

**MINUTES of MEETING of ARGYLL AND BUTE LOCAL REVIEW BODY held in the COUNCIL
CHAMBER, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 20 MARCH 2013**

Present: Councillor Sandy Taylor (Chair)
Councillor Gordon Blair Councillor Rory Colville

Attending: Charles Reppke, Head of Governance and Law (Adviser)
Hazel MacInnes, Committee Services Officer (Minute Taker)

1. APOLOGIES FOR ABSENCE

There were no apologies for absence.

2. DECLARATIONS OF INTEREST

There were no declarations of interest intimated.

**3. CONSIDER NOTICE OF REVIEW REQUEST: ARDUAIN FARM,
ARDUAIN, KILMELFORD (REF. NO: 13/0002/LRB)**

The Chair welcomed all those present to the meeting.

The Chair advised that no person present would be entitled to speak other than the Local Review Body Panel and Mr Reppke, who would provide procedural advice if required.

The Chair advised that his first task would be to establish if the Panel felt that they had sufficient information to come to a decision on the review.

Councillor Colville advised that he would like further information before he could come to a decision on the review. In terms of the reference made by planning with regard to an alternative site for commercial premises he asked for clarification from planning on where the nearest commercial premises were to the proposed site. He wanted to see this as he did not believe that 360 acres was a viable unit. Councillor Colville advised that he would like a site visit in order to view the condition of the existing houses on the farm, the proposed site, steadings and surrounding farmland. Councillor Blair agreed with Councillor Colville.

Councillor Taylor advised that he had questions around the security issues on the site and that it would be helpful to see where the existing dwellings sat in relation to the farm holdings and also where the proposed site sat in relation to the settlement boundary. He advised that it would also be useful to see the site proposed for development by Celtic Sea Ltd and therefore advised that he would like to hold a site visit and invite planning and the applicants to attend.

Councillor Colville added that he had questions surrounding whether any of the applicant's family would be involved in the diversification project

and whether they would be making use of the accommodation on site. He advised that he would like further information from the applicant on the workforce envisaged for the diversification project and whether any of the workforce would be family members and how they would be accommodated.

Decision

The Argyll and Bute Local Review Body –

1. Agreed to request further written submissions from the Planning Department in respect of –
 - a. Clarification on where the nearest available commercial premises are in relation to the proposed site.
 - b. A map of the settlement zone and its boundary relative to the farm steadings.
2. Agreed to request further written submissions from the applicant in respect of the workforce that was envisaged for the farm diversification project and if this workforce would include any family members and how they would be accommodated.
3. Agreed to hold an accompanied site visit to view the proposed site, the site of the applicants existing accommodation in relation to the farm, the condition of the 2 existing dwellings, the proposed site for development by Celtic Sea Ltd and the security around the site; and that the applicant and planning be invited to attend to respond to any questions the Panel may have in respect of these matters.

The Argyll and Bute Local Review Body reconvened on Tuesday 14 May 2013 at 11.45am in Kilmelford Village Hall after an accompanied site visit (Note of Site Visit attached at Appendix A to this Minute).

Present: Councillor Sandy Taylor (chair)
Councillor Gordon Blair
Councillor Rory Colville
Charles Reppke, Head of Governance and Law (Adviser)
Hazel MacInnes, Committee Services Officer (Minute Taker)

The Chair welcomed everyone present to the meeting and advised that no party would be permitted to speak other than the Members of the Local Review Body and Mr Reppke, who would provide procedural advice if required.

The Chair asked the Panel if they felt that they now had sufficient information to come to a decision on the review. Councillor Blair advised that he felt he now had sufficient information to come to a decision on the review. Councillor Colville advised that he felt there may be a need for further information.

Councillor Colville advised that it was clear that the farm was not a viable business on its own and that there was a need for diversification. He

advised that one in two of all farms were now diversifying. He advised that the legal status of the diversification would need to be determined before a decision could be taken on this application. He added that he was not convinced of the need for an additional site outwith the old farm at the moment; but could be if there was an operational need which justified it. Councillor Colville added that should an application be granted outwith the settlement zone that he thought it would need a Section 75 Agreement to ensure that the house could not be sold separately from the farm to make a profit. He asked for advice on these aspects.

Mr Reppke advised that if Members were minded to look towards approving the application then they would need a competent Motion to justify development in the Countryside Around Settlement Zone. Mr Reppke suggested therefore that Members first obtain further information from the applicant on whether diversification had gone beyond being classed as an auxiliary to the farm business and suggested that Members ask that the applicant seek to actively obtain a Certificate of Lawfulness for this diversification. He then suggested that Members also ask the applicant to provide a Business Case justifying the locational and operational need for an additional house on the proposed site. Mr Reppke also advised that if Members were minded to approve the application then it would be helpful to request suitable conditions and reasons from the Planning department that could accompany any approval.

