sit at the eastern edge of the Conisby settlement area.

### **SITE HISTORY**

Other than the application which is subject of this review (10/00263/PP) there is no other relevant planning history in respect of the application site.

It is noted that the adjacent agricultural buildings have been developed over time under the provisions of 'permitted development rights' specifically relating to the provision of buildings necessary for the purposes of agriculture and as such do not have the benefit of express planning permission.

### **STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED**

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

### **STATEMENT OF CASE**

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

- Whether or not the proposal is consistent with the Council's 'Settlement Strategy' as set out in the Development Plan, in this instance policies



STRAT DC 4, STRAT DC 5, and LP BUS 2.

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

## **POLICY BACKGROUND**

The appeal relates to a 'large scale' Business and Industry development located on a countryside location within both a 'Rural Opportunity Area' and 'Sensitive Countryside' – the following policy considerations are relevant to the determination of this matter:

### Structure Plan Policy STRAT DC 4 – Development in Rural Opportunity Areas

- A) *Within Rural Opportunity Areas encouragement shall be given to small scale developments on suitable sites which, in terms of siting and design, will visually integrate with the landscape and settlement pattern; this may include small scale development in the open countryside as well as small scale infill, rounding-off, re-development and change of use of building development.*
- B) *n/a*
- C) *In special cases, a medium or large scale development may be supported if this accords with an area capacity evaluation which demonstrates that the specific development proposed will integrate sympathetically with the landscape and settlement pattern and will entail or result in at least one of the following outcomes:*
1. *A positive development opportunity yielding significant countryside management or environmental enhancement benefit, or building retention benefit, or local community benefit, or economic benefit;*
- OR*
2. *A development with a locational need to be on or in the near vicinity of the proposed site.*
- D) *Developments which do not accord with this policy are those outwith categories A), B) and C) above and those with incongruous and unacceptable siting and design characteristics, including development resulting in undesirable forms of ribbon development or settlement coalescence.*
- E) *Developments are also subject to consistency with other policies of the Structure Plan and in the Local Plan.*

### Structure Plan Policy DC 5 – Development in Sensitive Countryside

- A) *Within Sensitive Countryside encouragement shall only be given to small scale infill, rounding-off, re-development and change of use building development ...*
- B) *In special cases, development in the open countryside and medium and large scale development may be supported if this accords with an area capacity evaluation which demonstrates that the specific development proposed will integrate sympathetically with the landscape and settlement pattern and that the development will entail or result in at least one of the following outcomes:*
1. *n/a*
  2. *a positive development opportunity yielding significant countryside management or environmental enhancement benefit, or building retention benefit or local community benefit or economic benefit;*
- OR*
3. *a development with a locational need to be on or in the near vicinity of the proposed site.*
- C) *Developments which do not accord with this policy are those outwith categories A) and B) above and those with incongruous siting, scale and design characteristics or resulting in unacceptable forms of ribbon development or settlement coalescence.*
- D) *Developments are also subject to consistency with other policies of the Structure Plan and in the Local Plan.*

*Local Plan Policy LP BUS 2 – Business and Industry Proposals in the Countryside Development Control Zones*

*Proposals for the development of new, or extensions to existing business and industrial development (Use Classes 4, 5, 6 and 7) in the Countryside Development Zones will only be permitted where:*

- (A) *The development is of a form, location and scale, consistent with Structure Plan policies STRAT DC 2-6. Of particular note: Development proposals must also comply with policy P/DCZ 4 – Rural Opportunity Areas and Schedule B1 and B3; OR*
- (B) *Proposals are for medium or large-scale development in the rural opportunity areas, or for small scale development in the sensitive countryside where the applicant can demonstrate a clear operational need for a specific location within these countryside zones.*

*In all cases the proposals will also require to meet the following criteria:*

- (i) Greenfield sites are avoided if brownfield land is available close by;*
- (ii) The proposal is consistent with any other Structure Plan or Local Plan policies;*
- (iii) Technical standards in terms of parking, traffic circulation, vehicular access and servicing and pedestrian access are met in full);*
- (iv) The design scale and siting of the new development respects landscape/townscape character and appearance of the surrounding area;*
- (v) Good quality agricultural land is avoided if poorer quality land is available close by.*

*Depending on the scale and type of development proposed, where appropriate, agreements under Section 75 of the Town and Country Planning (Scotland) Act 1997 will be entered into for the purpose of restricting or regulating the development or use of land.*

*The granting of permission for exploration or appraisals proposals will be without prejudice to any subsequent application to develop that location.*

#### Local Plan Schedule B1 – Business and Industry Scales of Development

- Large Scale -** *buildings exceeding 600sqm footprint, or gross site area exceeding 2ha.*
- Medium Scale -** *buildings between 200sqm and 600sqm footprint or, gross site area between 0.5ha and 2ha.*
- Small Scale -** *buildings not exceeding 200sqm footprint, or gross site area not exceeding 0.5ha.*

#### Local Plan Schedule B3 – Preferred Locations for Business and Industry

*In the Countryside: small scale business and industry development on infill, rounding-off and redevelopment sites in the countryside around settlements and rural opportunity areas; these to be non-residential locations in the case of industry.*

The text which accompanies policy LP BUS 2 sets out the following justification in respect of Business and Industry Development in the Countryside Development Control Zones.

