



**Argyll and Bute Council**  
**Comhairle Earra-Ghàidheal Agus Bhòid**

*Customer Services*  
*Executive Director: Douglas Hendry*

*Kilmory, Lochgilphead, PA31 8RT*  
*Tel: 01546 602127 Fax: 01546 604435*  
*DX 599700 LOCHGILPHEAD*

15 November 2017

**NOTICE OF MEETING**

A meeting of the **ARGYLL AND BUTE LOCAL REVIEW BODY** will be held in the **COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD** on **WEDNESDAY, 22 NOVEMBER 2017** at **2:00 PM**, or at the conclusion of the Planning, Protective Services and Licensing Committee held at 10:30 AM, whichever the latter, which you are requested to attend.

Douglas Hendry  
Executive Director of Customer Services

**BUSINESS**

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST**
3. **CONSIDER NOTICE OF REVIEW REQUEST: THE WALLED GARDEN, OAKFIELD, LOCHGILPHEAD, PA31 8NQ**
  - (a) Notice of Review and Supporting Documentation (Pages 3 - 36)
  - (b) Comments from Interested Parties (Pages 37 - 66)
  - (c) Comments from Applicant (Pages 67 - 98)

**ARGYLL AND BUTE LOCAL REVIEW BODY**

Councillor Robin Currie  
Councillor David Kinniburgh (Chair)

Councillor Lorna Douglas

Contact: Adele Price-Williams 01546 604480

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Ref:  
AB1

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

OFFICIAL USE  
17/0009/LEB  
*ARJ005*  
Date Received  
13/10/17

**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 Procedure)  
(Scotland) Regulations 2013

**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

Address

Postcode

Tel. No.

Email

(2) AGENT (if any)

Name

Address

Postcode

Tel. No.

Email

(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

(6) Description of Proposal

SITE FOR THE REVISION  
OF PUBLICATIONS

(7)

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

PLEASE SEE ATTACHED WORD DOC.

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	WORD DOC.
2	WEST SCOTLAND ARCHAEOLOGY SERVICE LETTER
3	SCOT GOV CIRCULAR 4/1998 MODEL PLANNING CONDITNS
4	GOV. UK GUIDANCE - USE OF PLANNING CONDITIONS
5	E MAIL FROM ARCHITECT BENJAMIN TUDALL
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

17/9/17

**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 604392/604269 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 604392/604269 or email [localreviewprocess@argyll-bute.gov.uk](mailto:localreviewprocess@argyll-bute.gov.uk)

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**For official use only**

Date form issued

Issued by (please sign)

Jane Renfrew

Oakfield House

Lochgilphead

PA31 8NQ

[janerenfrew@live.co.uk](mailto:janerenfrew@live.co.uk)

Tel: 07745115371

17/08/17

Planning permission in principle at The Walled Garden, Oakfield.

Reference Number: 16/02183/PPP

Dear Sirs,

I am requesting that conditions 3 and 5 imposed be reviewed.

This outline planning took a year to gain.

Condition 3.

1. The demolition of the cottage was not discussed with the applicant.
2. The demolition and removal of the cottage is unnecessary.
3. There is a financial implication for the client to remove the building and clear the site.
4. The removal of material from the site adds to road problems.
5. The outline proposal has taken an unfair time to complete and the condition imposes a further time burden on the project.
6. The property has a value to the estate and should not be discarded. It could be used as ancillary storage on the estate and the roof could be repaired.

Papers relied upon;

Please see Gov.uk, use of planning conditions 06/03/14

Application of the 6 tests in National Planning Policy Framework

Paragraph 206.

Planning conditions should only be imposed where they are:

1. Necessary;
2. Relevant to planning and;
3. To the development to be permitted;
4. Enforceable;
5. Precise and;
6. Reasonable in all other aspects.

“Where it is practicable to do so, such conditions should be discussed with the applicant before permission is granted to ensure that unreasonable burdens are not being imposed.”

“Care should be taken when considering using conditions that prevent any development authorised by the planning permission from beginning until the condition has been complied with. This includes conditions stating that ‘no development should take place until...’ or ‘prior to any works starting on site...’

“Any proposed condition that fails to meet any of the 6 tests should not be used.”

“Conditions which place unjustifiable and disproportionate financial burdens on an applicant will fail the test of reasonableness”

“It is best practice for a local planning authority to agree proposed conditions with an applicant before a decision is taken, and as early in the planning application process as possible.”

Also gov.scot; Circular 4/1998

With respect to “Notes to applicant (1) Relative to application Number 16/02183/PPP

“5. Please be advised that the demolition of Auchindarroch cottage requires to be the subject of a separate application to the Planning Authority for Prior Approval for the Demolition of a Dwellinghouse.”

Circular 4/1998 states; “44. Authorities should seek to ensure, where possible that conditions other than those relating to reserved matters, are self contained and do not require further approvals to be obtained before development can begin.”

Also, “35. Even where a condition would not be so unreasonably restrictive as to be ultra vires, it may still be so onerous that as a matter of policy it should be avoided.”

Also, “7. Even before an application is made, informal discussions between the applicant and the planning authority can be very helpful. They can allow the applicant to formulate the details of a projects o as to take full account of the requirements of the authority and assist the authority in making sure that those requirements are reasonable in the light of the development proposed. Discussion can also reduce the need for conditions, enable the authority to explore the possible terms of the conditions which remain necessary and ensure that these are tailored to the circumstances of the case.”

And “8. Slavish or uncritical application of conditions is wholly inappropriate.”

The Planning Conditions specify that all demolition material be “removed from the estate grounds”

If Auchindarroch cottage did require to be demolished this would also be unreasonable for several reasons.

1. There are new and existing roads within the estate which would benefit from the use of crushed and screened material.
2. It is not an eco friendly policy to take good material away from the estate for land fill and then import new material.
3. On transport terms needless traffic movements are not good for the environment. It should be deemed satisfactory to use all demolition materials within the estate for normal use. Recycling is positively good.



At a pre application meetings with Peter Bain and Derek Hay it was intimated to the applicant that one new house at Oakfield would be tolerated by the Planning Authority.

Condition 5.

A method statement for an archaeological watching brief is required.

What evidence is there for this condition to be imposed?

Clarification is required. This condition seems to be based on a letter from The West of Scotland Service dated 23<sup>rd</sup> August 2016.

The requirement for a method statement for the archaeological watching brief is specifically associated with the access road close to some marker stones and not to the proposed house site.

“The watching brief would be required on the initial stage of any ground disturbance associated with upgrade of the access track in the vicinity or the recorded position of the standing stones, particularly in the areas where the existing track would need to be widened- realigned”

...”If it is the case that the existing track can be upgraded by simply depositing gravel on the current route without any alteration or ground disturbance then I would accept that there would be no need for monitoring on this element”

As far as the ground behind the walled garden, “Although the new house proposed under the current application would be located immediately to the north of the walled garden of the estate, I would not consider construction of a new building on this site to raise a particular archaeological issue in itself “

Some clarification of this planning condition is required as it does not apply to the house site, and as no work will be done to the access track at the noted area, other than the improving of the surface. This condition is therefore unnecessary.

Furthermore, after the planning application was submitted, Mr Shewan suggested to architect Caroline Slater in his email 11/11/16, that a Woodland Management Plan and a Garden Management Plan would be required.

Both these Plans were undertaken, at some expense, and it seems they were actually not required for the application.

What was the purpose of these demands?

I request that the appeal committee please remove conditions 3. And 5. from the Planning Consent.

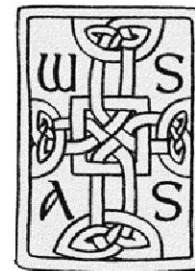
Kind regards,

Jane Renfrew

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Our ref: 7/3/2/Cons 34214  
 Your ref: 16/02183/PPP  
 WoSASdoc: 16\_02183.doc  
 Date: 23 August 2016  
 Contact: Martin O'Hare  
 Direct dial: 0141 287 8333

WEST of SCOTLAND  
 ARCHAEOLOGY  
 SERVICE



Planning Services  
 Argyll & Bute Council  
 Mid Argyll, Kintyre and Islay  
 1A Manse Brae  
 Lochgilphead  
 PA31 8RD

231 George Street, Glasgow G1 1RX  
 Tel: 0141 287 8332-5  
 enquiries@wosas.glasgow.gov.uk

Dear Sir or Madam,

**Re: Prior Notification 16/02183/PPP - Site for the erection of dwelling house, land north west of Oakfield, Lochgilphead, Argyll and Bute, PA31 8NQ**

I refer to the above application for planning consent, which appeared on a recent weekly list of applications registered with the Council. I have downloaded details of the proposal from the Council's online planning system, and having compared these against information contained in the Historic Environment Record (HER) and with available cartographic sources, I would like to make the following comments.

Although the new house proposed under the current application would be located immediately to the north of the walled garden of the estate, I would not consider construction of a new building on this site to raise a particular archaeological issue in itself. However, the plans supplied in support of the proposal also provide details of the access route that would be used. This runs past the site of a standing stone, identified in the records of Argyll County Council in 1914 as being located 'at the entrance to the garden by the bridge' (this is separate from the stone recorded from immediately to the west of the former stable-block of Oakfield, the position of which is shown on current OS maps of the area). Staff from the Ordnance Survey, who visited the area in 1977, recorded the presence of two stones at NGR 185590, 688550, the largest of which was 1.1m high with an average width of 0.4m, while the other was 0.4m high by 0.3m. The OS record notes that they were situated either side of an old path that lead to a footbridge about 8.0m to their west. The OS suggested that the position of these stones, apparently marking a footpath, suggested that they are not prehistoric; however, this has not been confirmed. It is possible that one stone may be of prehistoric origin, with the other having been erected at a later date.

In terms of the current application, the recorded position of these stones places them immediately adjacent to the section of access track proposed for improvement. The document provided in support of the proposal states that '*access across the last -200m to the walled garden from Oakfield House is via a well-established single dirt track through the woodland, crossing a narrow burn via a cast iron bridge in good repair. The track shall be upgraded to gravel and extended up the E wall of the garden, which will also benefit the activities of the walled garden and wider forest management*'. From the information in this document, it is not clear what would be involved in this upgrade, i.e., whether it would simply be a matter of depositing gravel on the existing the track in order to improve the running surface, or whether ground disturbance would also be required to widen or re-align the track. If it is the latter, there would be some potential for this ground disturbance to expose and remove buried archaeological deposits, which could potentially provide information on whether the standing stone in the vicinity of the bridge is of prehistoric origin.

Government policy on the treatment of archaeological remains in the planning process is that planning authorities should ensure that prospective developers arrange for any archaeological issues raised by their proposals to be adequately addressed at an appropriate stage. Given the relatively small scale of

the proposed development and the accepted uncertainty over the potential survival of significant remains, I do not consider that it would be reasonable to require archaeological fieldwork by the applicant in advance of determination of the application in principle. However, I would consider the possibility of the survival of some significant archaeological remains within the development footprint to be strong enough to recommend some action in mitigation of any possible loss of archaeological resource. Should the Council be minded to grant consent to the application, I would therefore recommend the attachment of the following condition to allow for an appropriate programme of archaeological work to be tied into any development works. This has been worded to reflect recent enforcement experience and current best practice:

*“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.”*

This condition would be implemented by means of the applicant or developer appointing a professional archaeological contractor to prepare a method statement. This is basically a project design document which sets out in detail the scope of work that will take place on the site, and makes provision for further fieldwork, post-excavation analysis and publication in the event that significant archaeological deposits are encountered during the initial phase of monitoring. The watching brief would be required on the initial stage of any ground disturbance associated with upgrade of the access track in the vicinity of the recorded position of the standing stones, particularly in areas where the existing track would need to be widened or re-aligned. This would include the removal of turf, topsoil and other surfacing, down to the intersection with the natural subsoil or first archaeological deposit. If it is the case that the existing track can be upgraded by simply depositing gravel on the current route, without any alteration or ground disturbance, then I would accept that there would be no need for monitoring on this element. It may be the case that this initial stage of work would be sufficient to demonstrate that no archaeological remains are present on the site, and if this is the case, no further work would be required beyond this monitoring. If buried remains were identified, there would then be a requirement for further stages of archaeological works in order to properly excavate and record them before the development progressed. This could include further excavation, post excavation analyses and publication of the results, if warranted. However, given the relatively small footprint of the proposed development, it is unlikely that the mitigation measures required will be extensive.

Yours faithfully

West of Scotland Archaeology Service

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## Circular 4/1998 Introduction

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### **Circular 4/1998** **Model Planning Conditions**

#### **Introduction**

1. SODD Circular4/1998, issued in February 1998, set out Government policy on The Use of Conditions in Planning Permissions. This superseded Circular18/1986 although AppendicesA andB to the 1986 Circular, which provided examples of acceptable and unacceptable planning conditions, were not cancelled. It was explained in Circular4/1998 that further work on model conditions would be undertaken with local authority representatives and that further guidance would be issued in due course. This work has now been concluded and the Appendices to the 1986Circular are now superseded.

2. The model conditions have been drawn up in association with development control officers from Glasgow, Inverclyde, Moray, Scottish Borders and West Dunbartonshire. They should always be read in conjunction with Circular4/1998 and the following key elements of the Government's policy on the use of conditions are worth repeating:

- no condition should be imposed unless it meets the following tests -
  - **necessary**
  - **relevant to planning**

- **relevant to the development to be permitted**
  - **enforceable**
  - **precise, and**
  - *reasonable in all other respects.*
- conditions must not be applied slavishly - a clear and precise reason must be given for each and every condition imposed.

3. The following points should be borne in mind when considering the use of the model conditions:

- the conditions which follow are intended as models only and may need to be adapted to the circumstances of particular cases;
- the list is not exhaustive;
- model reasons cannot be given for the imposition of the conditions shown - the reasons will vary according to the circumstances of each case.

Some examples of unacceptable conditions are included. On the right hand margin the reference, where appropriate, to the relevant paragraph in the Annex to Circular 4/1998 is given.

4. A list, again not exhaustive, of examples of satisfactory and unsatisfactory reasons for imposing planning conditions is also included.

#### **A. TIME LIMIT FOR COMMENCEMENT**

**Circular Ref.: Time limits Paras 45-52 Planning Permissions Para 46 Outline Permissions Para 47**

##### **1. Planning Permissions**

The development hereby permitted shall be commenced within [ 5]years from the date of this permission.

**Note:** Numbers put in square brackets as time periods can be varied with justification.

##### **2. Outline Planning Permissions**

a. Before development commences written approval from the planning authority must be obtained for the details of the siting, design and external appearance of any building(s), the means of access and the landscaping (collectively these are termed "reserved matters").

**Note: This condition is appropriate in its entirety only where the outline application contained details of none of the items described as 'reserved matters' in Article 2 of The Town and Country Planning (General Development Procedure) (Scotland) Order 1992).**

b. Plans and particulars of the reserved matters referred to in Condition2 (a) above shall be submitted for consideration by the planning authority and no work shall begin until the written approval of the authority has been given.

c. Application for approval of reserved matters shall be made to the planning authority within [ 3]years from the date of this permission.

d. The development hereby permitted shall commence within [ 5]years from the date of this permission, or within [ 2]years from the date of approval by the planning authority of the last of the reserved matters to be approved.

**Note: Numbers put in square brackets as time periods can be varied with justification.**

##### **Examples of unacceptable conditions**

- To require that a development (except in the case of mineral workings) shall be completed within a time limit.

Explanation - This would not normally be acceptable on the grounds of unreasonableness. To be reasonable it would have to serve a clear planning objective.

- To require that development shall not be carried out until, for example, 5 years from the date of permission.
- Explanation - It would not normally be acceptable to grant permission on condition that the right to carry out development is deferred until some future date. A suspensive condition could be useful if it served a clear planning purpose - see Model Condition A7 on page 3.

### **3. Details of Reserved Matters - Housing Estate**

The subsequent application for the approval of reserved matters shall be accompanied by:

- i. a site layout plan at a scale of [ *specify*] showing the position of all buildings, roads, footpaths, parking areas (distinguishing, where appropriate, between private and public spaces), walls and fences and landscaping;
- ii. plans and elevations of each house and garage type showing their dimensions and type and colour of external materials;
- iii. a landscaping plan at a scale of [ *specify*] showing the location, species and ground spread of existing and proposed trees, shrubs and hedges;
- iv. details of the phasing of development;
- v. details of existing and finished ground levels, and finished floor levels, in relation to a fixed datum, preferably ordnance datum.

### **4. Reserving other matters**

Before development commences, written approval from the planning authority must be obtained for the details of [ *specify*].

### **5. Phasing of development**

Details of the phasing of the development shall be submitted to the planning authority for approval, and no work shall begin until the phasing scheme has been approved in writing. Following approval, the development shall be implemented in accordance with the approved scheme.

### **6. Completion of Elements of a Development**

Prior to the occupation of [ *specify*] the [ *specify the element*] shall be completed in accordance with the approved details.

### **7. Conditions Depending on Others' Action**

No development shall take place on the site until [ *specify off-site works on which implementation of the planning permission depends*] have been carried out.

## **B. TEMPORARY PLANNING PERMISSIONS**

Circular Ref: Reserving other Matters Para 44

1. The [ *specify development*] hereby permitted shall cease on [ *specify date*].
2. The [ *specify e.g. buildings/works*] hereby permitted shall be removed or the use hereby permitted shall be discontinued and the land restored to [ *specify requirements*]. Any such restoration works shall be carried out by [ *specify date*].

## **C REGULATION OF DEVELOPMENT**

Circular Ref: Regulation of Development Paras 40-44 Regulation after Development Paras 84-90

## 1. Uses

The land which is the subject of this permission shall be used for [ *specify use*] and for no other use notwithstanding the provisions of Class [ *specify*] of the Town and Country Planning (Use Classes) (Scotland) Order and the General Permitted Development Order [ *specify dates*].

**Note:** This condition should only be used in exceptional circumstances to achieve clear planning objectives.

## 2. Permitted Development

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order(s) [ *specify relevant date(s)*] no [ *specify development*] shall be built on the site which is the subject of this application. Construction of [ *specify*] cannot be carried out without planning permission being granted on an application made to the planning authority.

## 3. Hours of Use

The use hereby permitted shall not operate between [ *specify hours and days*].

## 4. Hours of Operation

No machinery shall be operated, no process carried out and no deliveries received at or despatched from the site between [ *specify hours*] from Monday to Saturday inclusive and at any time on Sundays.

## 5. Personal Permissions

The use hereby permitted shall be carried on only by [ *specify person*].

### **Circular Ref: Personal Permissions Para 92**

#### 6. Occupancy

##### *a. Housing related to agricultural and forestry employment*

Occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed in the locality in [ *specify*] or to a widow or widower of such a person and to any dependants.

### **Circular Ref: Conditions restricting occupancy of buildings and land Paras 91-103**

##### *b. Housing related to other employment*

Occupation of the dwelling shall be limited to a person solely or mainly employed in [ *specify*].

##### *c. Granny 'Annexes'*

The extension hereby permitted shall be used solely as part of the existing dwellinghouse, and at no time shall it be occupied as a separate dwelling.

### **Circular Ref: Granny 'Annexes' Paras 97**

## 7. Restrictions on operations

##### *a. Storage of Materials*

No materials, including waste products, shall be stored on the site outwith the buildings.

