

**MINUTES of MEETING of ARGYLL AND BUTE LOCAL REVIEW BODY held in the MEETING ROOM 2, MUNICIPAL BUILDINGS, ALBANY STREET, OBAN on THURSDAY, 7 NOVEMBER 2019**

**Present:** Councillor David Kinniburgh (Chair)

Councillor Audrey Forrest

Councillor Richard Trail

**Attending:** Iain Jackson, Governance, Risk and Safety Manager (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: WITCHWOOD, CORRAN ESPLANADE, OBAN, ARGYLL, PA34 5AQ (REF: 19/0004/LRB)**

The Chair welcomed everyone to the meeting and advised that his first task would be to establish if the Members of the Local Review Body (LRB) felt that they had sufficient information before them to come to a decision on the Review.

The Members of the LRB agreed that they had sufficient information before them and proceeded to determine the case.

Councillor Trail referred to the earlier site inspection (*note of site inspection attached at Appendix A to this Minute*) and advised that he had found it very useful. He said that he would consider this development to be infill because of the natural boundary formed by the road, the line of trees and the sloping land on the other side of the road and that he was minded to find a way to approve this application.

Councillor Forrest confirmed that she thought the development would constitute rounding off. She pointed out that it had been confirmed at the site inspection that the trees would not be removed so would form a barrier around the site and separate it from the slope across the road. She advised that she would like to see this application approved.

Councillor Kinniburgh advised that he too found the site inspection very useful. He said that when he had first considered the report presented at the previous meeting which had identified a number of policies to justify reasons for refusal, he was minded to support the Planning Officer's conclusions. He advised that he had found the site inspection very beneficial as having viewed the site, he was of the view that this development site could be classed as rounding off. He pointed out that it had been heard on site from the Applicant's Agent that there was no intention to remove the trees. He advised that he appreciated that this was a planning permission in principle application and that what may come forward could be completely different

to what has been given as indicative. However, he advised that given that the trees would not be removed, he said this would form a natural boundary. Along with the road and the mound behind, he said that he believed this could be classed as rounding off or infill. In terms of the North West Argyll Coast APQ, he advised that for him an APQ was like a green belt – very difficult to overcome. In this case he advised that due to the location of the proposed dwelling, which would be behind existing properties, there would not be much of a view out over the bay and that he did not think it would be detrimental to the APQ in this instance.

He put forward the following Motion which was unanimously approved:

Due to the natural boundary of the trees, the road and the mound behind, it is considered that this development site would represent an appropriate opportunity for rounding off within the Countryside Zone as required by policy LDP DM 1 of the adopted Argyll and Bute Local Development 2015.

Due to the site having limited views of the bay due to being located behind existing dwellings, it is considered that it would not have an unacceptable or materially harmful impact upon the character and quality of the North West Argyll Coast APQ and the wider landscape and therefore would not be contrary to the terms of policies LDP DM 3 and SG ENV 13 of the adopted LDP.

As it has been confirmed by the Applicant's Agent that it is not proposed to fell any of the existing mature beech trees, it is considered that the proposal would not be contrary to the provisions of SG LDP ENV 6 which seeks to resist development which would have an adverse impact on trees.

For the reasons stated above Planning Permission in Principle should be granted subject to the conditions and reasons detailed in the Planning Officer's report contained within the Agenda pack for this meeting.

## **Decision**

The Argyll and Bute LRB, having considered the merits of the case de novo, unanimously agreed to grant planning permission in principle subject to the following conditions and reasons:

## **General**

1. Plans and particulars of the matters specified in Conditions 3, 5, 6, 7 and 8 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: In accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended).*

- 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.
2. The planning permission in principle is granted in accordance with the details specified in the application form for planning permission in principle reference 18/02652/PPP dated 13/12/18 and the drawing reference numbers Plan 1 of 2 to Plan 2 of 2 unless the prior written approval of the Planning Authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

*Reason: For the purpose of clarity and to ensure that the development is implemented in accordance with the approved details.*

### **Vehicular Access, Parking and Turning**

3. Pursuant to Condition 1 – no development shall commence until plans and particulars of the means of vehicular access and parking/turning arrangements to serve the development have been submitted to and approved by the Planning Authority. Such details shall incorporate:
- i) Formation of the junction with the shared use track serving the development site in accordance with the Council's Roads Standard Detail Drawing SD 08/004a;
  - ii) The provision of parking and turning in accordance with the requirements of SG LDP TRAN 6 of the adopted 'Argyll and Bute Local Development Plan' 2015.

Prior to work starting on site, the approved scheme of works in respect of junction layout shall be formed to at least base course standard with the final

wearing surface on the access completed prior to the development first being brought into use.

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 road safety.*

### **Sustainable Urban Drainage System**

4. 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 C753. 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.*

#### Note to Applicant:

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).

### **Design and Finishes**

5. 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) Local vernacular design;
  - iii) Maximum of one and a half storeys in design;
  - iv) Symmetrically pitched roof angled between 37 and 42 degrees finished in natural slate or good quality artificial slate;
  - v) External walls finished in natural stone, wet dash render, timber cladding or a mixture of these materials;
  - vi) Details of finished ground floor levels relative to an identifiable fixed datum located outwith the application site;
  - vii) Details of existing and proposed site levels shown in the form of sectional drawings/contour plans/site level survey, or a combination of these.