*With the exception of small scale business and industry development, the preferred location for business/office and industrial proposals is within existing settlements, as this strengthens their viability, reduces transport costs, makes use of existing infrastructure and public investment. However, Argyll and Bute has a number of indigenous and emerging*

*industries that are not suited to a location within an existing settlement. ... Therefore, where an applicant can clearly demonstrate that their proposal requires a location in the countryside, permission will normally be granted, providing that redundant buildings and brownfield sites are used where possible. Any proposal must also satisfy the criteria listed in the policy and if required ensure that appropriate site restoration proposals are in place.*

## **REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING**

The issues raised were covered in the Report of Handling which is contained in Appendix 1. As such it is considered that Members have all the information they need to determine the case. Given the above and that the proposal is 'local' development, has no complex or challenging issues and has not been the subject of significant body of conflicting representation, then it is considered that a Hearing is not required.

## **COMMENT ON APPELLANTS' SUBMISSION**

Having regard to part (7) of the appellant's submission the following comments are noted for the record in respect of the specific issues raised:

1. I am unable to provide a detailed comment in respect of verbal pre-application discussions – having discussed this with the officers involved at that time they are unable to accurately recall the extent of the information which was available for their initial comment. It is however not denied that favourable comment was provided by officers having regard to the principle of siting a bonded warehouse within 'rural opportunity area' at Conisby; it is however unclear whether the large scale nature of the proposal or the potential for an incursion of the site area into 'sensitive countryside' would have been clear from the information available at the time of these initial pre-application discussions – in any event the applicant/agent will have been advised that the proposal would require assessment against the provisions of policy LP BUS 2 which clearly sets out the presumptions for and against Business and Industry Development in the Countryside Zones.

It is further noted that informal advice is provided on the basis of the relevant policy provisions and information available at that time; it is however noted that even in the event of incorrect advice being offered, the Council as planning authority cannot be bound by informal advice issued by its officers – this would apply regardless of whether such advice was provided verbally or in writing. The provisions of S37 of the Act set out that in dealing with an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations; in this respect a planning application requires to be determined having due regard to the policy provisions of the Development Plan and it is this test, rather than the accuracy of any informal pre-application advice, which

requires to be satisfied in the formal determination of an application or indeed its appeal/review.

2. The appellant argues that the provisions of policies STRAT DC 4 and STRAT DC 5 do allow for medium and large scale development in special cases and seek to make the case that this scale of development on the appeal site should be granted on the basis that the bonded warehouse has a locational requirement to be on or in the near vicinity of the proposed site. The appellant claims that the site at Conisby is the closest available site to the distillery but also confirms that no claim for locational or operational need was made in the submitted application.

It is not disputed that the provisions of STRAT DC 4 or STRAT DC 5 can support the proposed scale of development provided that the applicant can demonstrate that the proposal merits being considered as a “special case” which meets criteria set out in these policies AND where the proposed development accords with an Area Capacity Evaluation. The provisions of policy LP BUS 2 are more prescriptive in that it restricts the criteria for a “special case” to proposals which “can demonstrate a clear operational need for a specific location within these countryside zones”, allowing for medium and large scale development within rural opportunity areas and small scale development in the sensitive countryside.

In this instance, and as has been explained to the appellant since April 2010, it has been the determination of the planning authority that insufficient evidence has been provided in support of the application to demonstrate that such a “special case” exists based upon a locational necessity for the proposed development at Conisby. Planning officers advised as far back as April 2010 that in order to demonstrate such a locational necessity which accords with LP BUS 2 that it would be necessary to undertake a sequential assessment of the availability and suitability of alternative sites, this would either demonstrate the absence of any planned provision for a development of this scale within the provisions of the Local Plan (i.e. a clear demonstration of a “special case” and justification for setting aside the normal provisions of the Settlement Strategy set out in the Structure and Local Plans) or, would result in the identification of an available, alternative location which the appellant could take forward. In the first instance it would be expected that the appellant would seek to investigate the availability of land within Business and Industry Allocations and the ‘settlement area’ and ‘countryside around settlement’ relating to the main towns on the island – these areas being the preferred location for medium and large scale business and industry proposals having regard to the Settlement Strategy set out in the Local Plan. It would also be expected that investigation of land immediately adjoining the existing distillery operation be undertaken as this could potentially be viewed as an extension of the existing industrial operation and would have obvious operational benefits which would be likely to be accepted as a “special

case” in their own right. It is considered that sufficient time was afforded to the appellant prior to the formal determination of the application to submit such further information in support of the proposal.

The appellant has failed to provide the requested sequential assessment in advance of the application being determined by the planning authority; in the absence of a “special case” being clearly demonstrated it is also advised that an Area Capacity Evaluation has not been undertaken for this locality.

The additional details relating to investigation of alternative sites provided by the appellant in their appeal statement (part (7) paras 2 and 7) does not sufficiently meet the requirements of a sequential assessment of alternative locations; such a submission would be expected to clearly identify the boundaries of sites which have been considered in addition to provision of a justification statement and corroborative evidence relating to the availability/suitability/viability (or lack of) for each location.

