

Ref:
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ARGYLL AND BUTE COUNCIL
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OFFICIAL USE

Date Received

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	Gordon Lawson
Address	Plot 3. West Barfad.
	Bv Tarbert.
	Argyll and Bute
Postcode	
Tel. No.	c/o agent
Email	c/o agent

(2) AGENT (if any)	
Name	Kenneth Carruthers
Address	Morton Fraser I.I.P
	Quartermile Two. 2
	2 Lister Square.
Postcode	FH3 9GL
Tel. No.	0131 247 1130
Email	Kenneth.carruthers@ Morton-fraser.com

(3) Do you wish correspondence to be sent to you or your agent

(4) (a) Reference Number of Planning Application 17/03118/PP

(b) Date of Submission 4 December 2017

(c) Date of Decision Notice (if applicable) 30 August 2018

(5) Address of Appeal Property

Land at Port A'Ghuail,
East of West Barfad,
Tarbert
Argyll and Bute

(6) Description of Proposal

Boat shed to serve house and related works
at plot 3, Barfad.

(7)

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

See paper attached.

If insufficient space please continue on a separate page. Is this is

(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	Planning application
2	Decision notice and supporting drawings
3	Relevant policies of the Argyll and Bute Local Development Plan
4	SG LDP ACE 1
5	SG LDP CST 1 - Coastal Development
6	Decision by Nick Smith, a Reporter appointed by the Scottish Ministers in respect of appeal reference PPA - 130- 2062, dated 5 September 2017.
7	Photomontage
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

27/11/2018nlan

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/
4. If in doubt how to proceed please contact 01546 604392/604269 or email localreviewprocess@argyll-bute.gov.uk
5. Once completed this form can be either emailed to localreviewprocess@argyll-bute.gov.uk or returned by post to **Committee Services (Local Review Board), Kilmory, Lochgilphead, Argyll, PA31 8RT** <mailto:planningreview@argyll-bute.gov.uk>
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

For official use only

Date form issued

Issued by (please sign)

Proposed Boathouse, Plot 3, Barfad

Submission to Local Review Body

Introduction

1. This appeal relates to a planning application which was refused by the Council in terms of the decision letter dated 30 August 2018. The applicant now requests that the decision to refuse is reviewed by the Council's Local Review Body. The proposal is for a boat shed to serve a new house built at Barfad. The development proposed is believed to comply with both the strategy and the specific policy guidance of the Argyll and Bute Local Development Plan. We would respectfully request that the LRB reconsider the decision taken and grant consent for the proposal.

The Proposal

2. This appeal is for a small boat shed to be constructed at the water's edge immediately east of the 5 allocated housing plots at Barfad, north of Tarbert. The boat shed is to serve Plot 3 upon which a new dwelling house has recently been constructed. The boat shed is for the personal use of the owner/occupier of the Plot 3 property.

3. It is important from the outset to fully understand the scale and nature of the development to which this appeal relates. Key features are as follows:-

- 1 The boat shed measures 10m x 4m (ie it has an area of 40m²) and has a ridge height of 4.5m. The scale of the building is 20% of the "small scale" limit set out in table 1 of SG LDP ACE 1. It is accordingly of a very small scale; it could be five times bigger and still fall within the "small scale" definition.
- 2 The design is vernacular with a pitched roof and timber cladding walls sitting on a natural stone base. The shed looks like the kind of traditional building seen throughout Scottish coastal areas.
- 3 The base of the shed is to be constructed of stone recycled from dilapidated walls on the existing land rendering the elevations particularly unobtrusive particularly when viewed from Loch Fyne.
- 4 The proposal will not have water, sewerage, lighting or gas services. It is a simple shed structure which could be removed leaving little or no trace of its existence.
- 5 No other development is involved in the Application other than the laying of an extremely unobtrusive ground reinforcement grid through which natural grass and other vegetation will grow. This aspect of the proposal is largely invisible. The appellant is content for this aspect of the proposal to be excluded from the scheme if exception is taken by the Local Review Body to this part of the proposal.