*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.*

### **Landscaping**

6. 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.*

### **Tree Survey, Retention and Protection**

7. 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.*

### **Archaeology**

8. Pursuant to Condition 1 - no development or ground breaking works shall commence until the developer has secured 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.

*Reason: In order to protect archaeological resources.*

Note to Applicant:

Regard should be had to the West of Scotland Archaeology Service's consultation comments in respect of the proposed development.

### **Removal of Permitted Development Rights**

9. 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, 1C, 1D, 2A, 2B, 3A, 3B, 3C, 3D and 3E 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 1C:** The erection, construction or alteration of any porch outside any external door of a dwellinghouse.

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

**Class 2A:** The erection, construction or alteration of any access ramp outside an external door of a dwellinghouse.

**Class 2B:** Any improvement, addition or other alteration to the external appearance of a dwellinghouse that is not an enlargement.

**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.

Class 3B: The carrying out of any building, engineering, installation or other operation within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse.

Class 3C: The provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of that dwellinghouse or the replacement in whole or in part of such a surface.

Class 3D: The erection, construction, maintenance, improvement or alteration of any deck or other raised platform within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of that dwellinghouse.

Class 3E: The erection, construction, maintenance, improvement or alteration of any gate, fence, wall or other means of enclosure any part of which would be within or would bound the curtilage of a dwellinghouse.

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).*

**ARGYLL AND BUTE LOCAL REVIEW BODY**

**NOTE OF MEETING OF SITE INSPECTION RE CASE 19/0004/LRB  
WITCHWOOD, CORRAN ESPLANADE, OBAN, ARGYLL, PA34 5AQ  
THURSDAY 7 NOVEMBER 2019**

In attendance: Councillor David Kinniburgh, Argyll and Bute LRB (Chair)  
Councillor Audrey Forrest, Argyll and Bute LRB  
Councillor Richard Trail, Argyll and Bute LRB  
Iain Jackson, Governance, Risk and Safety Manager (Adviser)  
Fiona McCallum, Committee Services Officer (Minutes)  
Gilbert Mackechnie, Applicant  
Iain Angus MacDonald, Applicant's Agent  
Fiona Scott, Planning Officer

The Argyll and Bute LRB agreed on 18 September 2019 to conduct a site inspection to allow them to view the location of the proposed development and assess its setting in the wider landscape.

The LRB convened on 7 November 2019 close to Witchwood, Corran Esplanade, Oban, at 10.30 am and the Chair welcomed everyone to the site inspection. He then invited the Members of the LRB to ask questions.

The Planning Officer identified to the Members of the LRB the location of the site the Applicant was seeking to develop. She pointed out the dwelling named "Witchwood" and confirmed that as well as the site this dwellinghouse was also located within the countryside zone as defined in the adopted Argyll and Bute Local Development Plan (LDP) 2015. She advised that the dwellings beyond that were within the settlement zone of Oban.

The Members of the LRB noted that the access road to the site served a further two properties.

The Applicant's Agent confirmed that there were no plans to fell the Beech Trees which bordered the site and curved around the access road. The Planning Officer advised that she had indicated in the report of handling that there may be a loss of trees if this development went ahead as the plans provided were indicative.

Councillor Kinniburgh referred to the Applicant's Agent advising that there would be no loss of trees and asked the Planning Officer if this would allow them to support the proposal. Ms Scott explained that the site, as well as being within the countryside zone, was also within an Area of Panoramic Quality (APQ). She pointed out that this was a nice area of open space and that Planning wanted it to remain undeveloped.

Councillor Trail asked the Applicant's Agent to comment on the countryside zone. Mr MacDonald explained that when this area was first designated as countryside a straight line was drawn about 20m back from an old stone wall with the countryside zone on one side of the line and the settlement zone on the other. He suggested that the designations did not follow the natural contours of the land and pointed out



that part of the settlement zone included woodland on the opposite side of the road which curved around the proposed development site.

Councillor Kinniburgh referred to the emerging LDP2 and asked the Planning Officer if a request had been made to change the designation of this area and include it within the settlement zone. Ms Scott advised that she was not aware that any requests had been made.

Councillor Kinniburgh asked the Applicant's Agent if he had made a request to have the designation of this site changed and Mr MacDonald replied that it was his intention to do so if the appeal to the LRB was unsuccessful.

Councillor Kinniburgh then sought and received confirmation from the Planning Officer on what constituted the APQ. She advised that it was the North West Argyll Coast APQ which covered a vast area.

The Members of the LRB then walked on to the site and the Applicant's Agent pointed out where on the site the dwellinghouse would be built. Mr MacDonald advised that it would be a single storey, rectangular house.

Councillor Forrest referred to Witchwood being within the countryside zone and asked the Planning Officer why it had received planning consent. Ms Scott explained that it had been granted planning permission under a previous development plan and that it was considered to represent rounding off of the site at that time. Ms Scott explained what would constitute rounding off in terms of the current LDP. She advised that in this case it was considered that this development did not constitute rounding off in terms of the policy but it was open to interpretation. She pointed out an area of ground on the opposite side of the road which could be classed as rounding off. It was noted that this was part of the Dunollie woodland that the Woodland Trust had recently taking a 99 year lease on.