In addition to the absence of a sequential assessment being submitted in support of the proposal it is also noted that in the information which has been provided, the appellant has omitted a number of key locations from their investigations, these would include the Business and Industry Allocation at Bowmore (Local Plan ref. BI-AL 10/1) and the availability/suitability of land adjoining the existing distillery operation. Details relating to the investigation of the Business and Industry Allocation at Whin Park were submitted prior to determination and have been addressed in detail in the Report of Handling (Appendix A).

It is noted that having regard to the above, the Local Review Board may be minded to consider offering the appellant the opportunity to submit a sequential assessment in support of their application for review. Should Members be so minded then they would respectfully be advised to also consider the provisions of Section 43B of the Act which restricts the introduction of new material in the review process; paragraph 38. of Circular 7/2009 sets out that new material will only be permitted where the party can demonstrate that it could not have been introduced earlier in the process, or that it arises as a result of exceptional consequences. It is the view of the planning authority that any such submission of new evidence which seeks to address the reason for refusal of this proposal procedurally should require to be addressed via the medium of a revised application for planning permission – it is further noted that any such amended application which successfully demonstrates that the proposal is a “special case” having regard to policy LP BUS 2 would require to be determined by the elected Members of the Planning, Protective Services and Licensing Committee having regard to the Council’s Scheme of

Delegation which requires applications which involve an Area Capacity Evaluation to be determined in this manner.

3. Confirm that no third party objections were received to the proposal.
4. The appellant's claim that their operation is of economic benefit to the locality is not disputed; it is however noted that this can only be relied on as an over-riding consideration on the event that a "special case" for the location of the development at Conisby can be demonstrated – it is the determination of the planning authority that this requirement has not been met.
5. See 4. above.
6. Appellant has quoted from Local Plan policy LP BUS 2 and states that proximity of the development to the distillery is a relevant issue. It is not disputed that proximity of the warehouse to the distillery should be a material consideration; however in failing to undertake a sequential assessment of alternative locations for the development the appellant has not demonstrated that there is a clear locational necessity for the development to undertaken specifically at Conisby.

It is confirmed that the proposal complies with the Council's minimum technical standards in respect of access, parking etc.

The appellant states that the design, scale and siting of the development will respect the landscape/townscape character and appearance of the surrounding area as it will be located beside an existing agricultural grouping of buildings. It is however noted that to comply with the provisions of policies STRAT DC 4 and STRAT DC 5 it would be necessary to undertake a formal Area Capacity Evaluation, in accordance with the Council's supplementary planning guidance, prior to being able to support such a conclusion. It is confirmed that the planning authority has not undertaken such an exercise in the determination of the application given the failure of the appellant to clearly demonstrate a locational necessity for the proposal having regard to the provisions of policy LP BUS 2.

It is not disputed that the application site does not relate to good quality agricultural land.

7. See 2. above.

## **CONCLUSION**

Section 25 of the Town and Country Planning Act 1997 requires that all decisions be made in accordance with the development plan unless material considerations indicate otherwise.

The proposal represents 'large scale' commercial/industrial development in the open countryside, partly within a Rural Opportunity Area (ROA) and partly within an area of Sensitive Countryside. Development Plan policies STRAT DC 4 and LP BUS 2 would not ordinarily support development proposals larger than 'small scale' within the ROA and the gross footprint area of the proposed warehouse building would be some ten times larger than the upper limit of 'small scale' as defined in the Development Plan. Development Plan policies STRAT DC 5 and LP BUS 2 would ordinarily prevent commercial/industrial development of any scale within the Sensitive Countryside unless on appropriate sites as infilling, redevelopment, rounding-off or re-use of existing buildings where, in such cases, no greater than small scale development may be permitted. In this case, there are no infilling, redevelopment, rounding-off or re-use opportunities and, notwithstanding this, the proposed development is substantially larger than 'small scale' and, there has been no clear and persuasive claim of operational necessity to locate the proposed warehouse building at this site some distance from the existing distillery complex, and it is not considered that other options consistent with the provisions of the Development Plan have been adequately explored, namely relocating the proposed development to an established designated area for business/industry within which there is existing sufficient capacity. Taking account of the above, it is respectfully requested that the appeal be dismissed.



**Appendix 1 – Report of Handling**

**Argyll and Bute Council  
Development & Infrastructure 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:** 10/00263/PP  
**Planning Hierarchy:** Local  
**Applicant:** Mr. Anthony Wills  
**Proposal:** Erection of a Bonded Warehouse including associated security fence, hardstanding and access improvements  
**Site Address:** Land north east of Conisby by Bruichladdich, Isle of Islay

---

**DECISION ROUTE**

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

---

**(A) THE APPLICATION**

- (i) Development Requiring Express Planning Permission**
    - Erection of bonded store warehouse building
    - Erection of security fencing
    - Formation of new access onto a classified road
  - (ii) Other specified operations**
    - None
- 

**(B) RECOMMENDATION:**

That permission be Refused for the reasons contained in this report.