##### *b. Storage of Materials - Hazard*

No [ *specify materials*] shall be stored within [ *specify*] metres of buildings on the site or within [ *specify*] metres of the site boundary.

##### *c. Stacking of Materials - Height*



Stacking of [ *specify* ] on the site shall not exceed [ *specify* ] metres in height [ *specify datum* ].

#### d. *Burning*

There shall be no burning of materials outwith the building(s) on the site.

#### **Example of an unacceptable condition**

- To require that the site shall be kept tidy at all times.
- Explanation - This is vague and unlikely to be capable of enforcement.

#### **8. Retail Development**

The use of the retail units hereby permitted shall be limited to the sale of non-food goods of the following types [ *specify* ]. In any unit, the use of more than [ *specify percentage* ] of the net retail floor area for the sale of goods other than those specified shall not be permitted without the written approval of the planning authority.

#### **9. Garages and Outbuildings**

All garages and outbuildings shall be used solely for domestic purposes incidental to the use of the dwellinghouse.

### **D. DESIGN**

#### **1. Density**

The development hereby permitted shall not exceed a density of [ *specify* ] dwellings per hectare, net of [ *specify what is excluded from the calculation of density* ].

**Circular Ref: Design and Landscape** Para 74-76

#### **2. Materials**

a. The type and colour of materials to be used in the development shall be as specified on the approved drawings/application form/letter dated [ *specify* ] unless the prior written approval of the planning authority is obtained for other materials.

b. Development shall not begin until samples of materials to be used (on external surfaces of the buildings) or (in construction of hard standings/walls/fences) have been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

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Guidance

## Use of planning conditions

From:

[Department for Communities and Local Government](#)

Part of:

[Planning practice guidance](#) and [Planning system](#)

Published:

6 March 2014

Sets out expectations on use of conditions on planning decisions.

### Contents

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### Why and how are conditions imposed?

#### Why are conditions imposed on a planning permission?

When used properly, conditions can enhance the quality of development and enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects of the development. The objectives of planning are best served when the power to attach conditions to a planning permission is exercised in a way that is clearly seen to be fair, reasonable and practicable. It is important to ensure that conditions are tailored to tackle specific problems, rather than standardised or used to impose broad unnecessary controls.

Paragraph: 001 Reference ID: 21a-001-20140306

Revision date: 06 03 2014

#### What are the main legal powers relating to use of conditions?

The main powers relating to local planning authority use of conditions are in [sections 70, 72, 73, 73A, and Schedule 5 of the Town and Country Planning Act 1990](#). Powers to impose conditions on appeal are also given to the Secretaries of State or their Inspectors by [sections 77, 79, 177, and Schedule 6 of the Act](#). In some areas there may also be powers under local Acts which complement or vary the powers in the 1990 Act.

[Section 70\(1\)\(a\) of the Act](#) enables the local planning authority in granting planning permission to impose “such conditions as they think fit”. This power must be interpreted in

light of material factors such as the National Planning Policy Framework, this supporting guidance on the use of conditions, and relevant case law.

Paragraph: 002 Reference ID: 21a-002-20140306

Revision date: 06 03 2014

## **Application of the 6 tests in National Planning Policy Framework policy**

### **What is the government's policy on the use of conditions in planning permissions?**

[Paragraph 203](#) of the National Planning Policy Framework states “Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions”

[Paragraph 206](#) of the National Planning Policy Framework states “Planning conditions should only be imposed where they are:

1. necessary;
2. relevant to planning and;
3. to the development to be permitted;
4. enforceable;
5. precise and;
6. reasonable in all other respects.”

The policy requirement above is referred to in this guidance as the 6 tests.

Paragraph: 003 Reference ID: 21a-003-20140306

Revision date: 06 03 2014

### **How does the Local Planning Authority ensure that the 6 tests in paragraph 206 of the National Planning Policy Framework have been met?**

Whether it is appropriate for the Local Planning Authority to impose a condition on a grant of planning permission will depend on the specifics of the case. Conditions should help to deliver development plan policy and accord with the requirements of the National Planning Policy Framework, including satisfying the 6 tests for conditions.

The 6 tests must all be satisfied each time a decision to grant planning permission subject to conditions is made. The tests are set out in the following table, alongside key considerations:

[Key questions](#) (PDF, 38.3KB, 2 pages)

Paragraph: 004 Reference ID: 21a-004-20140306

Revision date: 06 03 2014

## **What approach should be taken to imposing conditions?**

### **Are there any circumstances where planning conditions should not be used?**

Any proposed condition that fails to meet any of the [6 tests](#) should not be used. This applies even if the applicant suggests it or agrees on its terms or it is suggested by the members of a planning committee or a third party. Every condition must always be justified by the local planning authority on its own planning merits on a case by case basis. Specific circumstances where conditions should not be used include:

- **Conditions which unreasonably impact on the deliverability of a development:**

Conditions which place unjustifiable and disproportionate financial burdens on an applicant will fail the test of reasonableness. In considering issues around viability, local planning authorities should consider policies in the National Planning Policy Framework and supporting guidance on [viability](#).

- **Conditions reserving outline application details:**

Where details have been submitted as part of an outline application, they must be treated by the local planning authority as forming part of the development for which the application is being made. Conditions cannot be used to reserve these details for subsequent approval. The exception is where the applicant has made it clear that the details have been submitted for illustration purposes only.

- **Conditions requiring the development to be carried out in its entirety:**

Conditions requiring a development to be carried out in its entirety will fail the test of necessity by requiring more than is needed to deal with the problem they are designed to solve. Such a condition is also likely to be difficult to enforce due to the range of external factors that can influence a decision whether or not to carry out and complete a development.

- **Conditions requiring compliance with other regulatory requirements (eg Building Regulations, Environmental Protection Act):**

Conditions requiring compliance with other regulatory regimes will not meet the test of necessity and may not be relevant to planning,

- **Conditions requiring land to be given up:**

Conditions cannot require that land is formally given up (or ceded) to other parties, such as the Highway Authority.

- **Positively worded conditions requiring payment of money or other consideration:**

No payment of money or other consideration can be positively required when granting planning permission. However, where the [6 tests](#) will be met, it may be possible use a [negatively worded](#) condition to prohibit development authorised by the planning permission until a specified action has been taken (for example, the entering into of a planning obligation requiring the payment of a financial contribution towards the provision of supporting infrastructure).

Paragraph: 005 Reference ID: 21a-005-20140306

Revision date: 06 03 2014

### **Can conditions be used to require the applicant to submit further details after permission has been granted?**

For non outline applications, other than where it will clearly assist with the efficient and effective delivery of development, it is important that the local planning authority limits the use of conditions requiring their approval of further matters after permission has been granted. Where it is justified, the ability to impose conditions requiring submission and approval of further details extends to aspects of the development that are not fully described in the application (eg provision of car parking spaces).

Where it is practicable to do so, such conditions should be discussed with the applicant before permission is granted to ensure that unreasonable burdens are not being imposed. The local planning authority should ensure that the timing of submission of any further details meets with the planned sequence for developing the site. Conditions that unnecessarily affect an applicant's ability to bring a development into use, allow a development to be occupied or otherwise impact on the proper implementation of the planning permission should not be used. A condition requiring the re-submission and approval of details that have already been submitted as part of the planning application is unlikely to pass the test of necessity.

Paragraph: 006 Reference ID: 21a-006-20140306

Revision date: 06 03 2014

### **When can conditions be used that prevent any development until the requirements of the condition have been met (conditions precedent)?**

Care should be taken when considering using conditions that prevent any development authorised by the planning permission from beginning until the condition has been complied with. This includes conditions stating that 'no development shall take place until...' or 'prior to any works starting on site...'.

Such conditions should only be used where the local planning authority is satisfied that the requirements of the condition (including the timing of compliance) are so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission. A condition precedent that does not meet the legal and policy tests may be found to be unlawful by the courts and therefore cannot be enforced by the local planning authority if it is breached. Development carried out without having complied with a condition precedent would be unlawful and may be the subject of enforcement action.

Paragraph: 007 Reference ID: 21a-007-20140306

Revision date: 06 03 2014 {#para008}

### **Can conditions be used to stipulate the sequence that development should be carried out in (phasing)?**

Where the circumstances of the application make this necessary and the [6 tests](#) will be met, conditions can be imposed to ensure that development proceeds in a certain sequence. Conditions may also be used to ensure that a particular element in a scheme is provided by/at a particular stage or before the scheme is brought into use.

It is important that the local planning authority and the applicant discuss and seek to agree any such conditions before planning permission is granted. This is in order to understand how the requirements would fit into the planned sequence for developing the site, impacts on viability, and whether the tests of reasonableness and necessity will be met.

See [guidance on multi-stage consents and Environmental Impact Assessment](#).

Paragraph: 008 Reference ID: 21a-008-20140306

Revision date: 06 03 2014

### **When can conditions be used relating to land not in control of the applicant?**

Conditions requiring works on land that is not controlled by the applicant, or that requires the consent or authorisation of another person or body often fail the tests of reasonableness and enforceability. It may be possible to achieve a similar result using a condition worded in a negative form (a Grampian condition) – ie prohibiting development authorised by the planning permission or other aspects linked to the planning permission (eg occupation of premises) until a specified action has been taken (such as the provision of supporting infrastructure). Such conditions should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission.

Where the land or specified action in question is within the control of the local authority determining the application (for example, as highway authority where supporting infrastructure is required) the authority should be able to present clear evidence that this test will be met before the condition is imposed.

Paragraph: 009 Reference ID: 21a-009-20140306

Revision date: 06 03 2014

### **Is it possible to use a condition to require an applicant to enter into a planning obligation or an agreement under other powers?**

Planning permission should not be granted subject to a positively worded condition that requires the applicant to enter into a planning obligation under [section 106 of the Town and](#)

[Country Planning Act 1990](#) or an agreement under other powers. Such a condition is unlikely to pass the test of enforceability.

A negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. Ensuring that any planning obligation or other agreement is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties about what is being agreed. It encourages the parties to finalise the planning obligation or other agreement in a timely manner and is important in the interests of maintaining transparency.

However, in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk. In such cases the [6 tests](#) must also be met.

Where consideration is given to using a negatively worded condition, it is important that the local planning authority discusses with the applicant before planning permission is granted the need for a planning obligation or other agreement and the appropriateness of using a condition. The heads of terms or principal terms need to be agreed prior to planning permission being granted to ensure that the test of necessity is met and in the interests of transparency.

Paragraph: 010 Reference ID: 21a-010-20140306

Revision date: 06 03 2014

### **What about cases where the same objective can be met using either a condition or a planning obligation?**

It may be possible to overcome a planning objection to a development proposal equally well by imposing a condition on the planning permission or by entering into a planning obligation under [section 106 of the Town and Country Planning Act 1990](#). In such cases the local planning authority should use a condition rather than seeking to deal with the matter by means of a planning obligation.

Paragraph: 011 Reference ID: 21a-011-20140306

Revision date: 06 03 2014

### **Can conditions be used to modify plans and other details submitted with an application?**

If a detail in a proposed development, or the lack of it, is unacceptable in planning terms the best course of action will often be for the applicant to be invited to revise the application. Where this involves significant changes this may result in the need for a fresh planning application.



Depending on the case, it may be possible for the local planning authority to impose a condition making a minor modification to the development permitted. A condition that modifies the development in such a way as to make it substantially different from that set out in the application should not be used.

Paragraph: 012 Reference ID: 21a-012-20140306

Revision date: 06 03 2014

### **Can conditions be used to limit the grant of planning permission to only part of the development proposed (a split decision)?**

Express powers to issue split decisions are given to the Secretary of State and Inspectors in [section 79 of the Town and Country Planning Act 1990](#).

In cases where the local planning authority considers part of the development to be unacceptable, it will normally be best to seek amended details from the applicant prior to a decision being made. In exceptional circumstances it may be appropriate to use a condition to grant permission for only part of the development. Such conditions should only be used where the acceptable and unacceptable parts of the proposal are clearly distinguishable and with the agreement of the applicant.

Paragraph: 013 Reference ID: 21a-013-20140306

Revision date: 06 03 2014

### **When can conditions be used to grant planning permission for a use for a temporary period only?**

Under [section 72 of the Town and Country Planning Act 1990](#) the local planning authority may grant planning permission for a specified temporary period only. A condition limiting use to a temporary period only where the proposed development complies with the development plan, or where material considerations indicate otherwise that planning permission should be granted, will rarely pass the test of necessity.

Circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period.

A temporary planning permission may also be appropriate on vacant land/buildings to enable use for a temporary period prior to any longer term regeneration plans coming forward (a meanwhile use) or more generally to encourage empty property to be brought back into use. This can benefit an area by increasing activity.

It will rarely be justifiable to grant a second temporary permission – further permissions should normally be granted permanently or refused if there is clear justification for doing so. There is no presumption that a temporary grant of planning of planning permission should be granted permanently.

A condition requiring the demolition after a stated period of a building that is clearly intended to be permanent is unlikely to pass the test of reasonableness. Conditions requiring demolition of buildings which are imposed on planning permissions for change of use are unlikely to relate fairly and reasonably to the development permitted.

Paragraph: 014 Reference ID: 21a-014-20140306

Revision date: 06 03 2014

### **Is it appropriate to use conditions to limit the benefits of the planning permission to a particular person or group of people?**

Unless the permission otherwise provides, planning permission runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where granting planning permission for development that would not normally be permitted on the site could be justified on planning grounds because of who would benefit from the permission. For example, conditions limiting benefits to a particular class of people, such as new residential accommodation in the open countryside for agricultural or forestry workers, may be justified on the grounds that an applicant has successfully demonstrated an exceptional need.

A condition used to grant planning permission solely on grounds of an individual's personal circumstances will scarcely ever be justified in the case of permission for the erection of a permanent building, but might, for example, result from enforcement action which would otherwise cause individual hardship.

A condition limiting the benefit of the permission to a company is inappropriate because its shares can be transferred to other persons without affecting the legal personality of the company.

Paragraph: 015 Reference ID: 21a-015-20140306

Revision date: 06 03 2014

### **What about conditions that are requested by third parties?**

Third parties such as statutory consultees can suggest conditions to mitigate potential impacts and make a development acceptable in planning terms. The decision as to whether it is appropriate to impose such conditions rests with the local planning authority. As with any condition, the local planning authority should consider whether the [6 tests](#) will be met. Where third parties suggest conditions it is essential for them to first consider whether the [6 tests](#) will be met on a case by case basis with reference to the facts of the proposal under consideration. Blanket standard conditions should not be used without proper consideration of whether they are necessary, and if so, how they would apply to the case in question.

It is not appropriate to require in a condition that a development/requirement should be carried out to the satisfaction of a third party as this decision rests with the local planning authority.

Paragraph: 016 Reference ID: 21a-016-20140306

Revision date: 06 03 2014

### **Is it appropriate to use conditions to restrict the future use of permitted development rights or changes of use?**

Conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances. The scope of such conditions needs to be precisely defined, by reference to the relevant provisions in the [Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](#), so that it is clear exactly which rights have been limited or withdrawn. Area wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity. The local planning authority also has powers under [article 4 of the Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](#) to enable them to withdraw permitted development rights across a defined area.

Paragraph: 017 Reference ID: 21a-017-20140306

Revision date: 06 03 2014

### **How can both the local planning authority and the applicant reduce the need for conditions?**

Rigorous application of the [6 tests](#) can reduce the need for conditions and it is good practice to keep the number of conditions to a minimum wherever possible. Front loading and positive dialogue between the local planning authority and the applicant can also result in planning permission being granted with fewer conditions attached. Effective pre-application discussions can help to establish early in the process what may need to be the subject of conditions. An applicant may, where it is feasible to do so, seek approval at the application stage for matters which may otherwise have been the subject of conditions. This can reduce potential delays between the decision being taken and development taking place on site.

Paragraph: 018 Reference ID: 21a-018-20140306

Revision date: 06 03 2014

### **Should the local planning authority agree conditions with an applicant before imposing them?**

It is best practice for a local planning authority to agree proposed conditions with an applicant before a decision is taken, and as early in the planning application process as possible. It is equally open to both the local planning authority and the applicant to initiate discussions about conditions. Agreeing conditions early is beneficial to all parties involved in the process. It can increase the certainty of what is proposed and how it is to be controlled, including highlighting any condition requirements that may impact on the implementation of the development.

A Planning Performance Agreement can also be used to set a timetable for when discussions about conditions should take place.

Paragraph: 019 Reference ID: 21a-019-20140306

Revision date: 06 03 2014

**Is it acceptable for a local planning authority to explain in their Local Plan where conditions may be used?**

Identifying the circumstances in the Local Plan where consideration will be given to using conditions can add certainty to the process. However, it is still necessary to consider whether conditions would be justified in the particular circumstances of each proposed development, as a Local Plan policy cannot be used to justify a condition that does not meet the [6 tests](#).

Paragraph: 020 Reference ID: 21a-020-20140306

Revision date: 06 03 2014

**Can a local planning authority use model conditions?**

Model conditions can improve the efficiency of the planning process. Such conditions should not be applied in a rigid way and without regard to whether the [6 tests](#) will be met. It is recommended that local planning authorities use national model conditions where appropriate in the interests of maintaining consistency. [Note – a link to national model conditions will be provided when the present PINs/DCLG models have been updated].

Paragraph: 021 Reference ID: 21b-021-20140306

Revision date: 06 03 2014

**Can conditions be used to specify the application drawings and other details which form part of the permission?**

Specifying the application drawings and other details which form part of the permission is best practice and creates certainty for all parties, particularly where applications have been subject to a number of revisions.

Paragraph: 022 Reference ID: 21a-022-20140306

Revision date: 06 03 2014

**Does the local planning authority need to give reasons for imposing conditions?**

Clear and precise reasons must be given by the local planning authority for the imposition of every condition.

Paragraph: 023 Reference ID: 21a-023-20140306

Revision date: 06 03 2014

## **How should a local planning authority order conditions on decision notices?**

In addition to precise drafting, clear ordering of conditions on a decision notice is essential to ensuring that they are understood. It is good practice to list the conditions in the order that they need to be satisfied. A good structure is:

1. the standard time limit condition for commencement of development
2. the details and drawings subject to which the planning permission is granted
3. any pre-commencement conditions
4. any pre-occupancy or other stage conditions
5. any conditions relating to post occupancy monitoring and management.

Paragraph: 024 Reference ID: 21a-024-20140306

Revision date: 06 03 2014

## **Can conditions be attached to reserved matters applications relating to outline planning permissions?**

Conditions relating to anything other than the matters to be reserved can only be imposed when outline planning permission is granted. The only conditions which can be imposed when the reserved matters are approved are conditions which directly relate to those reserved matters.

Paragraph: 025 Reference ID: 21a-025-20140306

Revision date: 06 03 2014

## **What status do informative notes appended to decision notices have?**

Informative notes allow the local planning authority to draw an applicant's attention to other relevant matters – for example the requirement to seek additional consents under other regimes. Informative notes do not carry any legal weight and cannot be used in lieu of planning conditions or a legal obligation to try and ensure adequate means of control for planning purposes

Paragraph: 026 Reference ID: 21a-026-20140306

Revision date: 06 03 2014

## **Conditions relating to time limits**

### **Should conditions be used to specify the time limit within which development granted planning permission must begin?**

Under [section 91 Town and Country Planning Act 1990](#) if the local planning authority grants planning permission it is subject to a condition that specifies the time limit within which the development must begin.