- 6 The boat shed will at all times be used exclusively in conjunction with the house built on Plot 3 and the appellant would be happy to have a planning condition imposed, or sign a Section 75 Agreement, to this effect. The level of human activity around the development would accordingly be exceptionally low. There would be no possibility at all of the boat shed being used for any commercial purpose. The appellant's wife and family enjoy wild water swimming, canoeing and other small boating activities and the boat shed would allow storage of a small RIB (rigid inflatable boat) which would be used for rescue purposes of required.
- 7 The development enjoys very considerable natural shielding by the existing land form and established vegetation and will be largely invisible from the sea. (see photomontage attached).
- 8 This part of the coastline is not undeveloped; from Loch Fyne the appeal site would be read as sitting below the allocated housing sites above. The highly limited visual impact of the appeal proposal has to be considered in that context.
- 9 Erection of the shed would involve access being taken from the existing track linking the site to the A83 but no upgrading of this route is involved and it would not be used for moving the RIB or other water craft to and from the boat shed (which would be by sea). Again, a condition to this effect could be imposed on the planning consent.

Assessment against the Development Plan

4. Both planning legislation and National Planning Guidance direct that decision makers are required to determine planning applications in accordance with the Development Plan unless material considerations indicate otherwise. It is important to go about this exercise in a balanced way. Some policies in a Development Plan may support a proposal whereas others may point against development being permitted. The Plan requires to be considered in the round and an overall assessment made based upon planning judgement. Tension with one policy alone will rarely justify refusal if the proposal complies with other policies and the overall thrust of what the Plan is trying to achieve.

5. The Argyll & Bute Local Development Plan, in the broadest sense, aims to encourage economic growth within the Plan area but in a way which does not compromise the natural, historic and cultural environment or causes adverse impacts on bio-diversity, natural and built heritage resources. This is entirely consistent with what the appellant in this case is trying to achieve; he has invested significantly in building a house in this location and wishes to supplement that with a small boat shed but great care has been taken in the design and choice of materials of both developments to avoid damaging the very qualities which attracted the appellant to the area in the first place. Viewed objectively, we maintain that the boat shed proposal accords with both the overall strategic objectives of the LDP and the more specific guidance contained in the relevant policies and Supplementary Guidance.

6. Even if the proposal was considered not to be in accordance with the LDP - which we say is not the case - it is perfectly lawful for the planning authority to grant

permission based upon their overall assessment of relevant and material considerations. Planning policy is not to be applied slavishly; the planning authority is entitled to grant permission for non-conforming development if that is justified in the specific circumstances of the case.

7. We respectfully urge the local review body to support the boat shed proposal on the basis that it is in accordance with the LDP and material considerations in any event would entitle the LRB to grant consent in this case. The proposal is the kind of good quality development the council should be seeking to encourage. It supports the allocated housing site at Barfad and the inward investment provided by the appellant and others who may chose to live in Argyle and Bute.

Against that background, we turn to the relevant Policies in the LDP and the Supplementary Guidance. Key provisions are as follows:-

Policy LDP STRAT 1

8. The over-arching policy context is established by LDP STRAT 1, the most relevant parts of which for present purposes are considered to be paragraph (h) and paragraph (i). These provide as follows:-

Policy LDP STRAT 1 - Sustainable Development

In preparing new development proposals, developers should seek to demonstrate the following sustainable development principles, which the Planning Authority will also use in deciding whether or not to grant Planning Permission;

(h) conserve and enhance the natural and built environment and avoid significant adverse impacts on bio-diversity, natural and built heritage resources;

(i) respect the landscape character of an area and the setting and character of settlements.

9. On a fair and balanced assessment, the proposal involves no significant adverse impact on bio-diversity, natural and building heritage resources and respect is shown of the landscape character of the area. This is evidenced through the design, choice of materials, scale and setting of the proposed development. No conflict of overall sustainable objectives of the LDP is believed to exist. The proposal is in accordance with the overall strategy of the LDP in that it represents sustainable development which has no adverse impact on valuation natural resources.