---

**(C) CONSULTATIONS:**

Highlands And Islands Airports Limited	16.03.2010	No objection.
Core Paths	17.02.2010	No objection.
Area Roads Mid Argyll Kintyre And Islay	11.03.2010	No objection subject to conditions.
West Of Scotland	17.03.2010	No objection subject to condition.

Archaeologist  
Service

---

**(D) HISTORY:**

None relevant

---

**(E) PUBLICITY:**

ADVERT TYPE:  
Regulation 20 Advert Local Application  
EXPIRY DATE: 18.03.2010

---

**(F) REPRESENTATIONS:**

**(i) Representations received from:**

No representations received

**(ii) Summary of issues raised:**

- N/A
- 

**(G) SUPPORTING INFORMATION**

**Has the application been the subject of:**

- |  |    |
|--|----|
| <b>(i) Environmental Statement:</b>  | No |
| <b>(ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:</b>  | No |
| <b>(iii) A design or design/access statement:</b>  | No |
| <b>(iv) A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:</b> | No |
- 

**(H) PLANNING OBLIGATIONS**

**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 4 – Development in Rural Opportunity Areas  
STRAT DC 5 – Development in Sensitive Countryside  
STRAT DC 9 – Historic Environment and Development Control

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment  
LP ENV 17 – Impact on Sites of Archaeological Importance  
LP BUS 2 – Business and Industry Proposals in the Countryside DC Zones  
LP TRAN 4 – New and Existing Public Roads and Private Access Regimes  
LP TRAN 6 – Vehicle Parking Provision

**(ii) List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 4/2009.**

- N/A

---

**(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 (PAN41 or other): No**

---

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

This application relates to an elevated and exposed site north of Bruichladdich and south east of Conisby, located immediately adjacent to an existing farm

steading and situated partly within a 'rural opportunity area' (ROA) and partly within an area of 'sensitive countryside', with an existing disused farm access trackway leading across open land from the site of the proposed building to the public road some 450 metres to the east.

It is proposed to erect a new bonded warehouse building on this land to serve the Kilchoman Distillery which is located some 3.5 kilometres to the north west. The proposed building would be 40 metres wide and 55 metres long of double-span portal frame construction with rendered concrete blockwork lower walls and profile sheeting above and for the two apex roofs, the maximum height of which would be some 6.1 metres with an eaves height of 3.2 metres. The building itself would be located partly within the ROA and partly within the sensitive countryside and would be surrounded by a wide servicing area with extensive hardstanding and a perimeter security fence of galvanized chainlink mesh with a crooked top section carrying three strands of wire. The maximum height of the proposed fence would be 2.9 metres. The 'apron' area surrounding the building would extend further into the sensitive countryside to the south, east and north east.

The proposed building would have a footprint area of 2,200 square metres which would have the appearance of a very large agricultural shed and would be located immediately adjacent to an existing farm steading, although the proposed building would be considerably larger than all of the existing adjacent agricultural buildings combined. However, the site is reasonably well screened from nearby views from the public road by virtue of the rising landform and the location of the building set back from the foreground ridge. Although distant views of the proposed building would be available from Bridgend and beyond, it is considered that the proposed development could be visually accommodated within the wider landscape if settlement strategy policy considerations did not fundamentally prevent a building of this scale in this location.

It is understood from discussion with the applicant that the proposed building would provide storage capacity for approximately 8 years production from Kilchoman Distillery based upon production estimates of approximately 1000 casks per year.

The proposed development straddles two adjacent countryside development zones. Settlement strategy policy STRAT DC 4 (Development in Rural Opportunity Areas) encourages small scale developments on suitable sites which, in terms of siting and design, will visually integrate with the landscape and settlement pattern. Policy STRAT DC 5 (Development in Sensitive Countryside) would only permit small scale development on suitable infill, rounding-off or redevelopment sites or an appropriate change of use to an existing building.

The application site is an open, exposed and undeveloped parcel of land adjacent to an existing farm steading but not constituting an infill, rounding-off or redevelopment opportunity. The proposed development is not a change of use of an existing building and it is therefore considered that the significant portion of the proposed development that falls within the sensitive countryside would be clearly contrary to settlement strategy policy STRAT DC 5.

Similarly, Local Plan policy LP BUS 2 states that proposals for business and industrial development in the countryside development zones will only be

permitted where the development proposed is of a form, location and scale consistent with Structure Plan policies STRAT DC 2 to 6.

'Small scale' business and industry development is defined in the Development Plan as buildings with a gross footprint area not exceeding 200 square metres and/or with a gross site area not exceeding 0.5 hectares. In the case of the proposed development, the site area (including the proposed access road) is some 1.29 hectares and the proposed building would have a gross footprint area of approximately 2,040 square metres; thus over ten times larger than the small scale developments that policy STRAT DC 4 would normally permit.

All three policies, STRAT DC 4, STRAT DC 5 and LP BUS 2 include a provision for allowing, in special cases, medium and large scale development within the countryside where the proposals would result in either a positive development opportunity yielding significant countryside management or environmental enhancement benefit, or building retention benefit, or local community benefit, or economic benefit, or where the applicant can demonstrate a clear operational need for a specific location on or in the near vicinity of the application site.