The relevant time limit for beginning the development is not later than the expiration of:

- 3 years beginning with the date on which the permission is granted, or;
- such other period (whether longer or shorter) as the local planning authority may impose.

The local planning authority may wish to consider whether a variation in the time period could assist in the delivery of development. For example, a shorter time period may be appropriate where it would encourage the commencement of development and non-commencement has previously had negative impacts. A longer time period may be justified for very complex projects where there is evidence that 3 years is not long enough to allow all the necessary preparations to be completed before development can start.

Paragraph: 027 Reference ID: 21a-027-20140306

Revision date: 06 03 2014

## **What about time limits for outline planning permissions?**

Under [section 92 Town and Country Planning Act 1990](#), outline planning permission should be made subject to conditions imposing 2 types of time-limit, one within which applications must be made for the approval of reserved matters and a second within which the development itself must be started. If the local planning authority considers it appropriate on planning grounds they may use longer or shorter periods, but must clearly give their justification for doing so.

Paragraph: 028 Reference ID: 21a-028-20140306

Revision date: 06 03 2014

## **What happens if planning permission is granted but there is no condition specifying the time limit within which development must begin?**

Where planning permission is granted and the decision notice does not include a condition stating the time limit within which development must begin, it is deemed to be granted subject to the condition that the development to which it relates must be begun not later than the expiration of:

- in the case of applications for planning permission: 3 years from the date on which permission was granted
- in the case of outline planning permission: 3 years from the date on which permission was granted to submit all reserved matters, and development to begin within 2 years of the date on which the final reserved matters are approved.

Paragraph: 029 Reference ID: 2a-029-20140306

Revision date: 06 03 2014

## **Discharging and modifying conditions once planning permission is granted**

### **Will conditions on planning permissions affect future purchasers of the land?**

Unless the permission otherwise states, planning permission runs with the land and any conditions imposed on the permission will bind future owners.

Paragraph: 030 Reference ID: 21a-030-20140306

Revision date: 06 03 2014

### **What options are available to an owner who does not wish to comply with a condition?**

Following the decision of a local planning authority to grant planning permission subject to conditions, a developer may consider taking the following actions if they do not wish to be subject to a condition:

- Some or all of the conditions could be removed or changed by making an application to the local planning authority under [section 73 of the Town and Country Planning Act 1990](#). In deciding an application under section 73, the local planning authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application. A local planning authority decision to refuse an application under section 73 can be appealed to the Secretary of State, who will also only consider the condition/s in question.

It should be noted that the original planning permission will continue to exist whatever the outcome of the application under section 73. To assist with clarity, decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. In granting permission under section 73 the local planning authority may also impose new conditions – provided the conditions do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier planning permission. [Further guidance on section 73](#).

- Appeal to the Secretary of State against the decision of the local planning authority to grant planning permission subject to conditions. An appeal must be received within 12 weeks of the date on the decision notice for householder planning applications or 6 months for other planning decision types. A Planning Inspector on behalf of the Secretary of State will re-determine the whole application (not only the decision to impose the conditions) – so there is a risk that the Inspector could refuse planning permission and therefore reverse the decision of the local planning authority. [Further guidance on appeals](#).

Development that is taken forward in breach of the conditions may be subject to local authority enforcement action. It is also possible to apply for retrospective planning permission under [section 73A of the Town and Country Planning Act 1990](#). [Further guidance on enforcement \(including section 73A\)](#).

Paragraph: 031 Reference ID: 21a-031-20140306

Revision date: 06 03 2014

**How can a developer seek to discharge conditions attached to a planning permission that require local planning authority approval of further details?**

Requests for approval of further details required by conditions must be made to the local planning authority in writing, enclosing any relevant details.

Paragraph: 032 Reference ID: 21a-032-20140306

Revision date: 06 03 2014

**Is there a fee payable to a local planning authority to discharge a planning condition?**

The local planning authority will charge an application fee for written requests for both:

- written confirmation of the discharge of conditions; and
- written confirmation that one or more of the conditions imposed on a grant of planning permission have been satisfied

More [details on fees](#). The fee must be paid when the request is made, and cannot be paid retrospectively.

Paragraph: 033 Reference ID: 21a-033-20140306

Revision date: 06 03 2014

**How long should it take for a local planning authority to discharge a planning condition?**

Development that is ready to proceed should not be held back by delays in discharging planning conditions. In most cases where the approval is straightforward it is expected that the local planning authority should respond to requests to discharge conditions without delay, and in any event within 21 days. Where the views of a third party such as a statutory consultee are required to discharge a condition, every effort should be made to ensure that the 21 day requirement can still be met.

The local planning authority must give notice to the applicant of its decision within a period of 8 weeks from the date the request was received, or any longer period agreed in writing between the applicant and local planning authority. If no extension of time is agreed for discharging the condition after 12 weeks, the local planning authority must return the fee to the applicant without further delay along with a decision on the request.

It should be noted that this timeframe and the return of fees does not apply to prior approval procedures under [Schedule 2 of the Town and Country Planning \(General Permitted](#)



[Development\) \(England\) Order 2015](#), or where the request relates to a reserved matter, which should be subject to a reserved matters application.

Where an applicant has concerns about the timeliness of the local planning authority in giving notice of its decision, a deemed discharge may be available under [article 28 of the Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#).

Paragraph: 034 Reference ID: 21a-034-20140306

Revision date: 06 03 2014

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## **Document information**

Published: 6 March 2014

From: [Department for Communities and Local Government](#)

Part of: [Planning practice guidance](#) [Planning system](#)

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Dear Jane,

On the demolition issue, in our Design Statement, para 6.2 'Main Estate Access', we did not propose the demolition of Auchindarroch but rather than any future development of the Cottage be treated as new-build. I see no legal requirements for the Cottage to be demolished. Clearly it can't generate any traffic. Norman Shewan suggested demolition on 11th November. We responded that such a legal case was unreasonable and discouraged by Scottish Government. 'Verbatim' NIS 2015/1111 with this on 23rd March, after a meeting with Richard Kerr. He confirmed this on 7th June, as there would be no increase in traffic, which is obviously true. On 4th July the only (new) condition mentioned was a request for a sketch, duly provided. It could be that all this might be satisfied by a 'No Left Turn' sign.

Ideally this, and the other matters could be dealt with at a constructive meeting, which would include discussing the exceptional aspects of Oakfield that justify a masterplan approach. This would need a Traffic survey or analysis of some kind. Perhaps we can discuss this meeting.

All best wishes,

Ben

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I'm emailing in response to the above notice of review, which was sent through to us earlier today. The letter from the applicant indicates that she is requesting a review of two of the conditions attached to planning consent 16/02183/PP, these being condition 3 and condition 5. Of these, condition 5 relates to archaeology. We advised that this condition should be attached because the access route running to the site of the proposed new house passed immediately to the west of the site of a standing stone, recorded from immediately adjacent to the bridge across the Badden Burn. This is discussed in greater detail in my original letter of response, so it's probably not necessary to reiterate it in this email.

In her letter, the applicant asks for some clarification on the need for this condition, and asks on what evidence this condition was imposed; as was noted above, we advised that a condition should be attached because of the proximity of the proposed access track to the recorded site of a standing stone. The applicant's appeal letter goes on to state that *'the requirement for a method statement for the archaeological watching brief is specifically associated with the access road close to some marker stones and not to the proposed house site'*, and I would agree that this is correct - as was discussed in my original response, I can confirm that I did not consider archaeological work to be required in relation to ground disturbance at the house site itself. I can also confirm that the applicant is correct in her interpretation of original response, in that I would only consider monitoring to be required during works to upgrade the section of track in the vicinity of the standing stone. However, it is also the case that the application area, as defined by the red-line boundary on the various maps and plans, is not restricted solely to the house site itself; instead, it also includes the access track running from the house plot back to the western bank of the Crinan Canal. My understanding is that the application area is considered to encompass all ground within the red line boundary, which in this instance would include the access track, meaning that the use of a condition to secure monitoring during works to upgrade the access track (or any subset thereof) would seem to be appropriate.

While I would therefore consider that the use of a condition can be justified, given the proximity of the access track (and therefore the application area) to the recorded site of a standing stone, the applicant also raises the question of whether the condition would be necessary given that development in this area would be restricted to improving the surface of the existing track. This aspect was again covered in my original response, in which I said that it was not clear on the basis of the information that had been supplied in support of the original application what would be involved in this process, i.e., whether it would simply be a matter of depositing gravel on the existing track in order to improve the running surface, or whether ground disturbance would also be required to widen or re-align the track. This is still not entirely clear from the appeal letter supplied by the applicant, which simply states that *'no work will be done to the access track at the noted area, other than the improving of the surface'*, without specifying in any detail what would be involved in *'improving the surface'* – it could, for example, involve the construction of a fully metalled track, with associated foundations etc. As I said in my original response, if it is the case that the existing track can be upgraded by simply depositing gravel on the current route, without any alteration or ground disturbance, then I would accept that there would be no need for monitoring on this element. If the Council has received more detailed information from the applicant confirming that the track will be upgraded using this approach, and is confident that this is likely to be credible and realistic in terms of producing a permanent access route to the proposed new house, then I would agree that it would probably be safe to remove condition 5. However, if is

the case that precise methodology by which the track would be upgraded has yet to be determined, meaning that it is possible that excavations may still be required in the vicinity of the standing stone, then I would advise that the condition should remain in place. Ultimately, it would be a decision for the Planning Authority as to whether you consider that it would be possible to create a new permanent access track to the new house plot without the need for any excavations or ground disturbance in the vicinity of the stone.

I hope this information is useful to you.

Regards,

Martin O'Hare



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T: 0131 668 8688

Our ref: AMH/6501/10  
Our case ID: 300024026  
Your ref: 170009LRB  
18 October 2017

Dear Ms Williams

Town and Country Planning (Appeals) (Scotland) Regulations 2013  
Erection of Dwelling House, Land North West of Oakfield  
Statutory Designation: Crinan Canal, Cairnbaan - Ardrishaig  
Designation Reference: SM6501

Thank you for your Notice of Review with regards to the above planning application for a dwelling house, which we received on 13 October, 2017.

Historic Environment Scotland's remit is to comment where proposals might impact upon the fabric and/or setting of designated historic features, such as Scheduled Monuments, A Listed Buildings and Sites on the Inventories of Gardens and Designed Landscapes and Historic Battlefields.

We have considered the information provided, and have nothing further to add to our comments provided in our letter of 25 August, 2016.

Yours sincerely

**Historic Environment Scotland**

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**LOCAL REVIEW BODY REFERENCE 17/0009/LRB**

**PLANNING APPLICATION 16/02183/PP**

**SITE FOR THE ERECTION OF DWELLINGHOUSE**

**LAND NORTH WEST OF OAKFIELD, LOCHGILPHEAD**

**COMMENTS ON BEHALF OF THE LOCAL PLANNING AUTHORITY**

## BACKGROUND

This proposal relates to a 240 hectare estate on the outskirts of Lochgilphead. Although there is some occupied residential accommodation on the estate, it no longer benefits from a principal dwelling, and the appellant's wish is construct a new dwelling commensurate with the scale of the estate, in order to provide for estate management and the stated intention to restore a walled garden.

The estate lies outwith the LDP defined 'settlement' boundary for Lochgilphead and falls within the surrounding 'countryside' development management zone. Policy LDP DM1 and SG LDP HOU 1 encourage 'small scale' sustainable development on appropriate infill, rounding-off and redevelopment sites in the 'countryside zone'. The site for which permission in principal was applied for did not constitute either in-fill or rounding-off development.

Although the appellant advised that it was proposed to relinquish the use of an existing residential property, 'Auchindarroch Cottage', some 450 metres south of the application site, this would not normally amount to 'redevelopment' as per the LDP glossary definition of such, as redevelopment would be expected to be implemented on the same site as that occupied by the existing building and be of a scale and form comparable with that of the existing building. In this case development was proposed to be in an alternative location elsewhere on the estate and on a larger scale.

In exceptional circumstances it is possible justify development under Policy LDP DM1 and SG LDP HOU 1 where a locational/operational need has been advanced which is sufficient to warrant an exception being made to the LDP Settlement and Spatial Strategy, provided that it accords with the outcome of an Area Capacity Assessment (ACE). However, the conclusion in this case was that the appellant's estate management intentions did not amount to a clear locational need, given that an additional house was not essential to the implementation of the estate management works proposed.

In the course of pre-application discussions it had been accepted that existing estate buildings did not occupy locations which lent themselves to the provision of a focal estate house, and officers undertook to work with the appellant at that stage to explore options which might be capable of being delivered in a manner which could satisfy LDP policy considerations. This led to the approach whereby 'Auchindarroch Cottage' would be relinquished in a bid to support development in an alternative location elsewhere on the estate. 'Auchindarroch Cottage' is an unoccupied and dilapidated building, but it has been accepted that the lawful use of the property for residential purposes has not been abandoned, and therefore it would be open to the appellant to refurbish and the property for re-occupation as a dwelling, without planning permission being required.

A further consideration was that access to the estate is constrained by a sub-standard route from the A83(T) which leaves the trunk road at an acute angle close to the A816/A83 Corran roundabout west of Lochgilphead. This route then accesses the estate via a single track swing bridge over the Canal which is shared with towpath users. This access constraint pointed to the likelihood of the need to surrender a residential use as a *quid pro quo* for the establishment of an additional dwelling, so that traffic levels generated by the estate would remain substantially unaltered. The Trunk Roads Authority did not object to the application subject to the proviso that the original cottage is demolished or alternatively, any approval is subject to a planning condition requiring a Traffic Regulation Order is promoted to restrict left turning traffic from the Trunk Road under Traffic Legislation. Additionally, the Council's Roads Engineers acknowledged the shortcomings of the existing means of access from the trunk road and did not object, but only on the basis that this was to be a replacement dwelling, in

which case no intensification of vehicular use would arise. The retention of the existing cottage in addition to a further dwelling would therefore have prompted objection by them on the grounds of an inadequate means of access to serve further residential development.

In the event, officers concluded that the proposal could be considered a legitimate exception to LDP policy having regard to the combination of the fact that an existing dwelling would be relinquished, on the basis of the benefits of the wider landscape enhancement which would be associated with the development of a principal estate house, and that no intensification of vehicular access would be involved. Having regard to these considerations, and with the influence of the outcome of a satisfactory ACE assessment, the proposal for revised siting and a significantly larger replacement was supported by officers, with permission in principal being granted subject to conditions.

### **COMMENTS ON THE APPELLANTS GROUNDS OF APPEAL**

An appeal has been lodged against the imposition of condition 3 and condition 5 with the request that they be removed.

The appeal is founded on the extent to which these two requirements fulfil, in the circumstances of the case, the Six Tests for the imposition of planning conditions, as set out in Scottish Government Circular 4/1998, and which are further endorsed by subsequently issued government policy. The Planning Authority accepts the applicability of these tests, which require that a condition should be necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other aspects. This long-standing approach has been routinely adopted by both Government Reporters on appeal and by the Courts in situations where planning decisions have been subject to judicial review.

#### Condition 3 – Requirement for the demolition of Auchindarroch Cottage

This planning permission has been justified on the basis of a case founded around 'redevelopment', in the absence in this case of any other route capable of satisfying development plan policy in respect of a defined 'countryside' location. The LDP is clear that to amount to redevelopment there must be 'substantial demolitions'. In other words, buildings should be removed to afford opportunities for, and to make way for, replacement buildings.

The condition imposed reads as follows:

No development shall commence until the existing dwellinghouse identified on approved drawing no. 464-1 P 01 Rev.B as Auchindarroch Cottage has been completely demolished; all resultant demolition materials removed from the estate grounds; all fences, walls, gates or other means of demarcating the residential curtilage have been removed; and the site re-instated to a natural condition to be approved in writing by the Planning Authority.

Reason: To ensure the removal of the existing residential unit to be redeveloped in order to comply with adopted Local Development Plan Settlement and Spatial Strategy, Transportation policy and highway safety at the substandard access junction with the A83 trunk road.

As the stated reason indicates, this has cognisance of the need to align the consent with the principal of 'redevelopment' (albeit in the circumstance of this case, exceptionally on an alternative site and to a larger scale) and the need to avoid additional traffic generation requiring the use of an already sub-standard means of access. Redevelopment is defined in the LDP as being - 'development of new buildings involving substantial demolitions'.

Officers would normally expect a new building to be constructed upon all or part of the footprint of an existing building, so in the normal course of events it would be an inevitability that an existing structure would need to be demolished in order to be able to construct a replacement in the same or a similar location.

In this case, exceptionally, officers were persuaded that the location of Auchindarroch Cottage did not lend itself to the siting of a focal estate house, and accordingly an alternative location was identified which would result in the new building being constructed other than on the footprint of the existing dwelling. Notwithstanding that, removal of that building would nonetheless be required in order to achieve the 'substantial demolitions' occasioning favourable consideration of a replacement dwelling. In the absence of demolition prompting a redevelopment opportunity, this route to an LDP compliant decision would not present itself. In the absence of any other opportunity to achieve LDP compliance, the only alternative would then have been to refuse planning permission in principle.

The appellant has indicated that she was unaware that a requirement to demolish Auchindarroch Cottage would be imposed on any decision. This is surprising given that it was made clear that a redevelopment justification would be required in order to achieve LDP compliance. Common usage of the term 'redevelopment', regardless of the precision of the LDP definition, would make it evident that demolition would need to be advanced in order to prompt an opportunity for a replacement building.

A statement submitted by the agents as part of the planning application supports the proposal, in part, on the basis that *"the new house by the walled garden should take on the traffic generation allowance for Auchindarroch Cottage currently used for the Transport Assessment calculations...and that any future development of the cottage should instead be treated as a new-build."*

There was no clarification of how this was to be achieved practically. As such, Officers opened communications with the appellant's agent as part of the assessment of the application in order to discuss an appropriate and robust planning mechanism for achieving this. At that time, Officers expressed the preferred procedure by which a notification to demolish the cottage was invited, which would be determined concurrently with the application. Any planning permission for the new house could then be subject to a suspensive planning condition to the effect that Auchindarroch Cottage be demolished and the site cleared prior to commencement of development (of the new house). This advice also indicated the Planning Authority's willingness to give careful consideration any alternative solutions from the agent/applicant which could be capable of achieving compliance with LDP policy.

The agent's response did not put forward an alternative solution, as invited, nor did it specifically object to the Council's preferred approach i.e. demolition. The response simply advised that a trade-off between demolishing Auchindarroch Cottage and building a new house had been previously discussed prior to submission of the application, with no indication of the outcome of those discussions. Given this correspondence, it is clear that the appellant's agent has been made aware of the strong likelihood of a planning condition addressing the requirement for the demolition of Auchindarroch Cottage at an early stage in the planning application process. There is no explanation as to why the applicant would be unaware of this requirement at the point when planning permission was granted.

It is the concession which officers have made to entertain redevelopment on land elsewhere, rather than at the location of the existing building (which would in that case have inevitably prompted demolition), which has afforded the appellant an opportunity to now seek to retain

the dwelling advanced as a justification for redevelopment. This opportunity would not arise in the normal course of events. The position is clear that in the absence of demolition, no LDP compliant redevelopment opportunity presents itself, either on the original site or in any location elsewhere.