Policy LDP DM1

9. This is understood to be the key policy within the LDP. For present purposes, the key provision is as follows:-

"Policy LDP DM1 - Development within the Development Management Zones.

Encouragement will 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 sites and changes of use of existing buildings. In exceptional cases development in the open countryside up to and including large scale may be supported on appropriate sites if this accords with an ACE. There is a presumption against development that seeks to extend an existing settlement into the Countryside Zone".

10. The current proposal falls within the Countryside Zone and within the definition of "small scale". It is accepted that the proposal does not involve appropriate infill or rounding off, the use of a redevelopment site or changes to the use of existing buildings. The proposal does not seek to extend an existing settlement into the Countryside Zone.

11. The key part of policy LDP DM1 (E) is the second sentence, namely, the provision that in exceptional circumstances development in the open countryside up to and including large scale may be supported on appropriate sites if this accords with an ACE.

12. It is of relevance that specific policy support is given for small scale development related to outdoor sport and recreation (which describes the current proposal) within the designated areas of Very Sensitive Countryside and Greenbelt. It follows in our view that the same policy support should be read into the LDP insofar as sport and recreation development is proposed in the less environmentally Sensitive Countryside Zone. This point was considered by the Reporter appointed by the Scottish Ministers to consider an appeal against the same Council's refusal for a beach hut at Balevullin Beach, Isle of Tiree in a determination issued on 5 September 2017 (copy attached). The same observation was made about the terms of policy LDP DM1 in that appeal and the Reporter noted the following:

"12 - The appeal site is located in a Countryside Zone; one of a hierarchy of Development Management Areas in policy LDPDM1. The appellant argues that this policy gives greater scope for sporting-related development" in "Very Sensitive Countryside Zones" and "Greenbelt Land" compared with "Countryside Zones". I do not agree with this argument. I consider that the more restrictive the Development Management Area, the more it is possible to specify appropriate development types. I find that sporting-related uses are appropriate in "Countryside Zones", subject to meeting the relevant provisions of policy LDPDM1 part (E) and other relevant policies in the local development plan".

13. This approach to the proper application of policy LDP DM1 is both relevant and significant. The point made in the Tiree appeal was the apparent anomaly within policy LDP DM1 in which outdoor sport and recreation uses appear to be more readily encouraged in the more sensitive "Very Sensitive Countryside" and "Greenbelt" designated areas than in the less environmentally sensitive "Countryside Zones". The Reporter's determination in the Tiree appeal makes clear that this is not what is intended by policy LDP DM 1. Specifically, sporting-related uses are appropriate also in "Countryside Zones" notwithstanding no specific reference being made to uses of this kind in paragraph E. This of course renders the policy internally consistent; specified sporting uses in paragraphs F and G of the policy are equally

appropriate in paragraph E notwithstanding the absence of any specific reference to sporting uses in that paragraph.

14. It follows, therefore, that sporting uses are in fact encouraged by policy LDP DM1 subject to meeting the other relevant provisions to which the Reporter draws attention. Two requirements are identified - first, that the proposed use may be characterised as "exceptional" and that the proposal accords with an ACE. Looking at each of these in turn:-

1. Policy SG LDP ACE 1

14.1 Policy SG LDP ACE1, paragraph 2.1.1 bullet point 5 describes "exceptional cases" as either: a demonstration of locational and/or operational need tied to a precise location, or; demonstration of an overriding economic or community benefit which outweighs other policies.