In this case the proposal is a private commercial development, not for any specific countryside management or environmental enhancement benefit for the site or its surroundings. The proposed development would not facilitate the retention of a building and is not for any specific positive community or economic benefit sufficient to outweigh the strong presumption against the development that exists in this case.

It is not considered that there is any overriding operational need to locate the proposed bonded warehouse on this specific site, partly within a rural opportunity area and partly in the sensitive countryside. This is a large scale development, defined by the Development Plan as buildings exceeding a 600 square metre footprint, and the preferred location for such a large scale commercial development is within an existing allocated business and industry site.

The main business allocation on Islay is at Whin Park, approximately 6 kilometres to the north east of the proposed access point to the Conisby site. Whin Park has sufficient capacity to accommodate the scale of building proposed and a development here would be wholly in accordance with the provisions of the Development Plan.

In addition to the above it is noted that officers have informally sought advice from Highlands and Islands Enterprise and the Council's Business Gateway team with a view to ascertaining whether they were aware of any alternative locations on Islay which would present an opportunity for this scale of development. Other than the obvious business and industry allocations and settlement area identified in the Local Plan and potential for a development adjacent to the distillery buildings at Kilchoman justified on a locational basis this exercise has proven unfruitful.

The applicant and his agent have submitted various statements regarding the proposed development and the choice to locate the building within the open countryside rather than at an existing allocated business site or on a previously developed site. The various statements are summarised below:

- *Significant effort has been made to attempt to identify an alternative location and sites at Port Charlotte, Octofad, Glenegedale, Whin Park and Port Ellen were identified and pursued. However, none of these sites were found to be suitable or commercially viable. The proposed site at Conisby is adjacent to existing large scale agricultural sheds, is in poor quality agricultural land and partially brown field, and is sited with minimum visual impact and in a rural opportunity area. It is also sited moderately closely to existing bonded warehouses associated with Bruichladdich Distillery. I therefore submit that the application site, while partially contrary to the local plan, is an ideal location for this proposal and that no suitable alternative has been found.*
- *In the Summer of 2009 we identified a piece of land [at Conisby] to erect a bonded warehouse. The plot is adjacent to an existing agricultural engineering works. When we submitted this application to the planners the initial feedback we received was that planning was likely to be turned down as it did not conform to the recently adopted Local Plan policy. In the Summer of 2010 my Agent and I met with planning officers and various alternative plots were suggested that would be suitable for our requirements. The most suitable being Whin Park and Glenegedale. A further plot at the disused warehouse in Port Charlotte was subsequently discounted as the present owner was seeking residential planning. Both the Whin Park and Glenegedale sites were investigated over many months. The Glenegedale site was ruled out completely when it was discovered the owner didn't own some of the land he was trying to sell us. We had long protracted discussions with Islay Estates about either leasing a plot or for them to erect and rent us a warehouse. Both were eventually discounted due to the totally unreasonable terms sought by Islay Estates. The ground rent proposal failed due to the building reverting to the landlord at the end of the initial term. The proposal was for them to put up a building and lease it to Kilchoman for an initial term of 10 years. However, through the discussions they demanded a 15 year lease rather than 10; Three yearly rent reviews based on retail price index which meant that the rent by the third or fourth review could be way ahead of the property market; Guarantees for the full lease obligation from the directors regardless of how well the business was doing and regardless of the strength of Kilchoman Distillery's balance sheet; The lease might have been such that we would have had no security of tenure at the site beyond year 15. Islay Estates moved the goal posts quite substantially on several occasions on the basis that they had to be sure that they were going to get their 90/100% finance repaid come what may. This gave us no room to manoeuvre and we therefore withdrew from the negotiations.*
- *Kilchoman is a small but developing business that now employs 12 full time and 3 part time staff. Our visitor centre and cafe have become popular destinations for the many tourists who visit Islay. We have been seeking alternative warehousing on Islay for 2 years and it is becoming increasingly worrying that a decision hasn't been made. We have been fortunate that we have been able to store our maturing whisky at Bruichladdich, Bowmore and latterly Port Ellen but this will all come to an end in the next few months. Unless we are able to secure a*

*site in the near future we may be forced to send our casks to the mainland at vast expense, or worse, stop production. It is very difficult to secure land for commercial use on Islay as most landlords are either unwilling to sell plots or they are holding out for residential planning and better value for themselves, or the land isn't zoned for industrial use. The malt whisky business is vital to the economy of Islay and I urge you to support our application to erect a warehouse at the Conisby site.*

Comment: There are a few minor factual inconsistencies in the above.- The application site is not wholly within a 'rural opportunity area'; a significant part of it is within an area of sensitive countryside; including part of the proposed footprint area of the building itself, a substantial part of the surrounding servicing 'apron', a significant part of the proposed security fencing, and almost all of the proposed access road. The existing farm steading has no planning permission for operation as an 'engineering works'. Although negotiations might have been ongoing for 2 years, the current planning application was valid from February 2010 and was being held in abeyance at the request of the applicant for a significant length of time. Nevertheless, the Local Planning Authority are conscious of the time taken to progress this application.