The appellant indicates that in the event of the requirement to demolish being upheld, there ought not to be an obligation to dispose of the demolition material off-site, as there would be opportunity for it to be processed as recycled as material for use elsewhere on the estate. That being the case, it would be appropriate for the Review Body to vary the wording of condition to make provision for such an eventuality; the primary reason for this requirement having been that material arising from demolition ought not to be left on the demolition site. A suggested form of wording for this purpose is appended.

### Condition 5 – Archaeological Watching Brief

This proposal prompted consultation with the West of Scotland Archaeological Service (WoSAS) who provided the Planning Authority with advice as to measures which in their opinion ought to be secured by means of planning condition. As the appellant correctly points out, in this case these relate to the means of access to the proposed dwelling, rather than the site of the dwelling itself. The Planning Authority accepts the advice which was received from WoSAS and does not require any measures beyond those identified by them.

The condition imposed reads as follows:

Pursuant to Condition 1 - no development or ground breaking works shall commence until a method statement for an archaeological watching brief has been submitted to and approved by the Planning Authority in consultation with the West of Scotland Archaeology Service.

The method statement shall be prepared by a suitably qualified person and shall provide for the recording, recovery and reporting of items of interest or finds within the application site.

Thereafter the development shall be implemented in accordance with the duly approved details with the suitably qualified person being afforded access at all reasonable times during ground disturbance works.

Reason: In order to protect archaeological resources.

This is a standard Watching Brief Condition routinely imposed by the Planning Authority when the requirement for such a brief has been identified by WoSAS. It is not prescriptive as to the measures to be employed, but requires a method statement to be agreed up front as a means of scoping the extent of works required in the particular circumstances. The WoSAS consultation response provides an applicant with an advanced indication as to the extent of their likely requirements.

The appellant has indicated that it would not be her intention to carry out improvements to the access requiring ground breaking works, as it would only be intended to resurface the access within its existing corridor. That was not evident at the time of the application given that it was a planning permission in principle, and that details of access works were not required to be specified as part of such an application. Accordingly, the extent of access improvements will only become specified as part of a subsequent Application for Approval of Matters Specified in Condition. However, as it would not be competent to introduce a Watching Brief Condition at that stage, as the only opportunity is to impose such a requirement at the Permission in Principle stage.

If it transpires that the appellant's current position is correct, and that no works likely to prejudice the interests WoSAS have sought to see protected will be proposed as part of this project, then it would be reasonable to avoid any requirement for what might prove to be an unnecessary Watching Brief Condition. With that in mind it would be appropriate for the Review Body to revise condition 5 to provide that it may be invoked, if required, once full details of the project are known; or alternatively, to allow development to proceed in the absence of such a requirement if it is clear, once full details are known, that access works do not entail realignment or widening, in which case the requirement for archaeological measures would be superfluous. A suggested form of wording for this purpose is appended.

### Other Matters

The appellant indicates her dissatisfaction that a Woodland Management Plan and Garden Management Plan were required by the Planning Authority. This does not form part of the appeal as it does not relate to either Condition 3 or 5. For information, estate management, including woodland management; restoration of historic landscape features (walled garden and Oriental gardens) formed part of the justification for the re-introduction of a focal Estate house, and these plans were therefore a material consideration in concluding that an exception ought to be made for the 'redevelopment' to approved in respect of an alternative location and for a substantially larger house.

### **CONCLUSION**

The Planning Authority's position is that condition 3 ought not to be removed as per the appellant's request, as demolition of this unoccupied and dilapidated structure is fundamental to the redevelopment case which led to the acceptance of the proposal in terms of LDP policy. It is however, accepted that condition 3 could be varied to avoid the obligation for all demolition material to be removed for disposal outwith the estate.

The Planning Authority's position is that condition 5 ought not to be removed as per the appellant's request, as there are no approved details at this stage to provide assurance that interests of concern raised in consultation by WoSAS will not require to be safeguarded. It is however, accepted that condition 5 could be varied to provide dispensation from the requirement to undertake a Watching Brief, in the event that access details submitted for the purpose of Approval of Matters Subject to Condition render that requirement superfluous.

Richard Kerr

Principal Planning Officer

26<sup>th</sup> October 2017

**SUGGESTED CONDITIONS IN THE EVENT OF THE APPEAL BEING ALLOWED**

3. No development shall commence until the existing dwellinghouse identified on approved drawing no. 464-1 P 01 Rev.B as Auchindarroch Cottage has been completely demolished; all resultant demolition materials have been recycled for use within the estate, and/or have been removed from the site for disposal outwith the estate; all fences, walls, gates or other means of demarcating the residential curtilage have been removed; and the site re-instated to a natural condition to be approved in writing by the Planning Authority.

Reason: To ensure the removal of the existing residential unit to be redeveloped in order to comply with adopted Local Development Plan Settlement and Spatial Strategy, Transportation policy and highway safety at the substandard access junction with the A83 trunk road.

5. Pursuant to Condition 1 – in the event that details submitted to satisfy Condition 4 indicate any works outwith the extent of the current driveway, including realignment or widening, no development or ground breaking works shall commence until a method statement for an archaeological watching brief has been submitted to and approved by the Planning Authority in consultation with the West of Scotland Archaeology Service.

The method statement shall be prepared by a suitably qualified person and shall provide for the recording, recovery and reporting of items of interest or finds within the application site.

Thereafter the development shall be implemented in accordance with the duly approved details with the suitably qualified person being afforded access at all reasonable times during ground disturbance works.

Reason: In order to protect archaeological resources

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Argyll and Bute Council  
Development & Infrastructure Services

**Delegated Planning Application Report and Report of Handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 relative to applications for Planning Permission or Planning Permission in Principle**

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**Reference No:** 16/02183/PPP  
**Planning Hierarchy:** Local  
**Applicant:** Mrs Jane Renfrew  
**Proposal:** Site for the erection of dwellinghouse  
**Site Address:** Land North West Of Oakfield, Lochgilphead, Argyll And Bute

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**DECISION ROUTE**

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

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**(A) THE APPLICATION**

**(i) Development Requiring Express Planning Permission**

- Erection of a dwellinghouse;
- Formation/improvement to access track;
- Installation of septic tank.

**(ii) Other specified operations**

- Connection to the public water supply.
- 

**(B) RECOMMENDATION:**

- i) That the Area Capacity Evaluation (ACE) accompanying the application is regarded as a material consideration in the determination of this application.
  - ii) That planning permission be granted as a 'minor departure' to policy subject to the conditions and reasons appended to this report.
- 

**(C) CONSULTATIONS:**

Transport Scotland – response received on 27.07.17 – The Director does not wish to advise against grant of consent. (This consultation response should be assessed on the basis that the proposed house subject of this application would effectively replace an existing dwellinghouse.)

Area Roads – After originally deferring on recommendation pending further clarification and assessment, a revised response was received on 26.05.19 advising no objection subject to a condition requiring on-site parking as per the Local Plan standards on the basis that this is a 'one-for-one' replacement dwelling, with no significant intensification of traffic generation.

Historic Environment Scotland (HES) – response received 25.08.16 – No objection. The location of the proposal is such that it has limited potential to adversely affect the setting of the scheduled monument (Crinan Canal).

West of Scotland Archaeological Service – response received on 23.08.16 - No objection to development on the site identified. Recommend a planning condition requiring submission of a method statement/watching archaeological brief relating to access improvement works to the track in vicinity of the recorded position of standing stones.

Scottish Water – No response received.

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**(D) HISTORY:**

No relevant planning history

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**(E) PUBLICITY:**

Regulation 20 Advert Local Application – period for representations expired 23.09.16

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**(F) REPRESENTATIONS:** None

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**(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>   | Yes |

- A locational and historical context of the Oakfield Estate is established including relationship with the Crinan Canal; the importance of the horticultural history of the walled garden; the landscaped grounds; and the demolition of the main estate house – “Auchindarroch House” in 1967.
- The demolished house was replaced by two small bungalows, Main House and Oakfield House which are now in separate ownership.
- An itinerary of existing estate buildings is documented including, most notably, the walled garden including various potting sheds and greenhouses built into the northern wall; and two estate cottages “Oakfield” and “Auchindarroch”.

- The estate today consists of a designed landscape of woodlands, ornamental gardens and a walled garden with a few surviving estate buildings, all managed from “Oakfield House”, a modern bungalow built in the 1970s, replacing the demolished “Auchindarroch House.”
- The applicant purchased the significant majority of the estate in 2004, and presently occupies Oakfield House.
- Oakfield is registered as a farm and has submitted yearly IAC forms, although not operating at full capacity. For the past 4 years there has been a sustained programme of re-instatement and regeneration of the walled garden to recreate its 1825 horticultural character. It is intended to open the garden to the public annually as part of the Scottish Gardens Scheme.
- Conservation work is also being carried out to the Himalayan garden to the south of the walled garden. It is planned to re-instate the pond with lilies and increase the trout population and repair the footbridge over the burn.
- The surrounding woodland includes significant mature stands of excellent European Larch and Western Redwood useful in construction. Other areas contain ancient oaks, birch, rowan, sycamore and ash. However the woodland has been poorly managed, with many areas of windblown larch and birch, as access problems make it difficult to enter into woodland management schemes. The estate would benefit from an on-site sawmill to utilise timber for small local sales, followed by a program of managed replanting.
- The only access to the estate from the main road over the canal is by Millers Bridge, a hand operated swing bridge with a weight limit. The constraints of the weight limit on the bridge and the condition of road infrastructure within the estate adversely affects commercial removal of timber and the economics of the estate.
- The principal of development is assessed with regard to Local Development Plan (LDP) policy; National Planning Framework; Planning Advice Notes; and Scottish Planning Policy. With regard to the planning Authority’s Settlement and Spatial Strategy set out in LDP policy DM1, the application should be *“treated as an exceptional special case” as it will allow for the continual upgrading of horticultural within the significant walled garden, which has historical relevance to the earlier estate, with an importance to locate a dwellinghouse close to the garden for further improvement, maintenance and security*” (my emphasis).
- The proposed siting of a new dwellinghouse north of the walled garden will greatly assist in the improvement and maintenance of the garden as it will also improve the garden’s access and services, and allow for longer working hours, as well as providing a level of security and supervision over what is otherwise a remote site, potentially vulnerable to theft and vandalism. Whereas ‘productive’

walled gardens would have traditionally been estranged from the main house to hide gardening activity, it is now more practical to have the house located close to the garden as there is no longer a troop of gardeners to maintain it.

- Siting part-way up a slope within mature woodland will reduce prominence against the skyline and screen the building from surrounding views.
- The site is located well away from neighbouring properties and as such there are no issues of overlooking.
- Vehicular access from the A83 (T) is via an existing single width tarmac road, with a right of access over the land owned by Main House. The last 200m of the access beyond Oakland House will be by means of upgrading an existing dirt track.
- Auchindarroch Cottage was occupied relatively recently until September 2002, but has since fallen into disrepair and has a demolition order in place. However, this 2-bed dwelling could be reinstated, and it is therefore proposed that the new house should take on the traffic generation allowance for Auchindarroch Cottage, therefore negating the requirement for any upgrading works to the main access road to adoptable standards, and that any future development of the cottage should instead be treated as new-build.
- As this is an application for planning permission in principle, detailed designs have not been developed, however the key issues of scale; design approach; good construction details, materials and workmanship; and on-going sustainable design have been considered. Scale will be generous as fits a main house at the centre of a Highland estate, with accommodation for a 4-bedroom family house and space for undertaking estate activities. The footprint will be small, rising to 3 storeys which will have ecological benefits in minimising ground disturbance. The height will provide good levels of natural light and views. Design approach will be contemporary appropriate to the Scottish Highland setting and taking inspiration from the Japanese 'pagoda' style of building.

(iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** No

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**(H) PLANNING OBLIGATIONS**

**Is a Section 75 agreement required:** No

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**(I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30,**

31 or 32: No

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(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 Local Development Plan' Adopted March 2015**

LDP STRAT 1 – Sustainable Development  
LDP DM 1 – Development within the Development Management Zones  
LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment  
LDP 8 – Supporting the Strength of our Communities  
LDP 9 – Development Setting, Layout and Design  
LDP 11 – Improving our Connectivity and Infrastructure

**'Supplementary Guidance to the Argyll and Bute Local Plan 2015' (Adopted March 2016)**

**Natural Environment**

SG LDP ENV 6 – Impact on Trees / Woodland

**Landscape and Design**

SG LDP ENV 14 – Landscape  
SG LDP ACE 1 - Area Capacity Evaluation

**Historic Environment and Archaeology**

SG LDP ENV 19 – Impact on Scheduled Ancient Monuments (SAMs)  
SG LDP ENV 20 – Impact on Sites of Archaeological Importance  
SG LDP ENV 21 – Protection and Enhancement of Buildings

**General Housing Development**

SG LDP HOU 1 – General Housing Development Including Affordable Housing Provision

**Departures from the Local Development Plan**

SG LDP DEP – Departures from the Local Development Plan

**Sustainable Siting and Design**

SG LDP Sustainable – Sustainable Siting and Design Principles

**Resources and Consumption**

SG LDP SERV 1 – Private Sewage Treatment Plants & Wastewater Systems  
SG LDP SERV 2 – Incorporation of Natural Features / SuDS

SG LDP SERV 5(b) – Provision of Waste Storage & Collection Facilities within New Development

**Transport (Including Core Paths)**

SG LDP TRAN 4 – New & Existing, Public Roads & Private Access Regimes

SG LDP TRAN 5 – Off-site Highway Improvements

SG LDP 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 3/2013.**

- National Planning Framework
- Planning Advice Notes
- Scottish Planning Policy

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**(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: No**

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**(L) Has the application been the subject of statutory pre-application consultation (PAC): No**

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**(M) Has a sustainability check list been submitted: No**

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**(N) Does the Council have an interest in the site: No**

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**(O) Requirement for a hearing (PAN41 or other): No**

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

The site comprises 0.05 ha of cleared woodland on an east facing hillside adjacent to an historic walled garden within the larger grounds of Oakfield Estate comprising some 240 acres.

The estate is located on rising land to the west of Lochgilphead and separated from it by the Crinan Canal and A816/A83 (T). Knapdale, adjoining to the west is open countryside, the landscape of which is characterised by tightly folded parallel ridges running in a north-east to south-west orientation and heavily planted with coniferous commercial forestry.

The site is located within the 'countryside' Development Management Zone identified in the Argyll and Bute Local Development Plan (March 2015) (LDP) wherein policy LDP DM1 and SG LDP HOU 1 encourage 'small scale' sustainable development on appropriate infill, rounding-off and redevelopment sites. Given the location of the proposed site in relation to the existing development pattern it is considered that development would not constitute either in-fill or rounding-off, nor can it be

considered as redevelopment for the purposes of applying LDP policy DM1.

SG LDP HOU 1 continues that this general presumption against development does not apply where a specific locational/operational need has been accepted by the planning authority. In such instances an Area Capacity Evaluation (ACE) which assesses the proposal as being acceptable in terms of landscape impact will be required.

In my view, it has not been demonstrated that a locational need can be justified as an exception to the LDP Settlement and Spatial Strategy solely on the basis of estate management including restoration of a walled garden, as the need for an additional house is not essential to these works being implemented.

However, Policy LDP DM 1 does give encouragement to proposals for small-scale sustainable forms of development on redevelopment sites, if this accords with an Area Capacity Assessment (ACE).

The applicant advises that it is proposed to relinquish the use of an existing residential property, 'Auchindarroch Cottage', located within the Estate property some 450 metres south of the application site. Redevelopment of the site of 'Auchindarroch Cottage' would comply with LDP policy and address any concerns regarding capacity of the existing private road regime, however to be compliant with the LDP definition, "redevelopment" would be required to be implemented on the same site of the existing building and be of a scale and form comparable with the existing building.

Notwithstanding the above, and having regard to applicant's supporting statement in regard to estate management, including woodland management; restoration of historic landscape features (walled garden and Oriental gardens) and the re-introduction of a focal Estate house, it is considered that an exception can be justified for the 'redevelopment' to be implemented on an alternative siting and for a substantially larger house.

By reason of siting relative to prevailing topography and mature woodland, it is considered that the proposed dwellinghouse in principle would have very little visual impact upon the landscape in both local and longer views, consistent with policies LDP 3, LDP 9, SG LDP ENV 14. No felling of trees will be required in order to implement the proposed development and as such there will not be an unacceptable impact on woodland in accordance with policy SG LDP ENV 6.

The ACE which has been carried out to accompany the application pursuant to SG LDP HOU 1 concludes that the proposed development can be satisfactorily absorbed into the landscape without detracting in any significant way from established landscape character. As such, it is considered that the proposal can be considered as an exception to LDP policy having regard to the combination of the fact that an existing dwelling is to be removed and on the basis of wider landscape enhancement associated with the development of a principal estate house. Having regard to these considerations, and with the influence of the outcome of the ACE assessment, revised siting and a significantly larger replacement can be legitimately supported.

Development will be served by an existing private road which has a junction with the A83 Trunk Road immediately to the south of the A83 and A816 roundabout junction on the south western edge of Lochgilphead. The initial single width length leading up the canal has a tarmac surface but is not adopted. From there, the road crosses the canal on an historic manually-operated pivoted swing bridge owned by Scottish

Canals and subject to a weight restriction of 1.5 tons, before entering the original estate gateway on the other side of the canal.

This access arrangement gives rise to two material considerations:-

1. Sub-standard junction with the A83 given the acute angle of the junction in proximity to a roundabout junction: and,
2. Sub-standard private access regime.

With regard to the former, Transport Scotland has advised that the Director does not wish to advise against grant of consent on the basis that the proposal is for a redevelopment of an existing dwellinghouse served by the same junction and private road regime, and as such that the application proposal will not result in a material intensification of traffic.

SG LDP TRAN 4 advises that developments shall be served by a public road unless, amongst other considerations, the private access serves a housing development not exceeding 5 dwelling houses or the access is capable of commensurate improvements considered by the Roads Authority to be appropriate to the scale and nature of the proposed new development and that takes into account the current access issues. The private access serves in excess of 5 existing dwellinghouses (including unimplemented but extant permissions) and is constrained with regard to available width to implement commensurate improvements. Creation of a new dwellinghouse generating additional traffic would therefore be resisted as being contrary to transport infrastructure policy. In this instance however, the applicant has proposed that an existing residential dwellinghouse (Auchindarroch Cottage) served off this private road network will be discontinued. Albeit that a new large 4-bedroom estate house will generate more traffic than the existing 2-bedroom cottage, it is considered that the increase will be so significant as to result in undue detriment to highway safety and free flow of traffic. Accordingly, the Council's Roads Engineer has advised that the proposal is acceptable with regard to policy SG LDP TRAN 4 on the basis that it is a one-for-one replacement of an existing dwellinghouse.

The applicant has submitted an indicative sketch design illustrating how her aspirations for a large 3-storey house could be accommodated on the site without impact on landscape character or the setting of the walled garden. Subject to further detailed design development, it is considered that the design shown has potential to be acceptable.

