

MINUTES of MEETING of ARGYLL AND BUTE LOCAL REVIEW BODY held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD on WEDNESDAY, 22 FEBRUARY 2017

Present: Councillor Alex McNaughton (Chair)

Councillor Rory Colville

Councillor Roderick McCuish

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

1. CONSIDER NOTICE OF REVIEW REQUEST: PROPOSED ERECTION OF NEW COTTAGE, CROFT 3, CASTLETON, LOCHGILPHEAD, ARGYLL (REF: 16/0002/LRB)

The Chair welcomed everyone to the meeting and introductions were made. He then invited the Head of Governance and Law to advise why this case was being brought before the Argyll and Bute Local Review Body (LRB) to be reheard.

Mr Reppke explained that this case was previously considered by the LRB on 17 August 2016 and the decision to refuse was the subject of an application for Judicial Review. That application was disposed of by means of a joint minute which has resulted in the matter being returned to the Council for a fresh determination of the request for review. He asked the LRB to note this and to treat this meeting as a first calling of the LRB. He then asked the LRB to receive into the process a statement submitted by the Applicants about this matter. He said that when new information is provided the regulations state that all interested parties must have the opportunity of commenting before any deliberation by the LRB. He added that the Applicants will also be given a further opportunity to comment once any comments are received from interested parties.

The LRB agreed to take this statement from the Applicants into the process and copies were circulated to the Members. The LRB then considered whether they required any further information before coming to a decision on this Review.

Councillor Colville advised that he thought a site inspection would be beneficial and he also sought clarity from Transport Scotland regarding the visibility splays at both the eastern and western junctions which would connect the application site to the A83 trunk road.

Decision

The Argyll and Bute LRB agreed:-

1. to accept the written statement into the process from the Applicants, noting that this would be issued to all interested parties for comment;
2. to hold an accompanied site inspection at the earliest opportunity in order to view the location of the proposed dwelling house and the surrounding landscape;

3. to request from Transport Scotland written information on the suitability or otherwise of the visibility splays at both the eastern and western junctions which would connect the application site to the A83 trunk road;
4. to adjourn the meeting and reconvene at the conclusion of the site inspection.

The Argyll and Bute Local Review Body reconvened on Monday 3 April 2017 at 10.30 am in Kilmory, Lochgilphead.

Present: Councillor Alex McNaughton (Chair)
Councillor Rory Colville Councillor Roderick McCuish

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

The Chair welcomed everyone to the meeting and introductions were made. He referred to the further information requested at their meeting on 22 February 2017 and to the earlier site inspection (note taken at Site Inspection attached as Appendix A to this Minute) and advised that his first task would be to establish if the Members of the LRB felt they had enough information before them to come to a decision on the Review. Councillor McNaughton confirmed that following the site inspection he felt that he did have enough information to make a decision. Councillor Colville confirmed that he too was satisfied that he had enough information before him. Councillor McCuish agreed with this colleagues and said that the site inspection had been valuable and gave him a clear indication.

Councillor McNaughton pointed out that one of the main points that had required clarification was the access to the site and he said that it was quite clear to him that the access required attention. He also said that it had been pointed out previously that land ownership was also a problem in respect of access to the site.

Councillor McCuish stated that it was his opinion and also the opinion of the Trunk Roads Officer that the access was unsuitable and that he agreed wholeheartedly with the main problems of the access.

Councillor Colville said that he also tended to accept the problems there were with the access. He accepted the point made by the Applicant that he did not require to have access rights before submitting a planning permission as that was a well understood principle. Councillor Colville then referred to Policy LDP DM 1 which within the countryside zone lends particular support to proposals which constitute infill development, rounding off, redevelopment or change of use of existing buildings. He said that he had been aware of a similar case a few years ago in respect of a proposal for a house in a rural location. He advised that the difference with that proposal, which constituted an infill development, was that the gap between buildings was just metres apart. He said that he could understand what has been said by Planners in respect of this current proposal in terms of the distances involved between buildings and that he tended to agree with the Planning assessment in this case.

Councillor McNaughton referred to reasons 2 and 3 contained within page 48 of the original agenda pack and suggested that these two reasons for refusal were still

applicable in this case. He pointed out that in his opinion the private access regime was currently not what was required to serve this proposed development.

Councillor McCuish advised that he agreed that he did not think anything had changed since these reasons for refusal were first put forward and that he was more guided towards that view after the site visit today.