Comment: Islay Estates have commented on the above with respect of the negotiations concerning the provision of an alternative site within the allocated Whin Park site. They state that:

- *In general, the points made by the applicant are correct. Any ground rent proposal that we would have come up with would mean that the building would become the property of the landlord after the expiry of the lease. It is true that we altered our negotiating position during the discussions. This is largely based on the fact that we would have to borrow 100% of the finance required to build a purpose-built warehouse that we would have no use for and it is unlikely that there would be a market for such a building as the other distilleries have their own storage. As discussions went on, the cost of borrowing increased and thus our exposure to risk increased. The three year reviews based on retail price index and the demand for guarantees reflects the financial risk that the Company would have to take. There is no Landlord and Tenant Act in Scotland so the security of tenure that exists in England would not be applicable to the sitting tenant.*

Whilst the need for bonded warehouse storage is appreciated, it is not considered that the proposed site could be supported as a departure to adopted Development Plan policies in this case. The scale of the proposed development is greater than the Development Plan would normally accommodate by a factor of ten or above. In addition, a significant part of the site, including part of the proposed footprint area of the building itself, a substantial part of the surrounding servicing 'apron', a significant part of the proposed security fencing, and almost all of the proposed access road is within an area of sensitive countryside within which development of the nature proposed would not usually be supported regardless of scale. There exist other sites for commercial development on Islay, notably at Whin Park, where land of suitable size is available and where planning policy would support the development proposed. The commercial negotiations to secure a suitable site within an allocated business and industry area are not material planning

considerations and there is no stated operational reason either why the building has to be located on the proposed site at Conisby or why it couldn't be located at Whin Park. It may be convenient or financially advantageous to locate the building within the open countryside rather than at a designated employment site but this is not considered sufficient to set aside established planning policy in this case. It is considered that to do so would be to set a substantial and materially harmful precedent for other inappropriately sited development which would run wholly contrary to the provisions of the Development Plan and to the established settlement strategy contained within it.

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

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**(R) Reasons why Planning Permission or Planning Permission in Principle Should be Refused:**

The proposal represents 'large scale' commercial/industrial development in the open countryside, partly within a Rural Opportunity Area (ROA) and partly within an area of Sensitive Countryside. Development Plan policies STRAT DC 4 and LP BUS 2 would not support development proposals larger than 'small scale' within the ROA and the gross footprint area of the proposed warehouse building would be some ten times larger than the upper limit of 'small scale' as defined in the Development Plan. Development Plan policies STRAT DC 5 and LP BUS 2 would prevent commercial/industrial development of any scale within the Sensitive Countryside unless on appropriate sites as infilling, redevelopment, rounding-off or re-use of existing buildings where, in such cases, no greater than small scale development may be permitted. In this case, there are no infilling, redevelopment, rounding-off or re-use opportunities and, notwithstanding this, the proposed development is substantially larger than 'small scale'. There has been no persuasive claim of operational need to locate the proposed warehouse building at this site some distance from the existing distillery complex, and it is not considered that other options consistent with the provisions of the Development Plan have been adequately explored, namely relocating the proposed development to an established designated area for business/industry within which there is existing sufficient capacity.

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

N/A

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

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**Author of Report:** Tim Williams

**Date:** 14<sup>th</sup> September 2011



**Reviewing Officer:**

**Date:** 30<sup>th</sup> September 2011

A handwritten signature in black ink, appearing to read 'A. Gilmour', is positioned below the 'Reviewing Officer:' label.

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

**REFUSAL REASONS RELATIVE TO APPLICATION REF. NO. 10/00263/PP**

1. The proposal represents 'large scale' commercial/industrial development in the open countryside, partly within a Rural Opportunity Area (ROA) and partly within an area of Sensitive Countryside. Development Plan policies STRAT DC 4 and LP BUS 2 would not support development proposals larger than 'small scale' within the ROA and the gross footprint area of the proposed warehouse building would be some ten times larger than the upper limit of 'small scale' as defined in the Development Plan. Development Plan policies STRAT DC 5 and LP BUS 2 would prevent commercial/industrial development of any scale within the Sensitive Countryside unless on appropriate sites as infilling, redevelopment, rounding-off or re-use of existing buildings where, in such cases, no greater than small scale development may be permitted. In this case, there are no infilling, redevelopment, rounding-off or re-use opportunities and, notwithstanding this, the proposed development is substantially larger than 'small scale'. There has been no persuasive claim of operational need to locate the proposed warehouse building at this site some distance from the existing distillery complex, and it is not considered that other options consistent with the provisions of the Development Plan have been adequately explored, namely relocating the proposed development to an established designated area for business/industry within which there is existing sufficient capacity.

**Appendix 2 – Statutory and other Consultee Comments**

**Other Consultees:**

- **Argyll and Bute Council – Area Roads 11<sup>th</sup> March 2010**

Operational Services - Roads and Amenity Services  
**OBSERVATIONS ON PLANNING APPLICATION**

Grid Reference    102000 604000                      Dated

Applicant                      Mr Antony Willis  
 Proposed Development    Erection of a Bonded Warehouse  
 Location                      Land North East of Conisby Bruichladdich, Isle of Islay  
 Type of consent              Detailed Permission  
 Drawing Refs.