Whilst the construction of the proposed house on the identified site north of the walled garden will not raise any archaeological issue in of itself, the associated access works (between Oakfield House and the application site) may have an adverse impact upon archaeological deposits which could potentially provide information on the (pre)historic origin of standing stones. In the circumstances it is considered unreasonable to require archaeological fieldwork by the applicant prior to determination of the application, WoSAS recommend that any planning permission be subject to a condition requiring an archaeological watching brief, to be carried out by a suitably qualified body, during all ground disturbance relative to this section of the access works.

Consultation responses indicate that there are no constraints with regard to service infrastructure in connection with the proposed house. Further details will be required by conditions.



It is therefore recommended that planning permission in principle be approved subject to the attached conditions.

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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 Granted:**

See below.

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

The proposed development to provide a contemporary development integrating residential and estate management accommodation in relation to the estate grounds will enable restoration of the historical integrity and significant landscape design features of the estate; and secure the longer-term management and maintenance of this attractive and culturally significant contained estate landscape, including mature woodland plantation comprising significant species, in the wider public interest of protecting and enhancing the quality of the character and appearance of this landscape forming part of the setting to Lochgilphead.

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

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**Author of Report:** Norman Shewan **Date:** 03.08.17

**Reviewing Officer:** Richard Kerr  **Date:** 07.08.17

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

**CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 16/02183/PPP**

1. Plans and particulars of the matters specified in conditions 4, 5, 6, 8, 9, 11 and 12 below shall be submitted by way of application(s) for Approval of Matters Specified in Conditions in accordance with the timescales and other limitations in Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended. Thereafter the development shall be completed wholly in accordance with the approved details.

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

2. The development shall be implemented in accordance with the details specified on the application form dated 04.08.2016, supporting information and, the approved drawing ref. 464-1 P 01 Rev.B.

Reason: To accord with Regulation 28 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008.

3. No development shall commence until the existing dwellinghouse identified on approved drawing no. 464-1 P 01 Rev.B as Auchindarroch Cottage has been completely demolished; all resultant demolition materials removed from the estate grounds; all fences, walls, gates or other means of demarcating the residential curtilage have been removed; and the site re-instated to a natural condition to be approved in writing by the Planning Authority.

Reason: To ensure the removal of the existing residential unit to be redeveloped in order to comply with adopted Local Development Plan Settlement and Spatial Strategy, Transportation policy and highway safety at the substandard access junction with the A83 trunk road.

4. Pursuant to Condition 1 – no development shall commence until plans and particulars of the vehicular driveway and parking/turning arrangements to serve the development have been submitted to and approved by the Planning Authority. Such details shall incorporate the provision of parking and turning in accordance with the requirements of policy LP TRAN 6 and Appendix C of the Argyll and Bute Local Plan 2009.

The approved parking and turning layout shall be implemented in full prior to the development first being occupied and shall thereafter be maintained clear of obstruction for the parking and manoeuvring of vehicles.

Reason: In the interests of visual amenity and impact on the natural and historic environment.

5. Pursuant to Condition 1 - no development or ground breaking works shall commence until a method statement for an archaeological watching brief has been submitted to and approved by the Planning Authority in consultation with the West of Scotland Archaeology Service.

The method statement shall be prepared by a suitably qualified person and shall provide for the recording, recovery and reporting of items of interest or finds within the application site.

Thereafter the development shall be implemented in accordance with the duly approved details with the suitably qualified person being afforded access at all reasonable times during ground disturbance works.

Reason: In order to protect archaeological resources.

6. Pursuant to Condition 1 – no development shall commence until details of the proposed means of private foul drainage to serve the development have been submitted to and approved by the Planning Authority.

The duly approved scheme shall be implemented in full concurrently with the development that it is intended to serve and shall be operational prior to the occupation of the development.

Reason: To ensure that an adequate means of foul drainage is available to serve the development.

7. Notwithstanding the provisions of Condition 2, the development shall incorporate a surface water drainage system which is consistent with the principles of Sustainable urban Drainage Systems (SuDS) compliant with the guidance set out in CIRIA's SuDS Manual C697. The requisite surface water drainage shall be operational prior to the development being brought into use and shall be maintained as such thereafter.

Reason: To ensure the provision of an adequate surface water drainage system and to prevent flooding.

8. Pursuant to Condition 1 – 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 comprise a planting plan and schedule which shall include details of:

- i) Existing and proposed ground levels in relation to an identified fixed datum;
- ii) Existing landscaping features and vegetation to be retained;
- iii) Location, design and materials of proposed walls, fences and gates;
- iv) Proposed soft and hard landscaping works including the location, species and size of every tree/shrub to be planted;
- v) A programme for the timing, method of implementation, completion and subsequent on-going maintenance.

All of the hard and soft landscaping works shall be carried out in accordance with the approved scheme unless otherwise approved in writing by the Planning Authority.

Any trees/shrubs which within a period of five years from the completion of the approved landscaping scheme fail to become established, die, become seriously diseased, or are removed or damaged shall be replaced in the following planting season with equivalent numbers, sizes and species as those originally required to be planted unless otherwise approved in writing by the Planning Authority.

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

9. Pursuant to Condition 1 – no development shall commence until a scheme for the retention and safeguarding of trees during construction has been submitted to and approved by the Planning Authority. The scheme shall comprise:

- i) A survey of trees on and overhanging the site indicating the location, species, height, canopy spread and condition of each tree;
- ii) An assessment of the amenity and nature conservation value of tree groups and

- individual trees which shall inform the layout of the development proposed;
- iii) Details of all trees to be removed and the location and canopy spread of trees to be retained as part of the development;
- iv) A programme of measures for the protection of trees during construction works which shall include fencing at least one metre beyond the canopy spread of each tree in accordance with BS 5837:2005 "Trees in Relation to Construction".

Tree protection measures shall be implemented for the full duration of construction works in accordance with the duly approved scheme. No trees shall be lopped, topped or felled other than in accordance with the details of the approved scheme unless otherwise approved in writing by the Planning Authority.

Reason: In order to retain trees as part of the development in the interests of amenity and nature conservation.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended), (or any Order revoking and re-enacting that Order(s) with or without modifications), nothing in Article 2(4) of or the Schedule to that Order, shall operate so as to permit, within the area subject of this permission, any development referred to in Part 1 and Classes 1A, 1B, 1D, 3A of the of the aforementioned Schedule, as summarised below:

#### PART 1: DEVELOPMENT WITHIN THE CURTILAGE OF A DWELLINGHOUSE

Class 1A: Any enlargement of a dwellinghouse by way of a single storey ground floor extension, including any alteration to the roof required for the purpose of the enlargement.

Class 1B: Any enlargement of a dwellinghouse by way of a ground floor extension consisting of more than one storey, including any alteration to the roof required for the purpose of the enlargement.

Class 1D: Any enlargement of a dwellinghouse by way of an addition or alteration to its roof.

Class 3A: The provision within the curtilage of a dwellinghouse of a building for any purpose incidental to the enjoyment of that dwellinghouse or the alteration, maintenance or improvement of such a building.

No such development shall be carried out at any time within this Part and these Classes without the express grant of planning permission.

Reason: To protect the sensitive area and the setting of the proposed dwellinghouse, in the interest of visual amenity and public health, from unsympathetic siting and design of developments normally carried out without planning permission; these normally being permitted under Article 2(4) of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended).

11. Pursuant to Condition 1 – no development shall commence until plans and particulars of the site layout, design and external finishes of the development have been submitted to and approved by the Planning Authority. These details shall incorporate:
- i) A statement addressing the Action Checklist for developing design contained within the Argyll and Bute Sustainable Design Guide 2006;

- ii) Maximum of 2 storeys in design in the case of a conventional form, with potential for accommodation over 3 levels subject to a bespoke design which mitigates against the additional massing, height and volumetric form incorporating features such as a 'lighter' frame construction at the upper levels; set back from the plane of the ground and 1<sup>st</sup> floor walls; and low profile roof with zinc cladding or similar as illustrated on the indicative sketch proposal dated 19.07.17;
- iii) Rectangular (or otherwise agreed) footprint no greater than 150 square metres;
- iv) Maximum external building span of maximum 7.5 metres in the case of a conventional gabled/hipped pitched roof angled between 37 and 42 degrees with potential for larger span (subject to clause (iii) above subject to roof design);
- v) Careful positioning with regard to surrounding existing ground levels and minor excavation works where required to establish an appropriate ground floor level which will minimise inappropriate and insensitive areas of un-fenestrated underbuild harmful to the setting of the building;
- vi) External walls finished in natural stone, timber or wet dash render or, a combination of these;
- vii) Details of finished ground floor levels relative to an identifiable fixed datum located outwith the application site;
- viii) Window openings with a predominantly vertical emphasis;

Reason: To accord with Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended, and in order to integrate the proposed dwellinghouse with its surrounds.

## NOTE TO APPLICANT

- This consent constitutes a Planning Permission in Principle under Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended and as such does not authorise the commencement of development until matters requiring the further consent of the Planning Authority have been satisfied.
- Application(s) for Approval of Matters Specified in Conditions must be made in accordance with the provisions of Regulation 12 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 within the time limits specified in Section 59 of the Act.
- Having regard to Regulation 12, application(s) for the Approval of Matters Specified in Conditions must be submitted within **3 years** from the date of which Planning Permission in Principle was granted. The exception being where an earlier submission for the Approval of Matters Specified in Conditions was refused or dismissed on appeal, in which case only one further application in respect of all outstanding matters requiring further approval of the Planning Authority may be submitted within a period of 6 months from determination of the earlier application. Any elements of the Planning Permission in Principle for which further approval of the Planning Authority has not been sought within the time periods summarised above will no longer be capable of being implemented within the terms of this permission.
- The development to which this planning permission in principle relates must commence no later than **2 years** from the date of the requisite approval of any matters specified in conditions (or, in the case of approval of different matters on different dates, from the date of the requisite approval for the last such matter being obtained), whichever is the later. If the development has not commenced within this period, then this planning permission in principle shall lapse.
- Please be advised that the demolition of Auchindarroch Cottage requires to be the subject of a separate application to the Planning Authority for Prior Approval for the Demolition of a Dwellinghouse.
- Regard should be had to the West of Scotland Archaeology Service's consultation comments in respect of the proposed development.
- Private drainage arrangements are also subject to separate regulation by Building Standards and SEPA.
- Further advice on SuDS can be found in SEPA's Standing Advice for Small Scale Development – [www.sepa.org.uk](http://www.sepa.org.uk)
- In order to comply with Sections 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start. Failure to comply with this requirement constitutes a breach of planning control under Section 123(1) of the Act.
- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.

**APPENDIX TO DECISION APPROVAL NOTICE**

Appendix relative to application **16/02183/PPP**

- (A) Has the application required an obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended): **No**
- (B) Has the application been the subject of any “non-material” amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing. **No**
- (C) The reason why planning permission has been approved:

The proposed development to provide a contemporary development integrating residential and estate management accommodation in relation to the estate grounds will enable restoration of the historical integrity and significant landscape design features of the estate; and secure the longer-term management and maintenance of this attractive and culturally significant contained estate landscape, including mature woodland plantation comprising significant species, in the wider public interest of protecting and enhancing the quality of the character and appearance of this landscape forming part of the setting to Lochgilphead.

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Further comments for Planning Review.

Condition 3.

I first started preplanning discussions with the Planning Department in March 2013.

On site discussions were had with Derek Hay re a group of 3 new houses adjacent to Auchindarroch Cottage. Auchindarroch cottage was to be redeveloped and the 3 new houses would form a "rounding off" of the group with a separate access (existing track from the towpath)

Mr Hay was not against this proposal, or against my other proposal to develop the u shaped steading further, or against converting the Coach house into rentable or holiday accommodation.

The house behind the walled garden was also discussed. I had also expressed a desire to build a few cabins/shepherd huts for tourist purposes close to the track past Millar's bridge on land above the canal with great views of the canal.

These ambitions have been thwarted by the Council Roads department.

I made a preplanning enquiry some time before 15<sup>th</sup> April 2013. (Letter dated 13<sup>th</sup> April 2013 from Argyll and Bute council) It took a long time to get any response, but after many months/years, the reply from Transport Scotland was that further development could be supported if there was a NO LEFT TURN sign, which was certainly acceptable to me. (Letter from Peter Bain 08.10.2015, paragraph marked)

By this point, August 2015, I had submitted Planning Permission for the 3 new houses beside the cottages, planning redeveloping Auchindarroch cottage, planning to convert the historic Coach House, and planning for the new house site behind the walled garden.

I had prepared these submissions myself and once submitted with payment the Planning department pointed out some inaccuracies and lack of information and advised me to withdraw the application and reapply.

After lengthy discussions with both Peter Bain and Derek Hay on site and in the Planning offices, I was told that 1 new house would be tolerated without affecting the road situation and without the need for the no left turn sign.

This process had now gone on for more than 2 years. It was thought it would speed things along to only apply only for the house behind the walled garden initially, as I have 6 adult children who frequently visit and continuing living in a 3 bedroom bungalow we were struggling to fulfil our family requirements.

It was thought that the process could be facilitated by agreeing that the new house would take traffic that would have been associated with Auchindarroch cottage, simply to avoid Transport Scotland's No LEFT TURN notice, but certainly there was NO AGREEMENT to demolish the cottage.

(See email dated 31/08/17, from Architect in original appeal submission bundle.

The process to gain Outline Planning has been tortuous.

Planning for the single dwelling was submitted August 2016.

Outline planning was promised by Mr Shewan to Caroline Slater the Architect to be imminent Easter 2017, then by mid -June, (e mails are attached in this bundle) Final consent was not until August 2017.

A Woodland Management Plan and Garden Management were requested by Mr Shewan and although undertaken at some cost were apparently not required for the Planning Consent.

At one stage Mr Shewan was suggesting a section 75 Occupancy Restriction Agreement on the new house tying it to the estate. This would have been an unfair burden on the owner as the future viability of the estate cannot be foreseen, and contrary to the Scottish Government's requirement for any condition to be fair and reasonable.

Planning was finally granted August 7<sup>th</sup> 2017.

There was a site visit with Councillor Sandy Taylor and Angus Gilmour on Thursday 21<sup>st</sup> September, to discuss the situation and possible appeal on conditions.

After this site visit and prior to submission of my appeal, I had a phone call with Mr Shewan on 9<sup>th</sup> October about an unrelated matter. This was the first time I had spoken to the Planning Officer. After this matter was resolved, he ventured onto a discussion about my possible appeal.

He suggested that if I did not appeal and that if I reapplied for Outline Planning WITHIN the walled garden, then it could be granted within 8-9 weeks, not a year as previously. He said he had had some discussions with Angus Gilmour and that if I changed the position it would mean Auchindarroch cottage could be retained and the archaeology condition removed.

I am quite staggered by this and it makes a mockery of the original condition to demolish the cottage.

How can Mr Kerr's response re demolition of Auchindarroch Cottage vary depending on whether the house is sited in or behind the walled garden?

There is a logical inconsistency here.

Mr Kerr's comments;

I strongly object to Mr Kerr's comments on behalf of the local planning authority.

1. Mr Kerr concluded that "The appellant's estate management intentions did not amount to a clear locational need, given that an additional house was not essential to the implantation of the estate management works proposed."

There has been a 12 year commitment to this garden already, with at least £20,000 spent on the reclamation of the walled garden alone.

Please refer to emails from Minette Struthers and Grace Bergius (Argyll representatives of Scotland Garden Schemes) in the bundle re the work done and opening the gardens to the public.

2. "This led to the approach whereby "Auchindarroch Cottage" would be relinquished in a bid to support development in an alternative location elsewhere on the estate"

3. The access constraint pointed to the likelihood of the need to surrender a residential use as a quid pro quo for the establishment of an additional dwelling”

All previous discussions I have had with the roads department and previous planners in this process did not object to one further dwelling with the road remaining as it is.

If the comment about Auchindarroch cottage taking the new build traffic had not been made then, the only requirement from Trunk roads was the NO LEFT TURN sign.

4. “The appellant has indicated that she was unaware that a requirement to demolish Auchindarroch Cottage would be imposed on any decision. This is surprising given that it was made clear that a redevelopment justification would be required in order to achieve LDP compliance”...

And “Given this correspondence, it is clear that the appellant’s agent has been made aware of the strong likelihood of a planning condition addressing the requirement for the demolition of Auchindarroch Cottage at an early stage in the planning application process”

This is simply untrue.

The Planning application was made on the basis that the new house was an “Exceptional special case” and NOT a “redevelopment.” Please review Planning outline proposal submitted by architect in the attached bundle.

I refer again to email from Architect Ben Tindall, 31/08/17, “Norman Shewan suggested demolition on 11<sup>th</sup> November. We responded that such a legal tie was unreasonable and discouraged by Scottish Government. Verbally NS agreed with this on 23<sup>rd</sup> March after a meeting with Richard Kerr. He confirmed this on 7<sup>th</sup> June, as there would be no increase in traffic which is obviously true. On 4<sup>th</sup> July the only (new) condition mentioned was a request for a sketch, duly provided.”

Although Auchindarroch Cottage is in a current dilapidated state it has great historic and integral value within the estate. It is marked on maps of 1856 and it was the head Gardener’s house, with some distinctive planting, and unusual plants around it.

If I cannot gain future Planning Permission to redevelop it, it could be refurbished and used for storage purposes and other requirements of the owner.

Oakfield Cottage and Auchindarroch cottage, are quite remote from the U shaped steading, walled garden and central hub of the estate.

They have both been the subject of previous vandalism.

£10,000 damage was done to Oakfield Cottage in 2005, all windows were kicked out, internal doors smashed and lights pulled out.

The 2 cottages together are vulnerable, but if Auchindarroch cottage was removed it would leave Oakfield cottage even more vulnerable as a single secluded property.

Oakfield has farm status and although not being run commercially as a farm at the moment, submits an annual IACS form to Rural Payments and Services.

If the estate was being run actively as a farm it would be producing significantly more commercial traffic. This has not been factored into the equation.

Condition 3. Ought to be removed.

Condition 5.

Archaeology; The Planning Permission In Principle states ; “No development or ground breaking works shall commence until a method statement for an archaeological watching brief has been submitted and approved by the Planning Authority in consultation with the West of Scotland Archaeology Service”

The condition is both inaccurate and far reaching.

In reality, the brief from the West of Scotland Archaeology Service is very specific.

It relates only to the area beside the track over the bridge and NOT to the house site. The area beside the track should only be investigated if the entrance route to the house site is changed /dug up.

The approach route to the house will remain the same as the existing track and will cross the existing bridge as it does at the moment. The surface will not be excavated or widened.

Condition 3. Ought to be removed or altered to be specific to the area of concern.

I would appeal for the Committee to come and inspect the estate and its situation, to fully understand the potentials and restrictions.

Mrs Jane Renfrew.

# OAKFIELD ESTATE

## NEW DWELLING - OUTLINE PROPOSALS STATEMENT OF SUPPORT

August 2016

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Fig. 1 Oakfield Estate walled garden, 2016

## I INTRODUCTION

The purpose of this statement is to provide a reasoned justification in support of an application for Planning Permission in Principle for the erection of a single dwellinghouse on land at Oakfield Estate.

The statement will consider and discuss the following issues:

Location, History of estate, Analysis of Existing estate and access, Principle of Development, Site Appraisal, Client brief, Outline Design Principles and Access Proposals.