Councillor McNaughton referred to policy SG LDP HOU 1 not having been addressed by Planning in their original assessment of the case but noted it was referred to in the recent submission by Planning and that therefore he had the following Motion to put forward for consideration to address the consideration of this policy also.

Motion

The application site lies within the 'Countryside' development management zone delineated by the 'Argyll and Bute Local Development Plan' (2015) and is subject to the effect of policy LDP DM1 of the Development Plan and policy SG LDP HOU1 of the adopted Supplementary Guidance (March 2016). Policy LDP DM1 provides that encouragement shall be given to sustainable forms of development within the Countryside Zone up to small scale on appropriate infill, rounding off and redevelopment sites and changes of use of existing buildings. The proposal does not satisfy any of the categories of development listed as defined in the glossary to the plan. It does not therefore benefit from the encouragement given by LDP DM1. All development in all zones also requires to be considered in relation to all other policies of the Local Development Plan and Supplementary Guidance, where these are relevant. Policy SG LDP HOU1 provides specific guidance in respect of housing development in specified development management zones and is relevant to the determination of the proposal. This policy generally presumes against small –scale housing development in open/undeveloped areas and non-croft land in the Countryside Zone other than in circumstances where an exceptional case is successfully demonstrated in accordance with those exceptions listed in the justification of this supplementary guidance namely; change of use of an existing building/s or small-scale development in close proximity to existing buildings on infill, rounding-off, or a redevelopment site, where it is not immediately adjacent to a defined settlement boundary. The proposal is for small –scale housing development in an open/undeveloped area and non-croft land in the Countryside Zone. An exceptional case has not been successfully demonstrated that the proposal satisfies any of the excepted categories of development and the proposal cannot therefore be supported in terms of SG LPD HOU1. The proposal does not benefit from the encouragement given by LDP DM1 and does not comply with the adopted settlement strategy as given expression by the delineation of the development management zones in the plan and the effect of policy SG LDP HOU1.

The Motion was supported by both Councillor McCuish and Councillor Colville. Councillor McCuish advised that he agreed with the terms of the Motion as a reason for refusal along with reasons for refusal 2 and 3 set out the original Report of Handling.

Councillor Colville agreed that no operational need had been demonstrated and noted that this site was not on croft land. He pointed out that the Council had clear policies in place as referred to and that he supported the terms of the proposal from Councillor McNaughton.

Decision

The Argyll and Bute LRB, unanimously agreed to refuse planning permission on the following basis:-

- The appeal site does not constitute rounding off, it is not redevelopment and it does not constitute a change of use as there is no building on the site. In terms of infill the site is separated from other structures by a very substantial distance and is therefore not regarded as presenting an infill opportunity.
- There has been no exceptional need case made or established and in the absence of such a case and having regard to other deliberations the application is contrary to policies LDP DM 1 and SG LDP HOU 1.
- The road access links to the Trunk road are substandard and present a road safety issue and is therefore contrary to policies SG LDP TRAN 4 and SG LDP TRAN 5.

and therefore, having reviewed the whole matter afresh they determined to refuse the application for the following reasons:-

1. The application site lies within the 'Countryside' development management zone delineated by the 'Argyll and Bute Local Development Plan' (2015) and is subject to the effect of policy LDP DM1 of the Development Plan and policy SG LDP HOU1 of the adopted Supplementary Guidance (March 2016). Policy LDP DM1 provides that encouragement shall be given to sustainable forms of development within the Countryside Zone up to small scale on appropriate infill, rounding off and redevelopment sites and changes of use of existing buildings. The proposal does not satisfy any of the categories of development listed as defined in the glossary to the plan. It does not therefore benefit from the encouragement given by LDP DM1. All development in all zones also requires to be considered in relation to all other policies of the Local Development Plan and Supplementary Guidance, where these are relevant. Policy SG LDP HOU1 provides specific guidance in respect of housing development in specified development management zones and is relevant to the determination of the proposal. This policy generally presumes against small –scale housing development in open/undeveloped areas and non-croft land in the Countryside Zone other than in circumstances where an exceptional case is successfully demonstrated in accordance with those exceptions listed in the justification of this supplementary guidance namely; change of use of an existing building/s or small-scale development in close proximity to existing buildings on infill, rounding-off, or a redevelopment site, where it is not immediately adjacent to a defined settlement boundary. The proposal is for small –scale housing development in an open/undeveloped area and non-croft land in the Countryside Zone. An exceptional case has not been successfully demonstrated that the proposal satisfies any of the excepted categories of development and the proposal cannot therefore be supported in terms of SG LPD HOU1. The proposal does not benefit from the encouragement given by LDP DM1 and does not comply with the adopted settlement strategy as given expression by the delineation of the development management zones in the plan and the effect of policy SG LDP HOU1.