Application No.            **10 00263 PP**  
 Contact                      James Ross  
 Tel.                            01546-604655  
 Received                      16/02/2010  
 Return By Date              08/03/2010

Call By Date  
 District    Islay  
**Recommendation**  
**No objection subject to conditions**

**Comments:**

**Conditions/Reasons for refusal/deferment**

- 1. Connection to public road, 42 x 2.40 x 1.05 metres.**
- 2. Connection to public road to be constructed as per standard detail drawing ref SD 08/001 Rev a.**
- 3. Turning and parking for an articulated lorry within application site.**

**Notes for Intimation to Applicant**

- |                                  |                     |
|----------------------------------|---------------------|
| (i) Construction Consent(S21)*   | <b>Not Required</b> |
| (ii) Road Bond (S17)*            | <b>Not Required</b> |
| (iii) Road Opening Permit (S56)* | <b>Required</b>     |
| (iv) No surface water discharge* | <b>Required</b>     |

\*Relevant Section of the Roads(Scotland) Act 1984

Signed:	J. Ross	Date	11/03/2010	ID	2909
		Actual Return Date	11/03/2010	Replied	

• West of Scotland Archaeology – 17<sup>th</sup> March 2010

Our ref: 7/3/2/10/00263  
Your ref: 10/00263/PP  
WoSASdoc: 10\_00263  
Date: 17 March 2010  
Contact: P Robins  
Direct dial: 0141 287 8335

WEST of SCOTLAND  
ARCHAEOLOGY  
SERVICE



Development Services  
Argyll & Bute Council  
Lorn House  
Albany Street  
Oban  
PA34 4AR

20 India Street, Glasgow G2 4PF  
Tel: 0141 287 8332-5  
Fax: 0141 287 9529  
enquiries@wosas.glasgow.gov.uk



Dear Sir/Madam,

**Erection of bonded warehouse, hardstanding, fencing and access, Land NE of Conisby, Bruichladdich, Islay. Archaeology.**

I refer to the above planning application sent to me to assess any archaeological issues raised by the proposals. I have checked the area concerned against the information held in the Sites and Monuments Record (SMR) and produced the following advice.

The application lies within an area of some archaeological sensitivity and potential based on the presence of recorded sites, including settlement, burial and ritual activity, recorded in the surrounding landscape which we consider has the potential to produce buried remains of any period. The proposal is reasonably large in scale and in a Greenfield area. It will presumably involve machine stripping of overburden at the site and along the access as a first stage in construction. This will open up a large area of ground only previously disturbed by agricultural use and may reveal buried archaeological remains.

Government policy as set out in Scottish Planning Policy is that planning authorities should ensure that prospective developers arrange for the archaeological issues raised by their proposals to be adequately addressed. Where the degree of archaeological significance or survival is uncertain the West of Scotland Archaeology Service would advise planning authorities to consider attaching an archaeological watching brief condition to any consent they may be minded to grant.

A model condition is given in paragraph 35, page 13, of Planning Advice Note 42 (PAN 42), although experience has shown that the wording given in this model is confusing to most applicants and their agents. I would recommend the following draft in its place:-

*"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 archaeological organisation 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 will be submitted by the applicant, 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 the West of Scotland Archaeology Service in writing not less than 14 days before development commences."*

The Archaeology Service of the Councils of Argyll & Bute, East Ayrshire, East Renfrewshire, Glasgow City, Inverclyde, North Ayrshire, Renfrewshire, South Ayrshire, South Lanarkshire and West Dunbartonshire.

This condition would ensure that if any sensitive archaeological remains or features were encountered during any initial or subsequent ground excavation works associated with the development, they could be adequately recorded by the archaeologist retained by the developer, before their destruction. It is important to inform the applicant that the watching brief will be required on all ground disturbance including any removal of turf, topsoil or other site clearance/preparation works and that the archaeologist must be on site *during* these works and not called in afterwards to inspect the disturbed area.

I enclose an informal list of archaeological contractors who may be able to carry out such a watching brief. You may wish to pass this to the applicant for their information.

Yours faithfully

West of Scotland Archaeology Service

• Argyll and Bute Council – Access Technician – 17<sup>th</sup> February 2010

Argyll and Bute Council  
Comhairle Earra Ghàidheal agus Bhòid



**Development Services**  
Director: George Harper

**Beth Connelly**  
**Senior Technician**  
**Dalriada House**  
**Lochnell Street**  
**Lochgilphead**  
**PA31 8ST**

**Planning Services**

Kilmory, Lochgilphead, Argyll, PA31 8RT  
Tel: 01546 604119 Fax: 01546 604250  
e.mail – david.garner@argyll-bute.gov.uk  
www.argyll-bute.gov.uk

Direct Line: 01546 604119  
Ask For: David Garner  
Our Ref:  
Your Ref: 10/00263/PP  
Date: 17 February 2010

Dear Beth,

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**  
**LAND REFORM (SCOTLAND) ACT 2003**  
**PROPOSAL: ERECTON OF BONDED WAREHOUSE ETC.**  
**SITE ADDRESS: LAND NE OF CONISBY, BRUICHLADDICH, ISLAY**

Thank you for your consultation regarding the above and in relation to the Land Reform (Scotland) Act 2003.