Councillor Blair agreed with Mr Reppke's suggestions and advised that he could see no problem with the site other than it was in the Countryside Around Settlement Zone and the uncertainty around the existing planning status of some activities. Councillor Colville and Councillor Taylor agreed with Mr Reppke's suggestions.

Decision

The Argyll and Bute Local Review Body -

1. Agreed to request further written submissions from the applicant in respect of –
 - a) Confirmation being obtained on whether or not business diversification had gone beyond being classed as an auxiliary to the farm business.
 - b) A Certificate of Lawfulness for the farm business diversification being obtained if so advised.
 - c) A Business Case from the applicant which demonstrates the locational and operational need for a house development on the proposed site.
2. Agreed to request from the Planning Department further written submissions in respect of model conditions and reasons that could accompany any approval.

The Argyll and Bute Local Review Body reconvened on Wednesday 26 June 2013 at 9.30 am in the Council Chamber, Kilmory, Lochgilphead.

Present: Councillor Sandy Taylor (Chair)
Councillor Gordon Blair
Councillor Rory Colville

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

The Chair welcomed everyone present to the reconvened meeting and advised that no party would be permitted to speak other than the Members of the Local Review Body and Mr Reppke, who would provide procedural advice if required.

The Chair referred to the additional paperwork which was now before the Panel including a Business Case from the Applicant and noted that a Certificate of Lawfulness had still to be concluded. He asked the Panel to confirm if they felt the information before them was enough to enable them to proceed to determine the case.

Mr Reppke advised that Planning Officers had not yet dealt with the application which had been submitted by the Applicant for a Certificate of Lawfulness for the farm business diversification and that he was aware that Planning had requested further information from the Applicant in respect of this application. He advised Members that if they wished to base their decision on this Review on the Certificate of Lawfulness then they should wait until Planning have made their decision on this. However, if Members decide not to base their decision on the Certificate of Lawfulness then they could move forward with this process today.

The Chair commented that based on this advice received from Mr Reppke he thought it would be best to continue consideration of this Review until the outcome on the application for a Certificate of Lawfulness was known.

Councillor Blair sought and received confirmation from Mr Reppke that Planning had not submitted any comments on the Business Case prepared by the Applicant. It was noted that it may be beneficial to Members to receive comments from Planning as to whether the arguments put forward in the Business Case justified the operational and locational need for a house on this site.

Councillor Blair advised that it was his opinion that the Panel should wait to receive comments Planning on the Business Case as to whether it met the criteria for a Certificate of Lawfulness.

Councillor Colville asked if it would be possible to grant the application subject to the receipt of a Certificate of Lawfulness.

Mr Reppke advised that justification could be based on the existing use of the farm and future use and the locational and operational need outlined in the Business Case by the Applicant but that this could fall if the

Certificate of Lawfulness was not granted.

Councillor Colville advised that from experience businesses fared better when operated from the one site rather than scattered across many sites. He asked if there was a timescale for production of the Certificate of Lawfulness.

Mr Reppke advised that the application for a Certificate of Lawfulness had been lodged by the Applicant and that planning had sought further information from the Applicant and provided that this information was submitted to Planning then a decision could be made. He advised that a Certificate of Lawfulness was a matter of fact and not planning. He advised that Members were not being asked to grant consent for the various elements of the business, that they were being asked to grant planning permission for a dwelling house and that they needed to decide whether or not they had enough information before them to do this. He advised that Members needed to decide if the Business Case submitted by the Applicant was sufficient for their purpose of determining this case. He advised that the Council had set policies in respect of locational and operational need and that his advice was that some work was required to interpret the Business Case to determine if the need could be justified in planning policy terms.

Decision

The Argyll and Bute Local Review Body –

1. Agreed to request from Planning comment on whether or not the arguments put forward by the Applicant in the Business Case justified the locational and operational need for a dwelling house on this site; and
2. Agreed to adjourn the meeting and reconvene once the outcome of the application for the Certificate of Lawfulness was known.

The Argyll and Bute Local Review Body reconvened on Monday 26 August 2013 at 9.30 am in Committee Room 1, Kilmory, Lochgilphead.

Present: Councillor Sandy Taylor (Chair)
Councillor Rory Colville

Attending: Iain Jackson, Governance and Risk Manager (Adviser)
Fiona McCallum, Committee Services Officer (Minute Taker)

Having established that Councillor Blair was running late it was agreed to adjourn the meeting until Councillor Blair arrived.

The Argyll and Bute Local Review Body reconvened at 10.30 in Committee Room 2, Kilmory, Lochgilphead.