14.2 In the present case, there is a clear and obvious locational and operational need for the boat shed to be tied to the precise location proposed. As in the Tiree appeal decision, a boat shed requires a location that is immediately accessible to the sea (paragraph 14). The shed is to store a small boat and other boating-related recreational equipment - lifejackets, wet suits, fishing rods and so forth. A small boat shed cannot be launched from a location which is not in close proximity to the sea. The location needs also to be accessible to the house which it serves since its use is intended to be ancillary to the enjoyment of that property. This dual interrelationship with the house and the sea is very relevant - it means, in effect, that there are very few, if any, other sites which could be regarded as "exceptional" for the purposes of Plot 3. It is both the seaside location and the proximity to Plot 3 which make the development site exceptional in terms of this policy and which would *exclude* all other sites (either inland or on the coast) since the appellant could not demonstrate the locational and operational link which makes the proposed location exceptional. It should also be noted that, save in exceptional circumstances, this linkage prevents other developers seeking to establish an exceptional case since they would have no interest in the house at plot 3 and could not therefore claim that the boat shed would be ancillary to the enjoyment of a house which they use. This largely eliminates the scope for the current proposal to be treated in any way as some kind of precedent.

14.3 As in the Tiree example, these locational arguments demonstrate that the appeal proposal is an exceptional case in a "countryside zone". The property is therefore consistent with the policy subject to the conclusions of an area capacity evaluation (ACE) and compliance with other relevant policies in the plan.

2. Compliance with an ACE

14.4 Compliance with this part of paragraph E requires that an ACE demonstrates that the application site can successfully absorb the particular development without presumably causing significant adverse impact on biodiversity, natural and built resources (applying LDP STRAT 1, paragraph H).

14.5 Paragraph 2.1.4 of the SGL DP ACE 1 directs that the ACE is to be carried out by the Planning Authority. Our considered opinion is that the landscape in this location is well able to accommodate this very small scale, unobtrusive proposal. To the extent that the building is seen at all from the sea, it will have the character of a small, timber and stone vernacular building. The impact on the existing landscape will be essentially non-existent and certainly not enough to justify a recommendation for refusal when considered against the broad policy support for the development otherwise given by the LDP.

14.6 It is also of significance that no formal ACE has been prepared by the Planning Authority. No case appears to have been made out, for example, that the building is too large or prominent or inappropriate in terms of its materials or design. This is not a circumstance in which an inappropriately large or poorly designed building sits as a blot on the coastline. The proposal represents a small and sensitively designed development consistent with many vernacular buildings common along the Scottish coastline, in almost all cases serving a recreational or functional purpose associated with the sea and a nearby property. Boatsheds of this kind will have been provided for hundreds of years along the Scottish coastline without causing environmental conflict of any kind.

15. Assessing the proposal against Policy LDP DM 1, para (E), therefore, there is general support for sporting related activities in the designated Countryside Zone; a specific locational and functional need can be shown, establishing the site as an exceptional case, and the landscape is well able to absorb the scale of development proposed. In conclusion, the proposal accords with policy DM LDP 1.

Policy LDP4

16. Policy LDP4 is also directly relevant. It is of importance that this provides policy support for on-shore proposals for the sustainable development of the Coastal Zone. This is of significance in that there is no blanket prohibition of coastal development; sustainable and hence appropriate development is supported by this policy.

17. Themes developed in the policy justification given in paragraph 3.5 include the following:-

- 1 The coast continues to provide a focus for recreation and tourism (water-based recreation can go nowhere else);
- 2 The character and environmental qualities of the coast are to be protected from inappropriate development;
- 3 Acceptability is likely to turn on a range of factors set out in the Supplementary Guidance (addressed below).

18. Again on a balanced assessment of the appeal proposal against the broad intentions of policy LDP 4, no conflict with this policy is believed to exist.

SG LDP CST 1 - Coastal Development

19. As already noted, policy LDP4 brings into play a range of considerations set out in policy SG LDP CST 1 - Coastal Development. This sets out a presumption against development unless certain criteria can be satisfied. Addressing each in turn:

i) The specific operational purpose giving rise to the need for a foreshore location has already been addressed above. A shed to house a boat and other equipment associated with boating has to be located next to the sea and in close proximity also to the house to which it is intended to be ancillary.

ii) There is no effective alternative, landward location for the development. It is not feasible to locate the boat and related equipment immediately next to the appellant's property given the physical difficulties of transport between there and the sea. Locating the equipment in Tarbert (assuming that accommodation could be found) would mean that no ancillary relationship with the appellant's property would exist. It would not be feasible, for example, to drive to Tarbert to launch a small boat there to then motor to the sea off Barfad to fish or supervise children in canoes or generally enjoying water-based activities.

iii) The scale, design and materials proposed are such that none of the issues identified in this sub-paragraph are compromised.