## 2 LOCATION

Auchindarroch Estate, also known by its English name of 'Oakfield', is located to the West of Lochgilphead in Argyll & Bute. The estate borders the Crinan Canal to the East and Knapdale to the West, and is accessed from the A83 trunk road over the canal by a single historic swing bridge, Oakfield Bridge, known locally as Miller's Bridge, to the south of Lochgilphead.

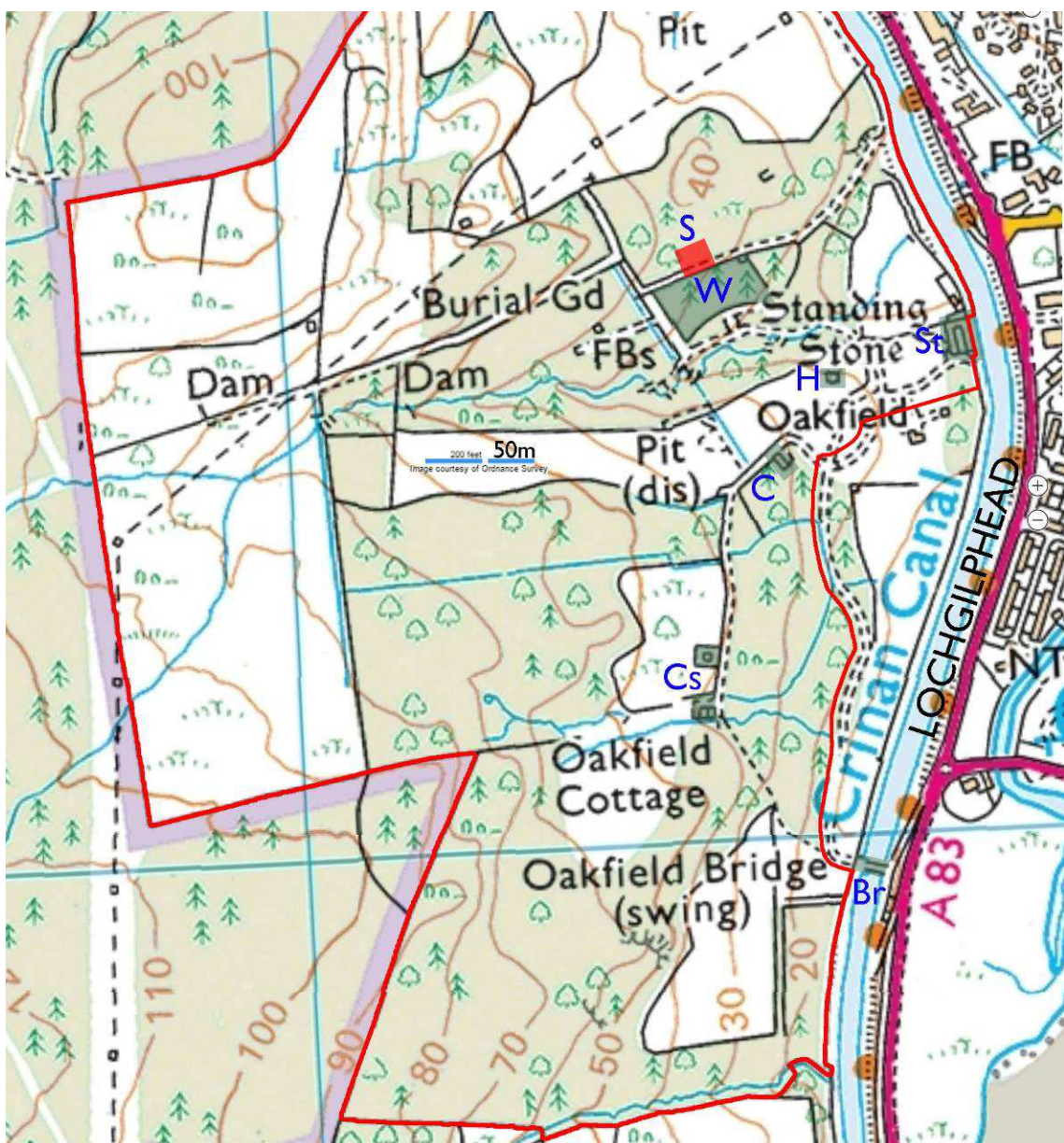


Fig. 2 Partial OS Map of Oakfield Estate, showing boundary in red and key buildings in green ©Bing & OS 2016

**Key -**

- S: proposal site; ■ W: walled garden; ■ H: Oakfield House; ■ St: steading; ■ C: coach house;
- Cs: cottages; ■ Br: access bridge





Fig. 3 Partial aerial view, showing boundary in red and key buildings lettered in white ©Bing 2016

### 3 HISTORY

The very old and historic estate of Auchindarroch (sometimes Auchendaroch, Achagnadarach, etc.) today consists of some 240 acres, but was once considerably larger.

Around 1353, the Earl of Menteith gave numerous charters to lands in his Knapdale estate to Gilspic Campbell of 'Lockae' [Lochawe], including "the 'pennylands' of ... Achagnadarach"<sup>1</sup>.

The estate of 'Achindarroch' is shown on the c.1750 Military Survey Map by General Roy with signs of an early designed landscape and walled gardens:



Fig. 4 Roy map, c.1750 © NLS

Bankruptcy forced the estate to pass through various Campbell families, and it was eventually bought in the later 18th century by one of the Gigha MacNeills, who had prospered as a merchant and later Provost of Inveraray. John MacNeill Younger enlarged Auchindarroch house<sup>2</sup> and played a key role in the development of the nearby town of Lochgilphead<sup>3</sup>, building on his own lands.

<sup>1</sup> R Regan, "The Deserted Townships of Kilmory Oib & Arichonan and Kilmory Mill", Kilmartin Museum, 2014

<sup>2</sup> D Campbell of Kilmelford, Ancestry.com, 2004

<sup>3</sup> F Walker, "The Buildings of Scotland - Argyll & Bute", Penguin Books, 2000, p389

The Crinan Canal, 'the most beautiful shortcut in the world', was fully operational by 1817, linking western Scotland with the Western Isles by cutting across from Loch Fyne at Ardrishaig to Loch Crinan and the Sound of Jura to the north west, thereby avoiding the risky voyage round the Mull of Kintyre. It received much support from the Oakfield estate, who took the opportunity to have the route of the canal and its western towpath follow the existing watercourse close by, thus providing direct access for the estate's commercial activities to this useful water-transport link.

Ruined by bad investments in the 1830s, MacNeill passed the 7017 acre estate<sup>4</sup> to Alexander Campbell of Inverawe in 1837 in payment of a debt<sup>5</sup>.



Fig. 5 Auchindarroch from the Crinan Canal, c.1910 © DMcKay (public domain postcard, via ebay)

In Georgian and Victorian times, Oakfield was a thriving community. Seven gardeners worked the walled garden providing much fruit and vegetables for the nearby town of Lochgilhead<sup>6</sup>.

The first edition OS map surveyed in 1865 shows the tracks, woodland and field boundaries almost exactly as they are today.

There was a steady and consistent decline in productivity and maintenance over the last century since the First World War, and Auchindarroch House was demolished by owner Peter Kenneth in 1967 due to dry rot.

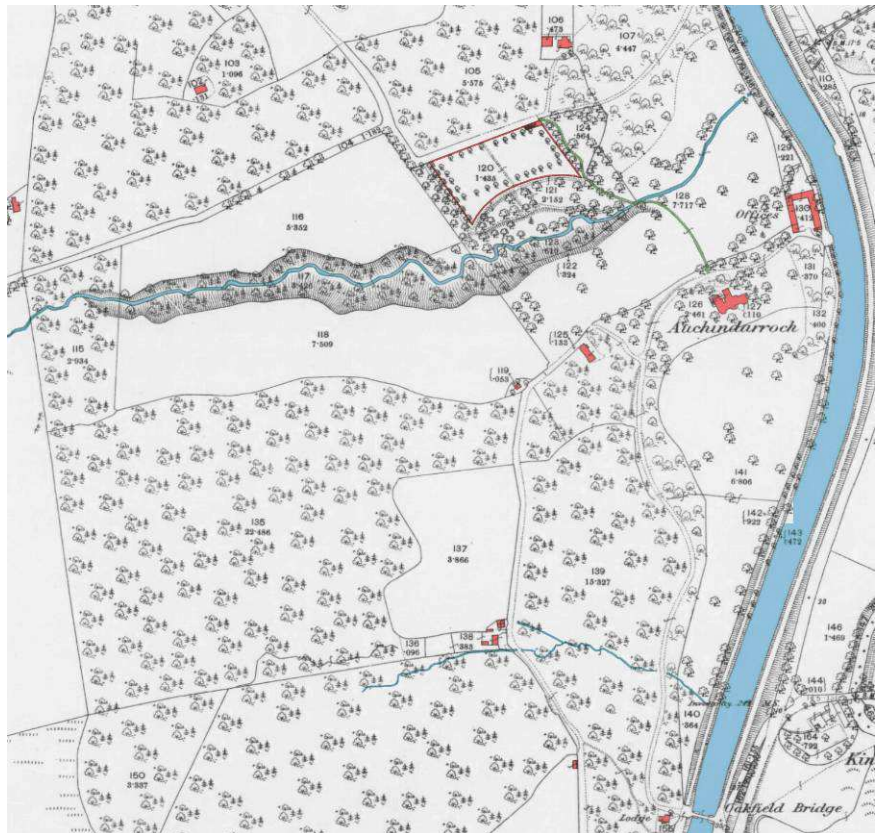


Fig. 6 1865 OS map, 2nd ed. © NLS

Mrs Jane Renfrew purchased the estate in 2004 and currently occupies single-storey Oakfield House, a modern C20th bungalow.

<sup>4</sup> ed. F Groome, Ordnance Gazetteer of Scotland, 1892-6

<sup>5</sup> D Campbell of Kilmelford, Ancestry.com, 2004

<sup>6</sup> J Renfrew, 2016

## 4 ANALYSIS

### 4.1 ORIGINAL ESTATE HOUSE

Auchindarroch House was built at the centre of private gardens within a managed and ancient landscape. It was probably originally two and a half stories high with a traditional slate hipped pitched roof, two central chimney stacks, orientated to the South, in a style favoured by the Campbells.



Fig. 7 Oakfield House, c.1920 © Miller & Lang (public domain postcard, via ebay)

From contemporary photographic images and maps, it can be seen that the house was extended at both ends, probably in the Victorian era by John MacNeill, with substantial wings and three full-height semi-circular bays to the south. The attic space was lit by dormer windows. External walls were probably lime-harled and -washed, with unharled stone window surrounds and traditional multi-paned timber sash and case windows.

The house was demolished due to dry rot in 1967 and replaced with two small bungalows - Malin House, now in separate ownership, and Oakfield House.

### 4.2 ESTATE BUILDINGS

The estate was supported by multiple smaller buildings, scattered around the grounds.

Of the once numerous estate cottages, physical evidence of at least four remain. A little above the track to the north side of the walled garden, set on the hillside, are the ruins of Plum Cottage and its smallholding, shown inhabited on all historical OS edition maps. Near the cottage is a well, still visible on the ground. There are ruins of a further cottage approx. 500m West of the walled garden. Two further roofed cottages - Oakfield and Auchindarroch - were inhabited more recently, but now lie in deleterious condition on the western spur track off the main access route.

A U-shaped steading, known as The Square, was built on the banks of the canal to the East, providing further living accommodation as well as the usual stables, offices, storage, etc. facilities. A flat was formed in the 1950s. A building believed to be a coach house with a large fireplace and collapsing lean-to can be found to the west of the original house, and a gate lodge by the canal entrance bridge.

Further up the hill, to the NW of the walled garden, is the MacNeill's roofless Mausoleum chapel, and there is a small Campbell graveyard in the Glen.

The north wall of the walled garden contains the remains of a potting shed and greenhouses. A small disused 1920s hydro-electric pump house by the SW corner was built in the Himalayan garden on the burn running along the garden's southern edge, itself crossed by numerous foot bridges in various states of decay.

### 4.3 ESTATE TODAY

Oakfield today consists of a designed landscape of woodlands, ornamental gardens and a walled garden with a few surviving estate buildings, all managed by a modern bungalow built in the 1970s as residence for a single elderly gentleman, replacing demolished Auchindarroch House.

Oakfield has a farm number and has submitted yearly IACs forms, although not operating at full productivity.

For the last four years, there has been a sustained program of reinstatement and regeneration of the walled garden to recreate its 1825 horticultural character. Overgrown plants and young trees have been cleared and bedding systems are being reintroduced, including fruit trees along the back wall, vegetables and herbaceous borders. The rebuilding of the original greenhouses adjacent to the potting shed along the back wall is planned. It is intended to open the gardens to the public annually as part of the Scottish Gardens Scheme.

Over the years, the wall has been damaged due to trees and branches falling, and following advice from a woodland survey, trees threatening the wall have been felled. Some repair is still required.

Conservation work is also being carried out in the Himalayan garden to the south of the walled garden with its fine collection of rhododendron. It is planned to reinstate the pond with lilies and increase the trout population and repair wooden footbridges over the burn.

The surrounding woodland includes significant mature stands of excellent European Larch and Western Redwood, useful in house and cabin building. Other areas contain ancient oaks, birch, rowan, sycamore and ash. However, the woodland has been poorly managed, with many inaccessible areas of windblown larch and birch, as access problems make it difficult to enter into woodland management schemes. The estate would benefit from an on-site sawmill to utilise larch and cedar, easily converting it for estate use or small local sales, such as fencing, shed timbers and firewood, perhaps even furniture, followed by a program of carefully managed replanting.

### 4.4 ACCESS

The estate's only access bridge from the main road over the Crinin Canal is via Oakfield Bridge, also known as Miller's Bridge after a notable 19th century bridge keeper. It is a hand operated swing bridge pivoted on the west bank with a timber deck carried on hogbacked iron plate girders, built 1871 by MacLellan of Glasgow to replace an earlier bridge of c.1817, possibly by Gibb<sup>7</sup>. The bridge spans 35ft from the pivot to the far bank and is 11 ft wide. Today, the Crinin Canal is no longer used to carry freight, but recreational value has increased considerably by yachts and fishing vessels, and the harbour at Ardrishaig still plays an important part of Scotland's timber trade.

There is a very low weight limit on the bridge, adversely affecting the commercial removal of timber and the economics of the estate. Within the estate, the road infrastructure and unmade surfaces make access and heavy work, such as the milling and removal of trees, quite difficult.



Fig. 8 Oakfield Bridge, 1979 © RCAHMS

<sup>7</sup> R Paxton and J Shipway, "Civil Engineering heritage: Scotland - Highlands and Islands" London, 2007, via RCAHMS

## 5 DESIGN CONSIDERATIONS

As this is an application for Planning Permission in Principle, detailed building, landscape and service designs have not yet been carried out and will instead form part of a future detailed application. However, the following key points can be stated:

### 5.1 PRINCIPAL OF DEVELOPMENT - ARGYLL & BUTE PLANNING POLICIES

Auchindarroch Estate is within the 'Countryside Zone' as identified in the 2015 Argyll 7 Bute LDP currently being adopted, and is registered as a Farm. Below are initial comments on relevant A&B LDP Planning Policies & Supplementary Guidance, backed up in more detail later in this document:

<b>LP DMI</b>	<p><u>'Development within the Development Management Zones'</u>  <i>"Encouragement shall be given to sustainable forms of development as follows ... (E) within the Countryside Zone up to small scale on appropriate infill, rounding off and redevelopment and change of use of existing buildings. In exceptional cases, development in open countryside may be supported if this accords with an ACE [Area Capacity Evaluation]. There is a presumption against development that seeks to extend an existing settlement into the Countryside Zone" <sup>8</sup>.</i>          The proposal of a large new house at the centre of a working estate within the Countryside Zone should be considered as an 'Exceptional special case' as it will allow for continual upgrading horticultural activities within the significant walled garden, which has historical relevance to the earlier estate, with an importance to locate a dwelling house close to the garden for 'further improvement, maintenance and security'.</p>
<b>LDP 3</b>	<p><u>'Supporting the Protection, Conservation &amp; Enhancement of our Environment'</u>          We suggest that the proposed dwelling house would enhance, rather than detract from, <i>"the established character and local distinctiveness of its natural and built environment"</i> through a high-quality and site-appropriate design, choice of materials and other environmental design considerations.</p>
<b>SG LDP ENV 6</b>	<p><u>'Development Impact on Trees/ Woodland'</u>          The site in question is within established woodland, but is itself currently clear of any trees and would not adversely affect any protected trees in the construction of the building or its service provision.</p>
<b>LDP 5</b>	<p><u>'Supporting the Sustainable Growth of our Economy'</u>          It is the owner's aspiration to continue to grow the commercial viability of the estate through existing gardening and woodland activities, as well as potential future residential and tourist-orientated dwellings and associated activities. These aspirations will stimulate regeneration of the estate and help safeguard it for future owners, as well as the wider community, by helping the estate pay for itself.</p>
<b>LDP 8</b>	<p><u>'Supporting the Strength of our Communities'</u>          Improving the estate's main accommodation and live-work provision will make it a better place to live, work and visit, thereby strengthening its position in the community and bringing back some of the grandeur lost by the 1967 demolition of Oakfield House.</p>
<b>LDP 9</b>	<p><u>'Development Setting, Layout and Design'</u>          The site has been carefully chosen to suit the requirements of the working estate, in particular current regeneration work within the walled garden, plus wider woodland management. It avoids the boggy land in the valley and takes advantage of existing openings in the woodland for harnessing heat &amp; light from the sun and the distant views.</p>
<b>LDP 10</b>	<p><u>'Maximising our Resources and Reducing our Consumption'</u>          The house will be of a high-quality design appropriate to its surroundings, utilising local and appropriate durable materials, as well as the best in energy efficient and sustainable building practices, to create smaller environmental impact and a better quality of life, both in the construction phase and the longer-term use of the building. The building will be relatively self-sufficient, with home-grown bio-mass heating and the potential for generating its own electricity via hydro-electric in the future.</p>

<sup>8</sup> Argyll & Bute Council, "Proposed Local Development Plan - Written Statement", February 2013, p82

We feel that the Proposals for a new house supporting Oakfield Estate also meets the criteria set out in the following Scottish Government Scottish Planning Policies, NPF and Planning Advice Notes:

<b>NPF 3</b>	<p>3 of the 4 Key Planning outcomes identified are met by this proposal:</p> <p><i>A successful sustainable place - supporting economic growth, regeneration and the creation of well-designed places; A low carbon place - reducing our carbon emissions and adapting to climate change; A natural resilient place - helping to protect and enhance our natural cultural assets and facilitating their sustainable use.</i></p>
	<p><b>'Promoting Rural Development'</b></p> <p>The National Framework document promotes, "a pattern of development that is appropriate to the character of the particular rural area and the challenges it faces [and] encourage[s] rural development that supports prosperous and sustainable communities and businesses whilst protecting and enhancing environmental quality".</p> <p>NPF 3 encourages sustainable development that supports and sustains communities through appropriate development, especially housing and employment opportunities, and allows for the appropriate construction of single houses outwith settlements provided they are well sited and designed to fit with local landscape character and take account of landscape protection and other plan policies.</p>
	<p><b>'Enabling Delivery of New Homes'</b></p> <p>"NPF3 aims to facilitate new housing development ... through innovative approaches to rural housing provision ... In particular, provision for new homes should be made in areas where economic investment is planned or there is a need for regeneration or to support population retention in rural ... areas. The Planning system should ... enable provision of a range of attractive, well-designed, energy efficient, good quality housing, contributing to the creation of successful and sustainable places".</p>
	<p><b>'Valuing the Historic Environment'</b></p> <p><i>'The historic Environment is a key cultural and economic asset ... that should be seen as integral to creating successful places. Culture-led regeneration can have a profound impact on the well-being of a community ... The Planning system should promote the care and protection of the ... historic environment ... [and] enable positive change ... informed by a clear understanding of the importance of the heritage assets affected, and ensure their future use'.</i></p>
<b>PAN 72</b>	<p><b>'Housing in the Countryside'</b></p> <ul style="list-style-type: none"> <li>- "Successful places are: distinctive; safe and pleasant; easy to get around; welcoming; adaptable; resource efficient". (+ PAN 67 'Housing Quality')</li> <li>- "Scottish Planning Policy 3 'Planning for Housing' and 15 'Planning for Rural Development' recognise that changes in the rural economy require new development".</li> <li>- "Setting a building against a backdrop of trees is one of the most successful means by which new development can blend with the landscape".</li> <li>- [Planning should encourage] designs which are distinctive and responsive to their setting ... [and] ensure that new housing is carefully located, worthy of its setting, and the result of an imaginative, responsive and sensitive design process".</li> </ul>
<b>PAN 73</b>	<p><b>'Rural Diversification'</b> - Oakfield is registered as a Farm.</p> <p><i>"Rural diversification ... helps to broaden the economic activity of rural areas [and] has involved ... adapting ... to new businesses [perhaps] unrelated to agriculture ... [enabling] farmers and their families to continue the farming activity while providing jobs and income for others in the community ... Successful diversification means supporting existing businesses and traditional activities whilst embracing innovation, new activities and new business ideas. Affording people the opportunity to continue to work in rural areas helps them stay connected with their communities rather than become detached. Welcoming new people to our countryside helps maintain its vitality. Planning can respond positively to these demands of diversification and assist in ensuring that the vitality and vibrancy of our rural areas is maintained."</i></p>
<b>SPP I</b>	<p>The Planning System reinforces the importance of good design and reaffirms that Design is a material planning consideration.</p>
<b>SPP 15</b>	<p><i>Rural Scotland needs to become more confident and forward looking, both accepting change and benefiting from it ... the countryside should be able to absorb more people content to live and able to work there.</i></p>



Fig. 9 Panorama of proposal site next to North wall of walled garden, and distant views to NE. 2016

## 5.2 SITE APPRAISAL

The carefully selected site is to be centred on the North wall of the historic walled garden, partway up the eastern slope of Cnoc an Tigh-fhraoich and sheltered by mature trees to the north and west. This will allow it to make the most of the distant views to mountains bordering Loch Fyne to the NE and out across the walled garden to the SE, thereby also benefiting from sunlight and avoiding poorly draining, boggy ground at the base of the slope. The site is currently clear from the surrounding tree-line, yet sheltered by the surrounding trees from the prevailing wind from the West.

Locating the main accommodation next to the walled garden will greatly assist in the improvement and maintenance of the garden as it will also improve the garden's access and services, and allow for longer working hours, as well as providing a level of security and supervision over what otherwise can be a remote site, potentially vulnerable to theft and vandalism.

Historically, walled gardens were either positioned close to the main house if decorative and non-productive, or estranged from it if productive to hide the gardeners. Nowadays, with no troop of gardeners to tend them, it is often far more practical to have the house close to the garden.

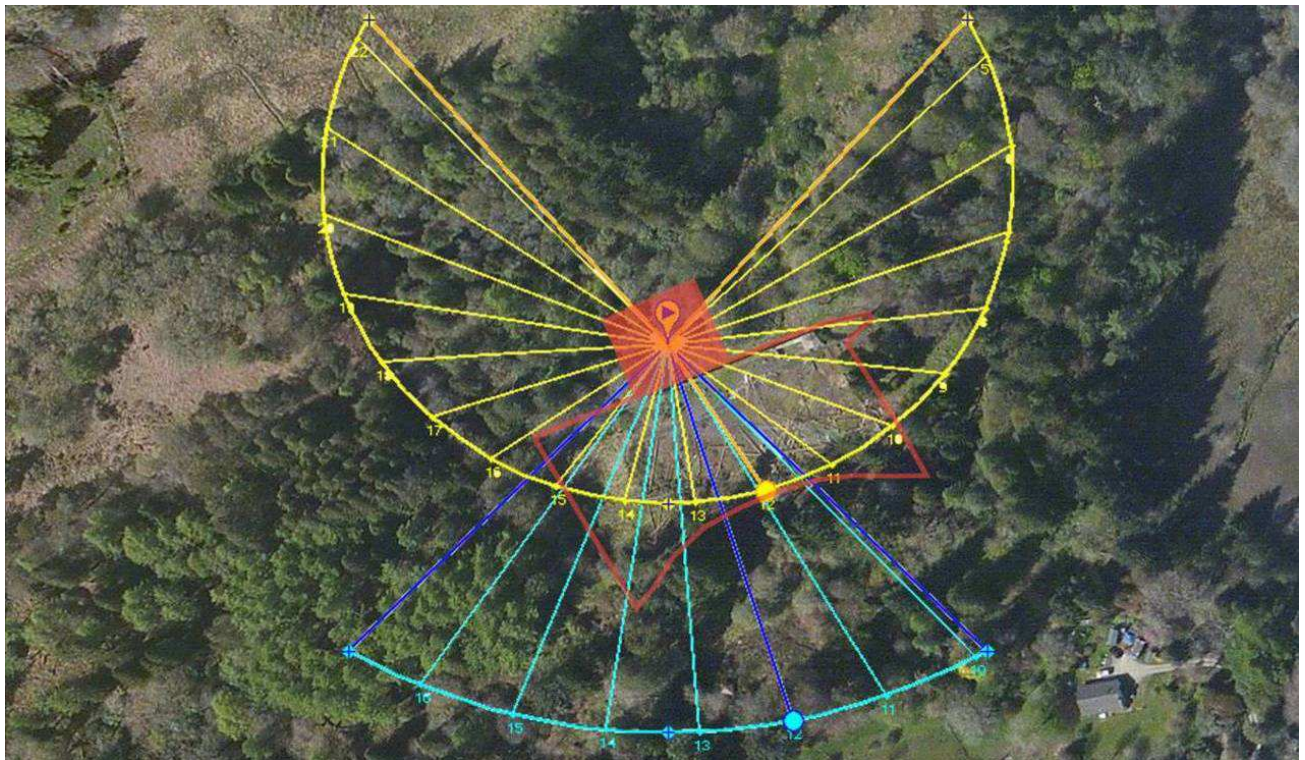


Fig. 10 Aerial showing mid-summer (yellow) & mid-winter (blue) sun-paths, proposed site & walled garden (red) and Oakfield house (BR).

### - PROMINENCE & VISIBILITY

There are no issues of overlooking as the site is located well away from existing buildings and the estate's boundaries. Being located part-way up the slopes of the hillside will reduce the prominence of the building against the skyline, and the mature woodland that surrounds it will further screen the building from view on all sides.



Fig. 11 Approach from Oakfield House, looking NW towards remains of greenhouse and proposed site behind, with track behind bush on R .

## -INFRASTRUCTURE

### ACCESS

Existing vehicular access from the A83 to the applicant's current dwelling at Oakfield House is via a single track tarmac road, with a right of access over the land owned by Milan House.

Access across the last ~200m to the walled garden from Oakfield House is via a well-established single dirt track through the woodland, crossing a narrow burn via a cast iron bridge in good repair.

> The track shall be upgraded to gravel and extended up the E wall of the garden, which will also benefit the activities of the walled garden and wider forest management.



Fig. 12 Estate Bridge crossing burn from Oakfield house to the Walled Garden, 2016

### SERVICES

The new house will be connected to the existing main supplies for water and electricity at Oakfield House and the Steading ~200-250m away, with a new septic tank for waste installed in a suitable location. Rainwater will be attenuated and removed via a soakaway within the grounds, with some collection for watering the gardens.

### - OPPORTUNITIES

The mature mixed-species woodland surrounding the site are perfect for felling and milling on site to be used in the construction, cladding and even furnishing of the new house.

## 5.3 BRIEF

The brief is to create a distinctive new family house at the heart of the Oakfield Estate. The building is to be an exemplar of exceptional design and construction quality, creating a sustainable, adaptable and durable, low-energy house and providing a dwelling fit for the present day and into the future. The house is to respond sensitively to the topography and the historic context of the site, with close visual and physical connections to the surrounding estate and distant hills.



In order to achieve their ideals, the client requires a building that is at one with its environment and suitably large and comfortable to assist in the running of the estate, principally in the regeneration of the nearby walled garden and wider woodland management with regards their further improvement, maintenance and security. The client is particularly inspired by Japanese timber buildings, which are grounded in their natural locations in terms of materiality, design and external spaces, creating peaceful places.

It is recognised that the decision to build a new large dwelling in the countryside is not one to be taken lightly. However, this historically important estate has lacked a suitably strong centre since the original house was demolished 50 years ago and replaced with two small modern bungalows. This proposal intends to restore some of the grandeur that Oakfield is lacking with the construction of a suitably sized building providing on-site accommodation for managing the continuing estate activities, particularly the significant horticultural work within the walled garden with its important historical relevance to the earlier estate, and the forest management activities, thereby ensuring the future of both the walled garden and the wider estate.

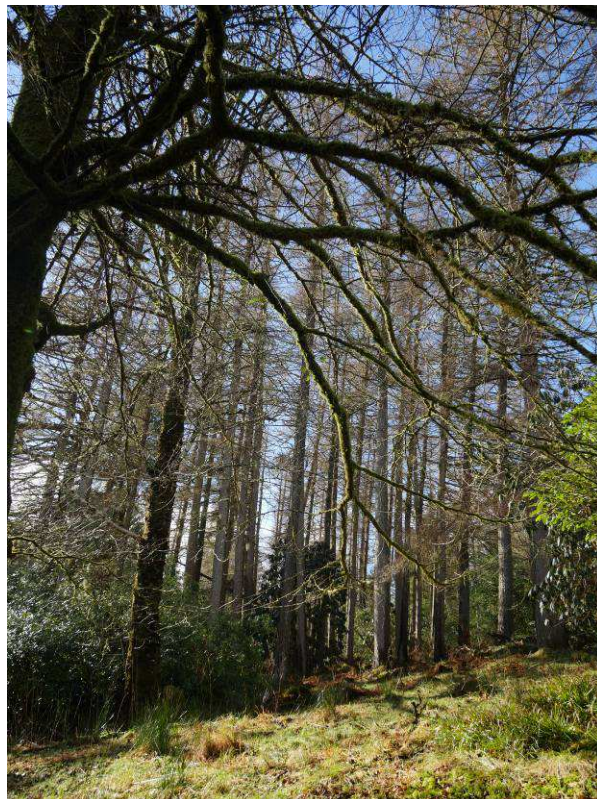


Fig. 13 Larch stand on estate, 2016

## 6 OUTLINE PROPOSALS

As already highlighted, this is an application for Planning Permission in Principle and so detailed designs are not available and will instead be submitted as part of a future detailed application. However, the following key points have been considered:

### 6.1 HOUSE DESIGN

#### - SUITABLE SCALE

As befits the main house at the centre of a large Highland estate, the house will be of a generous size, providing space for undertaking estate activities and approx. 4-bed family accommodation in generously proportioned spaces. Keeping a small footprint and rising to three stories, the house will benefit from good levels of natural light and windows that capture and frame views of the garden and the mature woodland canopy, plus more distant views to the NE to the hills beyond. Building vertically and keeping the footprint small also has many ecological benefits - it minimises disruption on the ground, thereby requiring smaller foundations and leaving more of the site as vegetation, and makes energy and water savings, with more compact plumbing and better efficiency in heating and cooling. Construction costs per m<sup>2</sup> are typically lower as well.

#### - DESIGN APPROACH

The client is keen for the form of the new house to take inspiration from the Japanese 'pagoda' style of building, with a small footprint, multi-storey height, large overhanging roofs and generous external verandas, adapted to create a contemporary design appropriate to the Scottish Highland setting. Japanese designs are rooted in their natural, often wooded, locales, using locally sourced materials and designed to complement and work with the natural climate, which is similarly wet to the Scottish Highlands. Symbolically, the extended roofs, placing of openings and verandas reach out into their surroundings, bringing the indoors and outdoors closer together, whilst mimicking the form of conifer branches and usefully providing shade in summer and protection from rain.

With its similar climate, Oriental building design has an illustrious history of influencing many architects and designers at the turn of the last century, most notably in Frank Lloyd Wright's Prairie style housing in rainy Chicago and much of the architecture of the Arts & Crafts movement generally, as well as the many pagodas found in Britain's designed landscapes (most notably at Kew).

Closer to home, strong Japanese influences can be seen in the Scottish artistic movements, including the work of Patrick Geddes and Charles Rennie Macintosh. Many of Macintosh's buildings incorporate Japanese details, such as the shape and exaggerated extent of projecting eaves and his general interpretation of spaces, creating an uncluttered open plan at Hill House and strong rectilinear geometry and conception of rhythm at the School of Art. His interior details are perhaps even more clearly influenced, with strong geometric forms and shapes and abstractions from nature in furniture and fittings, his use of wooden screens and unified interiors, as well as an appreciation for natural materials.

### **- GOOD CONSTRUCTION DETAILS, MATERIALS & WORKMANSHIP**

The appropriate use of many ecological and sustainable techniques and materials will be investigated, helping create a 'healthy place to live' and minimising the building's ecological footprint.

It is intended that mature larch and red cedar grown and milled at Oakfield itself would be used in the construction of the house - the timber frame and cladding, where appropriate. This provides multiple benefits in the form of low embodied energy, minimal environmental transportation costs, local employment, etc.

It is hoped that other materials can be as natural, local and ecologically sound as possible. The use of reclaimed materials such as stone will be investigated and timber specified for windows and doors, whilst PVC and timber treatments will not be used. Easily re-usable materials for the rainwater goods and roofing will be proposed.

The building will be highly insulated in its fabric and glazing in order to reduce heat loss and keep the building cool in summer, and will be orientated to make the most of natural solar gain and light to the south with careful consideration of glazing positions and sizes. The building's height and relatively small footprint will assist with natural stack ventilation through the core of the building.

Long lasting and durable materials, careful use of technology and thoughtful construction detailing will help minimise maintenance. Large overhanging roofs will drastically reduce rainwater and UV damage to the facade, minimising long-term maintenance and any replacement of organic material.

### **- ON-GOING SUSTAINABLE DESIGN**

Particular consideration will be given to employing both passive and active methods of energy saving, sustainable materials, and a sustainable method of heating.

It is hoped that timber from the estate itself will supply the biomass boiler, correctly sized for its use, and a wood-burning stove located in the main living spaces. Low energy lighting and appliances will be specified and water conserved through reduced-demand sanitary-ware, where appropriate.

In the longer term, reuse of the existing 1920s hydro-electric scheme shall be explored.

## **6.2 MAIN ESTATE ACCESS**

Auchindarroch Cottage was last occupied relatively recently until September 2002, but has since fallen into disrepair and now has a demolition order in place. However, this 2-bed dwelling could be re-instated if it were required and suitable funds were in place, and it is therefore proposed that the building of the new House by the walled garden should take on the traffic generation allowance for Auchindarroch Cottage currently used for the Transport Assessment calculations, thereby negating

the requirement for any upgrading works to the main access road to adoptable standards for the new house, and that any future development of the Cottage site should instead be treated as a new-build.

Transport Scotland's request for the erection of a legal 'No Left Turn' sign into the road from the roundabout leading up to Millers Bridge for traffic travelling North on the A83 trunk road shall also form part of any future application.

## 6.3 FURTHER FUTURE DEVELOPMENT

It is believed that further small scale development would benefit Oakfield significantly and enable roads, walls, and vernacular buildings to be maintained and preserved for the future. Any master plan shall be discussed in more detail with the relevant bodies before future applications are made.

## 7 CONCLUSION

It is considered that the proposal will meet the Development Plan and relevant Supplementary Guidance in respect of the key Planning issues.

Further issues, such as Design and Access, have been addressed as far as possible, and would be considered in more detail as part of the next application stage.

We would be happy to hold further discussions with the Case Officer during the determination of the application.