Present: Councillor Sandy Taylor (Chair)
Councillor Gordon Blair
Councillor Rory Colville

Attending: Iain Jackson, Governance and Risk Manager (Adviser)
Fiona McCallum, Committee Services Officer (Minute Taker)

The Chair welcomed everyone present to the reconvened meeting and advised that no party would be permitted to speak other than the Members of the Local Review Body and Mr Jackson, who would provide procedural advice if required.

The Chair referred to the additional paperwork which was now before the Panel and noted that a Certificate of Lawfulness had now been concluded and advised that his first task would be to establish if the Members of the LRB felt that they had sufficient information before them to come to a decision on the review. It was established that the LRB had enough information before them and they went on to determine the merits of the case.

Councillor Rory Colville advised that on considering the written submissions it was his belief that the LRB could grant this application and he believed that he had a competent Motion.

Motion

The proposal is located within the Countryside Around Settlement development control zone as per the adopted Local Plan. Structure Plan policy STRAT DC 2 will only support proposals that are considered infill, rounding off, redevelopment and change of use or limited specified exceptions. The application can, as a limited specified exception be supported as a 'special case' based on a locational operational need associated with the various business activities being operated by the applicants from the facility close to the proposed site of the dwellinghouse in accordance with STRAT DC 2, as the supporting statement provide does provide sufficient justification for the house.

The proposed dwellinghouse will provide enhanced security for the various components of the business which have developed out of a farm diversification strategy. The location of the house within the farm will enhance the opportunity for oversight of valuable plant and equipment which can be visible from the public road whilst affording the appropriate level of amenity for a family dwellinghouse. The applicants have identified that the existing farm steading is being intensively used for their business purposes, which has recently been granted a certificate of lawfulness, and as such the reuse of one of the former residential units would be incompatible with the current business activities which operate on extended hours and thus would affect the privacy and amenity of a family dwellinghouse.

Furthermore the opportunity to increase security particularly in relation to the jetty and sea based activities carried out would be significantly enhanced by the housing development. In this case the existence of the present jetty in close proximity to the proposed house is essential for the servicing of the business interests of the applicant in the surrounding coastal area, and is in accordance with Policy LP CST 2 (a) the

development requires a coastal location and (b) the development uses existing pier facilities.

The proposed location for the dwellinghouse will see the removal of an existing caravan used for storage which will provide an environmental benefit and the site is set within a natural undulation on the hillside which will limit its visual impact on the landscape, which can be further reduced by sensitive design and landscaping so that there will be no adverse visual impact. The existing settlement pattern is predominantly of single dwellings set within a pattern that has supported the rural economy and to retain this character further development on the hillside should be resisted to protect this context.

In addition further development at the existing farm steading should be resisted to protect the character and amenity of the surrounding of the Historic Gardens at Arduaine (Policy LP ENV 11 Development Impact on Historic Gardens and Designed Landscapes).

The application can therefore be justified as consistent with the policy STRAT DC2 on the basis of the locational operational need claim identified from the submissions made by the applicants and as such the dwellinghouse should be the subject of a section 75 agreement to tie the occupation of the house to the controlling interest in the business activities being carried out at the site and that planning permission in principle be granted subject to the conditions and reasons proposed by the planning department in their submission to the LRB held on 26 June 2013.

Moved by Councillor Colville, seconded by Councillor Blair

Mr Jackson confirmed that this was a competent Motion.

Decision

By a majority the Argyll and Bute LRB agreed to grant planning permission in principle subject to the prior conclusion of a Section 75 Agreement to tie the occupation of the house to the controlling interest in the business activities being carried out at the site and subject to the following conditions and reasons:-

1. That this permission is granted in terms of Section 59 of the undernoted Act for planning permission in principle and further approval of the Planning Authority shall be required for matters specified in conditions, such application must be made before whichever is the later of the following:-
 - a) the expiration of a period of 3 years from the date of this permission.
 - b) the expiration of a period of 6 months from the date on which an earlier application for the requisite approval was refused.
 - c) the expiration of a period of 6 months from the date on which an

appeal against such refusal is dismissed.

And in the case of b and c above only one such application can be made after the expiration of the period of 3 years from the original planning permission in principle.

Reason: In accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended).

2. No development shall commence on site, or is hereby authorised, until the following information has been submitted by way of an application(s) for approval of matters subject to condition and approval has been given in writing by the Planning Authority.
 - A detailed site layout plan at a scale of 1:500 showing the proposed house in detail
 - Water supply and drainage arrangements
 - Landscaping and planting arrangements
 - Access, parking and turning provision

Plans and elevations of the proposed dwellinghouse which shall incorporate the following elements:

- Finished in white wet dash roughcast or smooth render, natural stone, timber or a mixture of these finishes;
- Have a roof covering of natural slate or good quality slate substitute;
- Be single or one and a half storey
- Incorporate windows with a strong vertical emphasis;
- Have a roof pitch of not less than 37 and not greater than 42 degrees;
- Be predominantly rectangular in shape with traditional gable ends not exceeding 6 metres.