2. The private access regime intended to serve the proposed development would connect the application site to the A83(T) trunk road. The existing junction between the private access and the trunk road is deficient in visibility and does not meet the trunk road authority's standards for a point of egress onto a de-restricted section of the trunk road, where traffic speeds are routinely high. The available visibility at this junction is incapable of improvement using land in the applicant's control. In the absence of the ability to make improvements to the junction to satisfy the requirements of the trunk roads authority, the proposal fails to comply with the requirements of policy SG LDP TRAN 5 of the 'Argyll and Bute Local Development Plan Supplementary Guidance' (2016), which requires that where there are identified deficiencies in the means of access via the public road, new development should facilitate off-site highway improvements in order to avoid any detriment to road safety as a consequence of increased traffic movements.

3. The proposed development would be accessed via a single track private access lacking in passing places and shared by vehicles and pedestrians. Intensification of use of the access by vehicular traffic associated with the development proposed would warrant the provision of inter-visible passing places along the length of the access in order to secure a safe means of access in the interests of driver and pedestrian safety. This is incapable of improvement using land in the applicant's control. In the absence of the ability to make improvements to the current access regime which would be reasonably commensurate with the scale of development, the proposal fails to comply with the requirements of policy SG LDP TRAN 4 of the 'Argyll and Bute Local Development Plan Supplementary Guidance' (2016), which requires that the proposed means of access to new development should either be fit to serve that additional development, or should be capable of improvement in order to avoid any detriment to road safety as a consequence of increased traffic movements.

(Reference: Notice of Review and Supporting Documents and Written submissions)

Appendix A

ARGYLL AND BUTE LOCAL REVIEW BODY

NOTE OF MEETING OF SITE INSPECTION RE CASE 16/0002/LRB CROFT 3, CASTLETON, LOCHGILPHEAD (LAND SOUTH OF CASTLETON HOUSE) - MONDAY 3 APRIL 2017

In attendance: Councillor Alex McNaughton, Argyll and Bute LRB (Chair)
Councillor Rory Colville, Argyll and Bute LRB
Councillor Roderick McCuish, Argyll and Bute LRB
Charles Reppke, Head of Governance and Law (Adviser)
Richard Kerr, Planning Authority
James Ross, Roads Authority
Roger Brock, Applicant
Steve Whant, Objector
Fiona McCallum, Committee Services Officer (Minutes)

The Argyll and Bute LRB (ABLRB) agreed on 22 February 2017 to conduct an accompanied site inspection in order to view the location of the proposed dwelling house and the surrounding landscape.

The ABLRB convened on 3 April 2017 and the following discussion was held and points noted:-

The Planning Officer pointed out the location of two cottages on one side of the site and to the location of the boat house further along the shore on the other side of the site. He also commented that the proposed development site had been levelled off and that some works had been done on shore to address problems with erosion.

He confirmed that the first issue with this case was to consider whether or not this proposal could be classed as infill development and that this was a judgement for the LRB to make taking account of the distance between the site and the existing cottages and the boat house.

Mr Kerr advised that the second issue to address was the adequacy of the access to the site from the trunk road and he referred to the lack of passing places on the access road down to the site.

Mr Brock pointed out the levelling work that he had done from the shore and he referred to people having to be evacuated from their cottage during war because of erosion. He then showed a picture of a cottage on the site which was taken in 1905. He also pointed out evidence of poles for drying herring nets which could still be seen on the shore.

Mr Whant said that he supported the work that Mr Brock had done to address erosion and that he had no problem with these works which were carried out. His said that his issue was about access. He pointed out an access made to the site and said that this was only done in the last few weeks. Mr Whant advised that Mr

Brock has no right of way access to the site and that every access to this site crossed his land.

Richard referred to the history of site and advised that much of Silvercraigs and Castleton was and still was to some extent a crofting community. He said that the fact that there may have been a croft house at this location in the past was not disputed. However this development could not be treated as redevelopment as the cottage was no longer there and demolition was not required and therefore it could only be looked at as a possible infill development.

Mr Brock pointed out that much of the rock from the ruined house was used to build the boat house.

The site inspection was concluded and the LRB Members, having accessed the site using the western junction on the trunk road agreed to exit from this western junction and to then access the site using the eastern junction on the trunk road before reconvening at the Council Offices, Kilmory, Lochgilphead to consider the case further.