

**MINUTES of MEETING of ARGYLL AND BUTE LOCAL REVIEW BODY held in the
COMMITTEE ROOM 1, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 20 FEBRUARY 2019**

Present: Councillor David Kinniburgh (Chair)
Councillor Lorna Douglas Councillor Alastair Redman

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

1. APOLOGIES FOR ABSENCE

There were no apologies for absence.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

**3. CONSIDER NOTICE OF REVIEW REQUEST: KENNOVARA, BENDERLOCH,
PA37 1QS (REF: 18/0012/LRB)**

The Chair welcomed everyone to the meeting and introductions were made. He explained that no person present would be entitled to speak other than the Members of the Local Review Body (LRB) and Mr Reppke who would provide procedural advice if required.

Mr Reppke advised that a late representation had been received from an Objector to the application. He explained that the Objector had been advised that his submission could not be put to the LRB without their agreement. Mr Reppke advised that if the LRB did wish to take this late submission into consideration they would need to adjourn the meeting to allow time for the Applicant to comment on it if he wished. The LRB noted the advice given by Mr Reppke.

The Chair then advised that his first task would be to establish if the Members of the LRB felt that they had sufficient information before them to come to a decision on the Review. They all agreed that they did have enough information before them and the Chair invited the Members to comment further.

Councillor Redman sought advice on the options open to the LRB. Councillor Kinniburgh explained that in his view there were reasons why the outbuildings required to be removed in the first instance. He said that there were outbuildings on a piece of land and the Applicant had come along wishing to build a house and he was only granted planning permission on condition that the outbuildings were demolished to be replaced by a residential property. He stated that this was why condition 2 was placed on the original planning permission. He also pointed out that there was also a condition 4 preventing any further building of outbuildings in the future. In order to comply with Policies in the Local Development Plan these buildings had to be removed to allow planning permission to be granted to build the dwellinghouse.

Councillor Redman asked if a precedent would be set if the LRB allowed the demolition not to go ahead. Councillor Kinniburgh advised that personally he thought precedent would not come into it and that the LRB needed to consider whether or not it was appropriate to remove the condition. He stated that the LRB should take account of the original 2011 application along with the most recent application seeking removal of condition 2 and the reasons given for refusal to remove that condition. The recent application was the subject of this Review.

Councillor Redman commented that looking at the pictures of the barn next to the stables, which were provided by the Applicant, he thought they looked aesthetically pleasing.

Councillor Douglas said she did not have much to add. She referred to the dialogue between the Council and the Applicant and his belief that there would be no problem with his Application to remove the Condition.

Councillor Kinniburgh advised that he thought that whilst it had come late in the day, what had caused the enforcement action to be opened up was pretty clear. He advised that if the Planners had the matter reported to them and it was found that the development was not complying with Policy then this had to be investigated and that was why enforcement action was taken in this case. Councillor Kinniburgh advised that back in 2011 retention of the outbuildings did not comply with Policy and that this was still the view of Planning Officers for the same or similar reasons which was principally intensification of this site.

Councillor Kinniburgh commented that a case was being made that the outbuildings were not within the curtilage of the property there since 2011. He advised that in respect of the original application they must have been within the curtilage of it if they were asked to be removed. He said you could not ask for things to be removed outwith the application site.

Councillor Douglas advised that she could see no change in the circumstances of this case.

Councillor Redman advised that he took a different view and, looking at the pictures, to him they did not seem offensive in any way and that this looked like a nice house with 2 barns.

Councillor Kinniburgh acknowledged that he could see where Councillor Redman was coming from and that he agreed looking at the pictures it did not look bad. He advised, however, that as it currently stood, it was the Planner's view that the development did not comply with Policy. He confirmed that this was also his view. When the planning permission was granted in 2011 the Applicant was advised that he could build a house but the only way this development would comply with Policy was to remove the 2 outbuildings and a caravan and that was part of the planning consent that these would have to be removed. Going further down the line a complaint was raised regarding the outbuildings not being removed and that has been investigated further and which then warranted an application coming in requesting the removal of condition 2. He stated that it was the Planner's view currently that the condition should remain.

Councillor Kinniburgh moved that this Appeal be dismissed as it was his view that the Planning Officers had come to the right decision in this instance. Councillor Douglas seconded this Motion.

Mr Reppke sought and received confirmation from Councillor Redman that his position would be to continue consideration to seek a competent Motion for approval.

Mr Reppke confirmed that as the majority were in favour of refusal this was the decision of the Local Review Body.

Decision

The Argyll and Bute Local Review Body, having considered the merits of the case de novo, agreed by a majority to dismiss the Appeal and agreed that condition 2 should not be removed from the original planning permission reference 11/00875/PP for the reasons given in the report of handing prepared for planning application reference 18/01157/PP.

(Reference: Notice of Review and Supporting Documentation; comments from Interested Parties and comments from Applicant, submitted)