I confirm that I have no comments on the above application.

Yours Sincerely

A handwritten signature in black ink that reads 'David Garner'.

David Garner, Access Technician



- Highlands and Islands Airports – Access Technician – 16<sup>th</sup> March 2010

**Clark, Catherine**

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**From:** maki, planning [planning.maki@argyll-bute.gov.uk]  
**Sent:** 16 March 2010 12:18  
**To:** Clark, Catherine, MacDonald, Rory  
**Subject:** FW: Planning App 10/00263/PP - Erection of Bonded Warehouse, Land NE of Conisby, Bruichladdich, Islay



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**From:** Anne Phillips[SMTP:APHILLIPS@HIAL.CO.UK]  
**Sent:** Tuesday, March 16, 2010 12:16:26 PM  
**To:** maki, planning  
**Subject:** Planning App 10/00263/PP - Erection of Bonded Warehouse, Land NE of Conisby, Bruichladdich, Islay  
**Auto forwarded by a Rule**

Your Ref: 10/00263/PP  
HIA Ref: 2010/0048/SYY

Dear Ms Leary,

**PROPOSAL:** Erection of Bonded Warehouse  
**SITE ADDRESS:** Land North East of Conisby, Bruichladdich, Islay

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With reference to the above proposed development, it is confirmed that our calculations show that, at the given position and height, this development would not infringe the safeguarding surfaces for **Islay Airport**.

Therefore, Highlands and Islands Airports have no objections to the proposal.

Anne Phillips  
Operations Manager

Highlands and Islands Airports  
Head Office  
Inverness Airport  
Inverness  
IV2 7JB

Tel 01667 464244

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**Argyll and Bute Council****Kilchoman Distillery Company Ltd.**

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

Planning reference 10/00263/PP.

It is confirmed that all Business and Industry Allocation on the island was considered as well as a site adjacent to Kilchoman Distillery. The findings were as follows:

- 1) Site adjacent to the existing distillery. Mr Mark French, the owner of Rockside Farm Kilchoman is the owner of all land surrounding the distillery and relationship between the distillery and Mr French is currently strained. There is no prospect of Mr French agreeing to release any land to Kilchoman Distillery Company Ltd. A meeting took place between one of the directors of the distillery and Mr French in the autumn of 2007 regarding this issue but no progress was made. Indeed the distillery has more recently attempted to have the car park area agreement formalised without success.
- 2) Whin Park, Bridgend (BI-AL10/3) As previously stated significant negotiations took place with the Islay Estate Company Ltd. Two possibilities were proposed here. The first was leasing premises which Islay Estate Company Ltd could build for the applicant and on which they were prepared to give a 15 year lease with two 5 yearly rent reviews and rent starting at approximately £50,000.00 per annum. These discussions became untenable when it became clear that they wanted all the rentals for 15 years guaranteed individually by the directors. The estate were intending to obtain a loan for the entire build. This effectively meant that they would be holding personal guarantees for many times the cost of erecting the building regardless of how the company was performing and the state of its balance sheet. This was impossible to agree to. Furthermore, the company would have no security of tenure in the building after the 15 year period. The second proposal was to simply rent a piece of land from Islay Estate Company Ltd at a figure that may have been acceptable. However, instead of a normal ground rent agreement written for say 99 years or longer, Islay Estate Company were only prepared to give a 20 year lease agreement after which the building, put up at the applicant's cost would revert to the estate. This was also clearly untenable.
- 3) Adjacent to existing bonded stores and Islay High School, Bowmore (BI-AL10/1). This site would have been suitable albeit the travel distance would have been significantly greater (12km) than that for original site. However, it is again owned by Islay Estate Company Ltd and it has been confirmed that a similar position would be taken by the estate regarding lease or acquisition to that at Whin Park.
- 4) Port Ellen (BI-AL10/4). This site is immediately behind the existing small industrial site within Port Ellen. This site is not large enough to accommodate the proposed bonded store, it is steeply sloping and is overlooked by several private houses. There would undoubtedly be significant objections from the proprietors of these houses to such a large scale development. The site is also a significant distance from the distillery as discussed in our main report.

- 5) Gleneedale (PDA10/28). This site is immediately behind the shellfish factory and belongs to Laggan Estates. Laggan Estates will not consider releasing this land.
  
- 6) There are also established Business and Industry Zones, mainly associated with the established distilleries on the island, most notably Bruichladdich. The site at Bruichladdich is adjacent to the existing bonded storage complex associated with Bruichladdich distillery and will belong to them. It is unlikely that they would allow the sale of land to allow a competitor to build a bonded warehouse. There are also established Business and Industry Zoned Areas at all the other distilleries but again, they are in the ownership of the distilleries and are unlikely to be co-operative in negotiating terms for release.

In our main submission, we also examined a number of potential sites within settlement zones, but even if acquisition were possible, any application for a bonded store development would have been vigorously opposed by adjacent local residents due to loss of amenities. It should be reiterated that no objections to the original planning application were made, either by local residents or consultees.

Bowman Stewart,

20 January 2012