Caroline Slater ARB, DipArch, MA(Hons)

August, 2016



17 Victoria Terrace  
EDINBURGH, EH1 2JL  
e: [Caroline@BenjaminTindallArchitects.co.uk](mailto:Caroline@BenjaminTindallArchitects.co.uk)  
t: 0131 220 3366 | f: 0131 220 3535  
[www.BenjaminTindallArchitects.co.uk](http://www.BenjaminTindallArchitects.co.uk)

## 8 ATTACHMENT LIST

- Proof of occupation of Auchindarroch Cottage until 2002
- Proof of Right of Access over The Avenue on Malin House land
- Certificate B: notification of owners of Malin House included with submission*

## 9 REFERENCES

### BIBLIOGRAPHY

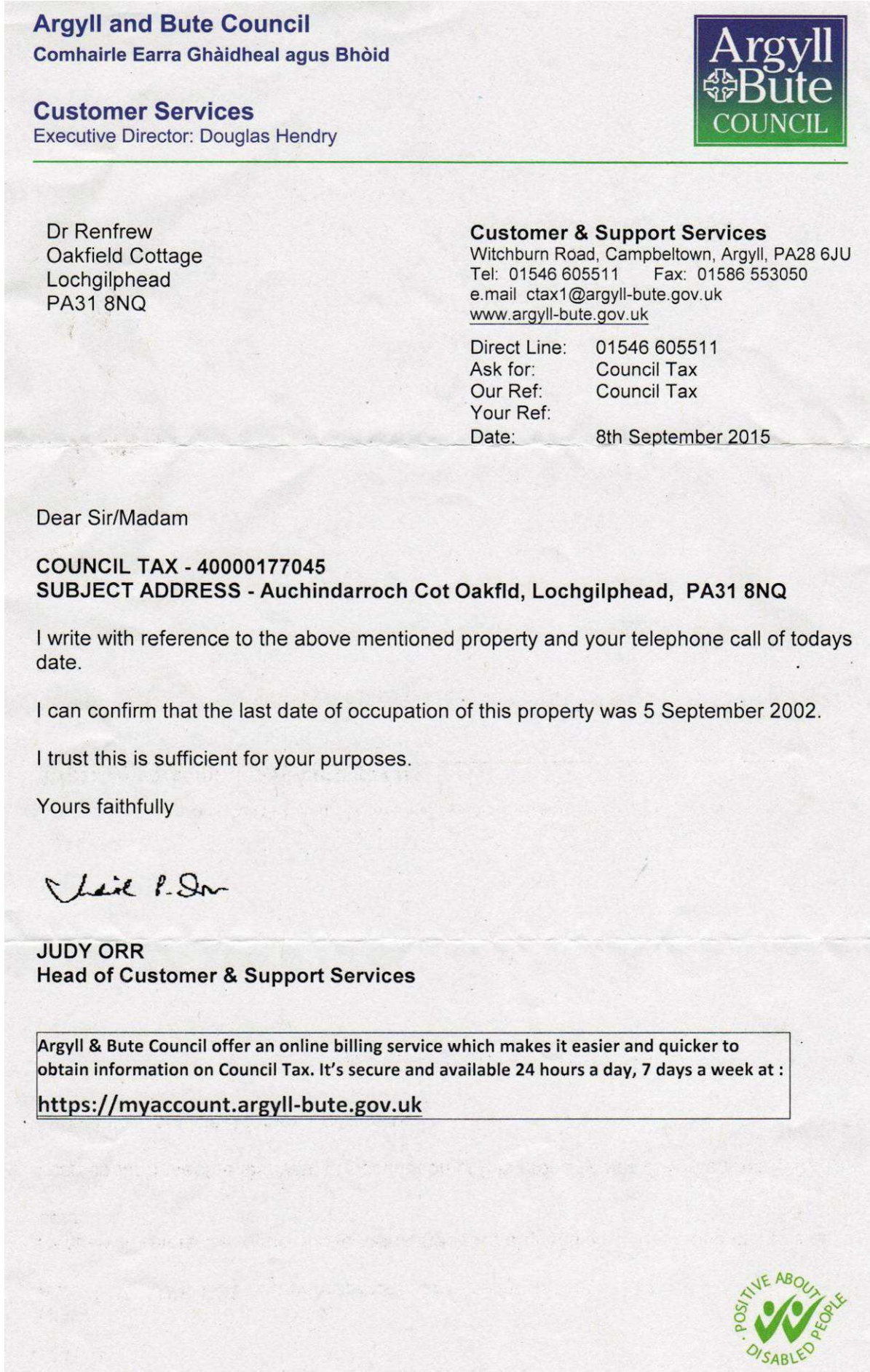
- Frank Arneil Walker, "The Buildings of Scotland - Argyll & Bute", Penguin Books, 2000

### INTERNET SOURCES

- <http://archiver.rootsweb.ancestry.com/th/read/SCT-ARGYLL/2004-09/1094636595>  
Diarmid Campbell of Kilmelford writing on Ancestry.com, 2004
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- <http://www.electricscotland.com/history/gazetteer/index.htm>  
ed. F Groome, "Ordnance Gazetteer of Scotland", 1892-6
- <https://canmore.org.uk/site/39392/crinan-canal-oakfield-swing-bridge>  
quoting: R Paxton and J Shipway, "Civil Engineering heritage: Scotland - Highlands and Islands" London, 2007

10 ATTACHMENTS

10.1 Occupation of Auchindarroch Cottage:



**10.2 Right of Access and occupation of Auchindarroch Cottage and The Square:**

- (b) a heritable and irredeemable servitude right of access for all necessary purposes and for both vehicular and pedestrian traffic over the access roadway shown on **PLAN NO 2** and known as The Avenue serving the excepted subjects for the purposes of taking access to Oakfield Estate and
- (c) a heritable and irredeemable servitude right in favour of the owners of Oakfield Estate or parts thereof to connect with the services of water, drainage, electricity and others lying within the excepted subjects with a servitude right to enter upon the excepted subjects for the purpose of inspecting, repairing, maintaining and when necessary renewing the said water supplies, drainage systems, electricity supplies and others subject to making good all damage caused to the excepted subjects in the exercise of the foresaid rights

15. the owners of the excepted subjects shall be bound to maintain to a reasonable standard in all time coming the said access roadway together with the drains, culverts and others running alongside or under the same

16. the stob and wire fence erected on the south west, west and north west boundaries of the excepted subjects shall be maintained equally by the owners of the excepted subjects as proprietors of the excepted subjects and the owner and successors as proprietors of the said area of land in all time coming.

**IV ALTERATIONS AND EXTENSIONS**

There is no indication of any alterations or extensions.

**V SUPPORTING DOCUMENTATION**

The following documents are in place:-

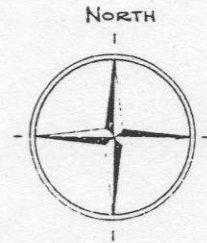
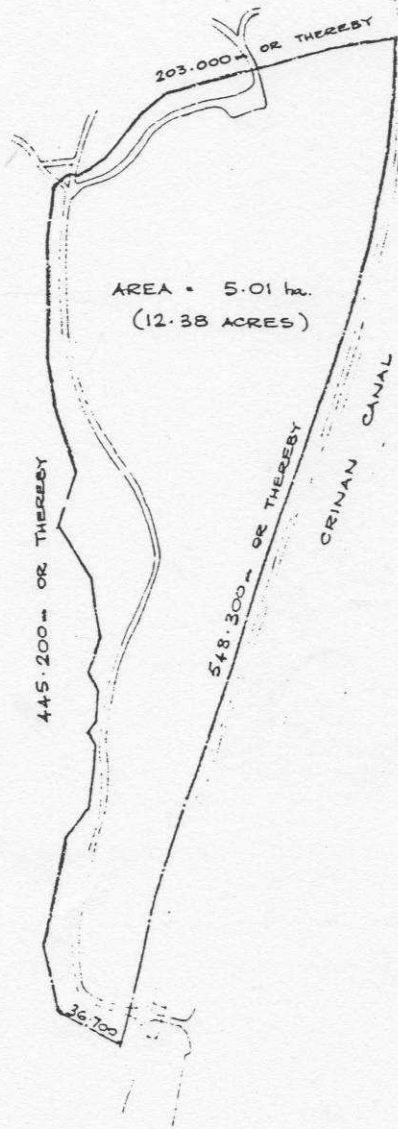
1. Short Assured Tenancy Agreement dated 17 July 1998 in favour of Clive Harvey and Mrs M Harvey relating to Oakfield Square, Oakfield Estate, Lochgilphead, Argyll – copy annexed.
2. Short Assured Tenancy Agreement dated 30 August 2002 in favour of Ruariadh Dean Campbell relating to Oakfield Cottage, Oakfield Estate, Lochgilphead, Argyll – copy annexed.

PUBLIC RECORDS OF SCOTLAND

PLAN NO 2

248

GROUND AT OAKFIELD HOUSE, LOCHGILPHEAD, ARGYLL.



CRERAR & PARTNERS,  
 ARCHITECTS,  
 FOLTALLOCH ST.,  
 LOCHGILPHEAD.

JUNE 1981

AR 1639

SCALE 1: 2500

*P. Munnell*  
 P. M.

248

Extracted by me having commission to  
 that effect from the Keeper of the

Argyll and Bute Council  
Comhairle Earra Gháidheal agus Bhóid



Development and Infrastructure Services  
Director: Sandy Mactaggart

67 Chalmers Street Ardrishaig PA30 8DX

Our Ref: 13/00805/PREAPP

15 April 2013

Jane Renfrew  
Oakfield House  
Lochgilphead  
Argyll And Bute  
PA31 8NQ

Dear Sir/ Madam

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)**  
**PRELIMINARY ENQUIRY PROPOSAL: Proposed new dwellings**  
**SITE ADDRESS: Oakfield Estate Lochgilphead Argyll And Bute PA31 8NQ**

Thank you for your enquiry regarding the above proposal, which was received on 15th April 2013,

We will endeavour to respond to your pre-application enquiry within 20 working days of receipt of your request. Your enquiry has been given the reference number 13/00805/PREAPP, please quote this on any further correspondence.

In the meantime if you have any queries regarding the pre-application enquiry process please do not hesitate to contact me.

Yours faithfully

Derek Hay  
Planning Officer



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Scotlands Gardens

GB

**Grace Bergius <gubergius@gmail.com>**

Reply |

Thu 07/09, 10:54

**You**

...

You forwarded this message on 07/09/2017 10:58

Hi Jane and Graeme,

It was such a pleasure to met you both, and to see your amazing 'lost' and rediscovered garden. Thank you so much for giving me the time and opportunity. I am so impressed, both with the potential, but also with your enormous efforts to date. An exciting challenge.

I was waiting to hear back from Minette on the next step, but discovered she's away (looking at Eucryphia in Ireland) and not back until the 10th. So while thanking you now, more from me later.

Minette and I had an email exchange and think its definitely worthwhile to try and put together an opportunity to open Oakfield next season. 2 thoughts: one is to not be in the 2018 Guide Book but put something later on the web site. The other is to put an entry in the Guide Book, but say 'By appointment only'. then enter a web site opening when you are more confident, say mid/end of May?

Hope your back pain is easing, and it hasn't been too tough being back at work.

till soon.

kind regards,

Grace

*Grace Bergius*

*Craignish House*

*Ardfern, Lochgilphead*

*Argyll PA31 8QN*

*01852500250*

*07711307256*

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Scotland's Garden Scheme

GB

Grace Bergius <gubergius@gmail.com>

Reply |

Thu 28/09, 10:07

**You**

...

You forwarded this message on 28/09/2017 14:02

Hi Jane and Graeme,

I've just had a form from Minette Struthers that Scotland's Garden Scheme would like you to fill out for their new data base. Everybody so excited that you would open, perhaps a day or weekend in May, and maybe in July?

I hastily posted it to you yesterday. I'm off to Glasgow for the day, and they want to get the Yellow Book done for next season. I'm home to answer any questions Friday till Tuesday.

I guess the hardest section may be the description. Please write what you think best describes your special garden. Have a read in the Yellow book at other descriptions. I've had a look for a few comments I've seen about your garden, in case it helps.

they all emphasise it special woodland features, laid out around 1850, rhododendrons, azaleas, eucryphia, and wonderful specimen trees. A privilege to see a 'lost' garden currently in the process of being reclaimed by current owners.

Let's chat over the weekend.

Grace x

It is about 60 acres and has some truly amazing trees (an Eucryphia and Tulip Tree both about 30-40 feet high at least. paths throughout allowing access to see so many lovely trees and also very old rhododendrons and azaleas. They are also reclaiming parts of the Walled Garden. She is thinking of opening for a Sunday in May rhodie time and again a Sunday when walled garden better in July and more colourful. In process of restoration. allowing people into a secret garden that has amazing trees and show how new owners are reclaiming a garden (he was inspired by the lost gardens of Heligan.

I was able to organise a visit by the Northern Horticultural Society's Harlow Carr Rhododendron Group around eight years ago. Whilst it is an amazing place that has 'gone to sleep' over many years, it was equally amazing that nobody seemed to know anything about the garden sat so close to Lochgilphead.

We have arranged to visit a very old rhododendron garden near Lochgilphead that most members will not have previously been to. This is another 'Campbell Garden' originally called Auchindarroch and was laid-out in around 1850, in the same time frame as Kilmory Castle was laid-out by William Hooker. When the estate was later sold by the Inverewe Campbell's it was renamed Oakfield. Auchindarroch was the birthplace of James 'Arthur' Campbell, who later in life created Arduaine Garden. Restoration of areas of the garden have been taking place recent.

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RE: opening your garden

M

**Minette Struthers - Ardmaddy Castle Gardens <minette@ardmaddy.com>**

Reply |

Tue 04/07, 23:15

**You**

...

You forwarded this message on 06/07/2017 15:05

Thanks Jane for showing me round yesterday evening along with Claire. You have some really remarkable trees and are making progress in the Walled Garden.

Will look forward to being in touch again when you have had chance to think of dates and wording for your entry.

Will put Grace Bergius from Ardfern in touch sometime who is the area organiser south of us, but I am always available by phone or email

Thanks again

Minette

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**From:** Caroline Slater <[caroline@benjamintindallarchitects.co.uk](mailto:caroline@benjamintindallarchitects.co.uk)>

**Sent:** 29 May 2017 09:51

**To:** [janerenfrew@live.co.uk](mailto:janerenfrew@live.co.uk)

**Cc:** Benjamin Tindall; Carol Anderson

**Subject:** Oakfield: A&BC planning update

REFERENCE EML/464-1/A1/53

For the attention of Jane Renfrew

Dear Jane,

Norman Shewan sent us the update copied below on the Planning in Principal application on Friday afternoon. Frustratingly, this is the first time that he has mentioned the Council carrying out an ACE, although we have previously suggested it to him as a way forward.

I shall query again the implications of the Roads department and Transport

Scotland concerns with regards the separate Scottish Canal application with him.

All going well, it sounds as if we should finally have an official answer early this week.

Kind regards,

Caroline.

Caroline Slater

Architect

**Benjamin Tindall Architects**

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**From:** Shewan, Norman [<mailto:Norman.Shewan@argyll-bute.gov.uk>]

**Sent:** 26 May 2017 14:34

**To:** Caroline Slater

**Subject:** RE: 16/02183/PPP New house NW of Oakfield - CONFIDENTIAL

Catherine,

By way of up-date, my report is largely completed with the exception of finalized consultation responses which I have been chasing up. I expect to hear from Transport Scotland early next week.

The Council's own Area Roads Engineer has issued a revised consultation response advising no objections on the basis that the house replaces Auchindarroch Cottage, as you have proposed. I

await formal confirmation from Transport Scotland's junction works e.g "no left turn" sign will not be required on the basis that the dwellinghouse is a replacement of an existing cottage.

Additionally, the Local Development Plan policy (LDP DM 1) requirement for the Local Planning Authority to prepare an Area Capacity Evaluation (ACE) prior to determining my report has become evident. On the basis of progress to date, I don't anticipate the conclusion of my ACE report will be prohibitive to development of a dwellinghouse in principle.

I'm presently engaged in this ACE, and have arranged to discuss the finalized report and ACE with the Mid Argyll and the Islands (MAKI) Area Team Leader on Monday 29<sup>th</sup> – at which time, subject to receipt of Transport Scotland response, the council should be in a position to determine this application.

I will contact you early next week to advise on progress.

Best Regards,

Norman

**Norman Shewan**

Planning Officer Mid Argyll

Development Management

Planning & Regulatory Services

Argyll and Bute Council

t: 01546 604542 | e: [norman.shewan@argyll-bute.gov.uk](mailto:norman.shewan@argyll-bute.gov.uk)

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**From:** Caroline Slater [<mailto:caroline@benjamintindallarchitects.co.uk>]

**Sent:** 24 May 2017 11:52

**To:** Shewan, Norman <[Norman.Shewan@argyll-bute.gov.uk](mailto:Norman.Shewan@argyll-bute.gov.uk)>

**Cc:** Benjamin Tindall <[ben@benjamintindallarchitects.co.uk](mailto:ben@benjamintindallarchitects.co.uk)>; Jane Renfrew <[janerenfrew@live.co.uk](mailto:janerenfrew@live.co.uk)>

**Subject:** RE: 16/02183/PPP New house NW of Oakfield - CONFIDENTIAL

Dear Norman,

Many thanks for speaking with me last Wednesday. We were all very pleased to hear that a decision should be imminent.

We have not yet heard anything since from you about the report or the decision, and there is nothing on the Portal - please could you confirm where things stand?

Kind regards,

Caroline.

**From:** Caroline Slater

**Sent:** 21 April 2017 12:32

**To:** [norman.shewan@argyll-bute.gov.uk](mailto:norman.shewan@argyll-bute.gov.uk)

**Cc:** Benjamin Tindall; 'Jane Renfrew'

**Subject:** RE: 16/02183/PPP New house NW of Oakfield - CONFIDENTIAL

Dear Norman,

I tried to call, but you were out. We are keen to know when a decision will be issued on the Planning in Principal application 16/02183/PPP for the new house at Oakfield, originally submitted last August?

We also note that Scottish Canals recently submitted an application for creating residential mooring huts on the South bank of the Crinan canal which has since been withdrawn whilst they agree the details of the turning at the A83 with Transport Scotland- 16/02754/PP. As this junction was also a concern raised by Transport Scotland in determining our application, we wonder if you have any further information on this? Is it likely that the application will be resubmitted? As Scottish Canals are the actual owners of this land, we suggest it would be beneficial for all interested parties if they made the required changes. We also query why our client was not on the Neighbour Notification list as she does have a right of access and interest over the land in question?

Kind regards,

Caroline.

**From:** Caroline Slater

**Sent:** 11 April 2017 11:24

**To:** [norman.shewan@argyll-bute.gov.uk](mailto:norman.shewan@argyll-bute.gov.uk)

**Cc:** Benjamin Tindall; 'Jane Renfrew'

**Subject:** RE: 16/02183/PPP New house NW of Oakfield - CONFIDENTIAL

Dear Norman,

That is great - thank you very much for the update.

Can we assume that the Woodland and Landscape Management Plans will instead form part of the Conditions if a decision is being made without them?

Kind regards,

Caroline.

**From:** Shewan, Norman [<mailto:Norman.Shewan@argyll-bute.gov.uk>]

**Sent:** 11 April 2017 11:09

**To:** Caroline Slater

**Subject:** RE: 16/02183/PPP New house NW of Oakfield - CONFIDENTIAL



Dear Caroline,

I am presently finalizing my report of handling on this application with a view to submitting it to my Area Team leader by the end of tomorrow (12<sup>th</sup>) at the very latest.

It will be determined under delegated powers, and all being well, you can anticipate receiving a decision notice very early after the Easter weekend, if not before.

Should any issues require further clarification prior to completion of my report then I will contact you immediately.

I will also send you an e-mail as a courtesy to advise you when I have finalized my report and to confirm my recommendation.

Best Regards,

Norman

**Norman Shewan**

**From:** Caroline Slater [<mailto:caroline@benjamintindallarchitects.co.uk>]

**Sent:** 11 April 2017 10:42

**To:** Shewan, Norman <[Norman.Shewan@argyll-bute.gov.uk](mailto:Norman.Shewan@argyll-bute.gov.uk)>

**Cc:** Benjamin Tindall <[ben@benjamintindallarchitects.co.uk](mailto:ben@benjamintindallarchitects.co.uk)>; Jane Renfrew <[janerenfrew@live.co.uk](mailto:janerenfrew@live.co.uk)>

**Subject:** RE: 16/02183/PPP New house NW of Oakfield - CONFIDENTIAL

Dear Norman,

As discussed last week, our client, Jane Renfrew, is anxious to know the Council's decision on the Planning in Principal application for the new house at Oakfield, originally submitted last August - please could you let us know when a decision will be reached, or further feedback given?

Many thanks,

Caroline.

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**From:** Shewan, Norman [<mailto:Norman.Shewan@argyll-bute.gov.uk>]

**Sent:** Fri. 10 Mar 2017 12:30 (GMT Standard Time)

**Received:** Fri. 10 Mar 2017 12:30 (GMT Standard Time)

**To:** Caroline Slater;

**Subject:** RE: 16/02183/PPP New house NW of Oakfield - CONFIDENTIAL

Dear Caroline,

Thank you for your e-mail regarding the above application.

Peter Bain, myself and the area (development management) team leader, Richard Kerr, have arranged to meet at the first available opportunity during next week to consider this application in the light of the points raised in your e-mail and particularly with regard to previous advice given by Peter and Derek Hay as part of the pre-application enquiry.

Immediately following that internal meeting I will contact you to advise you on the position of the Local Authority, and should there be any outstanding issues at that stage we would be more than happy to meet with you during the last week of March as a means of moving the planning application forward.

I hope that you find this useful and I will be in touch to advise you further during next week.

Best Regards,

Norman

Norman Shewan  
Planning Officer Mid Argyll

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