20. SG LDP CST 1 - Coastal Development identifies also a number of considerations to be taken into account in ensuring that the special coastal qualities of the Coast are safeguarded. The appeal proposal does not compromise in any way the range of objectives raised. The appeal proposal is considered to be fully compliant with the supplementary guidance and the support which this gives to sustainable development of the Argyll and Bute coastal zone.

The Council's reasons for refusal

21. Two reasons have been put forward by the Council for the decision to refuse permission. The first relates to the policy background and the spatial strategy of the LDP addressed in detail above. Properly considered, and with reference to the Tíree appeal decision, we maintain that the proposal in fact complies with development plan policy.

22. The second reason for refusal is related and is founded on the view that the boat shed and related works are in some way incongruous within and detrimental to the character of the coastline. Refusing development of the scale and nature proposed would amount, in effect, to a blanket prohibition of all development along the coast. Assessed properly, we maintain that a specific locational need can be established for a coastal location (as in the Tíree case) and no assessment has been made by the Council of the true impact of the proposed development in this location. For example, no attempt is made to explain or characterise the nature of the detriment allegedly made to the character of the coast brought about by the erection of this small shed. The plastic grid element will be invisible but can be deleted if this is considered to be a determining factor.

23. Properly understanding the nature of the development proposed, the need for a coastal location and the application of the relevant policies in the LDP, the Council's reasons for refusal do not in our opinion provide a sound basis for refusing planning permission.

Summary and Conclusions

24. For the reasons set out above, we maintain that the appeal proposal can in fact be supported on the basis of a proper understanding of the development the appellant wishes to carry out and the relevant provisions of the LDP and related supplementary guidance. The critical factors are the scale, design, materials and setting of the boat shed, the extent to which it has next to no visual or landscape impact and the special relationship which is proposed linking the proposal to plot 3. The proposal is one which can be supported by paragraph E of LDP DM 1 recognising the exceptional case, the capacity of the landscape to absorb this very small development and the direct support given in the policy to sporting-related uses in countryside locations as well as in the very sensitive countryside and greenbelt designations. Approaching these factors properly gives the Council a perfectly sound and respectable basis to refuse other coastal proposals where the critical link between house and sea cannot be established.

25. Even if the development is considered to be in conflict with the LDP it is open to the Planning Authority to support the proposal taking into account the extent to which it is intended to support the allocated housing site immediately to the west. The appellant's willingness to enter into a Section 75 Agreement expressly linking the use of the boat shed to the house on plot 3 reinforces the exceptional nature of the proposal and both prevents the boat shed being used for more intensive uses or being referred to as a precedent for other development along the coastline in which no similar relationship exists.

26. We would respectfully urge you to support the proposal and to grant planning permission.

Morton Fraser LLP

26 November 2018



Central Validation Team at Argyll and Bute Council 1A Manse Brae Lochgilphead PA31 8RD Tel: 01546 605518 Email: planning.hq@argyll-bute.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100077245-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Type of Application

What is this application for? Please select one of the following: *

- Application for planning permission (including changes of use and surface mineral working).
- Application for planning permission in principle.
- Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- Application for Approval of Matters specified in conditions.

Description of Proposal

Please describe the proposal including any change of use: * (Max 500 characters)

Erection of a small boathouse

Is this a temporary permission? *

Yes No

If a change of use is to be included in the proposal has it already taken place?
(Answer 'No' if there is no change of use.) *

Yes No

Has the work already been started and/or completed? *

No Yes - Started Yes - Completed

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	Roxburgh McEwan Architects		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Elizabeth	Building Name:	
Last Name: *	Roxburgh	Building Number:	42
Telephone Number: *	01312293766	Address 1 (Street): *	Forbes Road
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Edinburgh
Fax Number:		Country: *	UK
		Postcode: *	EH10 4ED
Email Address: *	info@roxburghmcewan.co.uk		