Reason: In the interests of visual amenity and in order to maintain the character of the area and integrate the proposed dwelling house with its surroundings.

3. Pursuant to Condition 2 - no development shall commence until an appraisal of the wholesomeness and sufficiency of the intended private water supply and the system required to serve the development has been submitted to and approved by the Planning Authority.

The appraisal shall be carried out by a qualified hydrologist and shall include a risk assessment having regard to the requirements of Schedule 4 of the Private Water Supplies (Scotland) Regulations 2006 which shall inform the design of the system by which a wholesome and sufficient water supply shall be provided and maintained. The appraisal shall also demonstrate that the wholesomeness and sufficiency of any other supply in the vicinity of the development, or any other person utilising the same source or

supply, shall not be compromised by the proposed development.

The development shall not be brought into use or occupied until the required water supply system has been installed in accordance with the agreed specification and is operational.

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

4. Pursuant to Condition 2 – no development shall commence until a scheme of boundary treatment, surface treatment and landscaping has been submitted to and approved by the Planning Authority. The scheme shall include details of:

- Location, design and materials of proposed walls, fences and gates;
- Surface treatment of proposed means of access and hardstanding areas;
- Any proposed re-contouring of the site by means of existing and proposed ground levels.
- Proposed hard and soft landscape works.

The development shall not be occupied until such time as the boundary treatment, surface treatment and any re-contouring works have been completed in accordance with the duly approved scheme.

All of the hard and soft landscaping works shall be carried out in accordance with the approved scheme during the first planting season following the commencement of the development, unless otherwise agreed in writing by the Planning Authority.

Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity.

5. Occupation of the dwelling shall be limited to a person solely or mainly employed at Arduaine Farm Services Ltd and Arduaine Farm and the direct family of such a person.

Reason: In order to underpin the claim of operational need submitted without which the proposal would be contrary to the provisions of the Development Plan.

6. This planning permission in principle is granted in accordance with the details specified on the application form dated 19/02/12 and the approved drawing reference numbers:

Plan 1 of 2 (Location Plan)

Plan 2 of 2 (Site Plan)

Reason: For the purpose of clarifying the approved details that form part of this permission.

(Reference: Notice of Review and Supporting Documentation, Written Submissions and comments on these, submitted)

ARGYLL AND BUTE LOCAL REVIEW BODY

**NOTE OF MEETING OF SITE INSPECTION RE CASE 13/0002/LRB
ARDUAIN FARM, ARDUAIN, KILMELFORD
TUESDAY 14 MAY 2013 AT 11.00AM**

In attendance: Councillor Sandy Taylor, Argyll & Bute LRB (Chair)
Councillor Gordon Blair, Argyll & Bute LRB
Councillor Rory Colville, Argyll & Bute LRB
Charles Reppke, Head of Governance and Law

(Adviser)
Hazel MacInnes, Committee Services Officer (Minute
Taker)

David Love, Planning Officer
Fiona Scott, Planning Officer
Mike Campbell, Applicant
Jim Litster, Applicant's Agent

The Argyll and Bute Local Review Body (ABLRB) agreed on 20 March 2013 to conduct a site visit in order to view the proposed site, the site of the applicants existing accommodation in relation to the farm, the condition of the 2 existing dwellings, the proposed site for development by Celtic Sea Ltd and the security around the site; and that the applicant and planning be invited to attend to respond to any questions the Panel may have in respect of these matters.

The ABLRB convened at Arduaine Farm, Arduaine, Kilmelford on Tuesday 14 May 2013 at 11.00am.

All parties were welcomed to the site visit by the Chair. The Chair invited David Love, Planning Officer to show the ABLRB the proposed development site. Fiona Scott, Planning Officer was then invited to point out the development site for the Celtic Sea proposal. Members were also shown the settlement boundary and the alternative development site by the Planning Authority. The ABLRB were shown the existing dwellings on the farm site by the applicant. The applicant was asked to explain why the proposed development would assist with security issues.

From the inspection the ABLRB noted:-

1. The proposed development site.
2. The proposed site for development by Celtic Sea.
3. The settlement boundary in relation to the proposed site.
4. The alternative site for development.

5. The condition of the existing dwellings on the farm.
6. That currently the applicant lived off site in Arduaine some 600 metres away and travelled to and from the farm a number of times a day, leaving the gates open for convenience and creating security issue; if he stayed on site there wouldn't be a need to leave the farm which would resolve this issue and would mean that the gates could remain closed.
7. The siting of a residential caravan which did not have planning consent but which was to be removed.
8. That the scale of the civil engineering business farm diversification may have gone beyond that which would require it to be regarded as a separate planning issue.
9. Options around the siting of the house inside the current farm and yard area.
10. The existing caravan that would be removed if consent were granted for a house.