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	Barfad Plot 3
First Name: *	Gordon	Building Number:	
Last Name: *	Lawson	Address 1 (Street): *	Land East of West Barfad
Company/Organisation:		Address 2:	
Telephone Number: *		Town/City: *	Tarbert
Extension Number:		Country: *	UK
Mobile Number:		Postcode: *	PA29 6YJ
Fax Number:			
Email Address: *			

Site Address Details

Planning Authority:

Argyll and Bute Council

Full postal address of the site (including postcode where available):

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Northing

670167

Easting

187153

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

Yes No

Site Area

Please state the site area:

900.00

Please state the measurement type used:

Hectares (ha) Square Metres (sq.m)

Existing Use

Please describe the current or most recent use: * (Max 500 characters)

Not applicable

Access and Parking

Are you proposing a new altered vehicle access to or from a public road? *

Yes No

If Yes please describe and show on your drawings the position of any existing. Altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any change to public paths, public rights of way or affecting any public right of access? * Yes No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application Site?

0

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? *

0

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).

Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? * Yes No

Do your proposals make provision for sustainable drainage of surface water?? * (e.g. SUDS arrangements) * Yes No

Note:-

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? *

Yes

No, using a private water supply

No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

Assessment of Flood Risk

Is the site within an area of known risk of flooding? * Yes No Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? * Yes No Don't Know

Trees

Are there any trees on or adjacent to the application site? * Yes No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? * Yes No

If Yes or No, please provide further details: * (Max 500 characters)

Not applicable

Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? *

Yes No

All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? *

Yes No

Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013 *

Yes No Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? *

Yes No

Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? *

Yes No

Is any of the land part of an agricultural holding? *

Yes No

Are you able to identify and give appropriate notice to ALL the other owners? *

Yes No

Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate B

Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

I hereby certify that

(1) - No person other than myself/the applicant was an owner [Note 4] of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application;

or -

(1) - I have/The Applicant has served notice on every person other than myself/the applicant who, at the beginning of the period of 21 days ending with the date of the accompanying application was owner [Note 4] of any part of the land to which the application relates.

Name:

Mr Sam & Steve McColl

Address:

4, Hillside Street, Edinburgh, UK, EH7 5HB

Date of Service of Notice: *

27/11/2017

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding;

or -

(2) - The land or part of the land to which the application relates constitutes or forms part of an agricultural holding and I have/the applicant has served notice on every person other than myself/himself who, at the beginning of the period of 21 days ending with the date of the accompanying application was an agricultural tenant. These persons are:

Name:

Address:

Date of Service of Notice: *

Signed:

Elizabeth Roxburgh

On behalf of:

Mr Gordon Lawson

Date:

01/12/2017

Please tick here to certify this Certificate. *

Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? *

Yes No Not applicable to this application

b) If this is an application for planning permission or planning permission in principle where there is a crown interest in the land, have you provided a statement to that effect? *

Yes No Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? *

Yes No Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? *

Yes No Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? *

Yes No Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? *

Yes No Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

- Site Layout Plan or Block plan.
- Elevations.
- Floor plans.
- Cross sections.
- Roof plan.
- Master Plan/Framework Plan.
- Landscape plan.
- Photographs and/or photomontages.
- Other.

If Other, please specify: * (Max 500 characters)

Provide copies of the following documents if applicable:

A copy of an Environmental Statement. *

Yes N/A

A Design Statement or Design and Access Statement. *

Yes N/A

A Flood Risk Assessment. *

Yes N/A

A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). *

Yes N/A

Drainage/SUDS layout. *

Yes N/A

A Transport Assessment or Travel Plan

Yes N/A

Contaminated Land Assessment. *

Yes N/A

Habitat Survey. *

Yes N/A

A Processing Agreement. *

Yes N/A

Other Statements (please specify). (Max 500 characters)

Declare – For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Mrs Elizabeth Roxburgh

Declaration Date: 01/12/2017

Payment Details

Online payment: 405960

Payment date: 01/12/2017 11:16:00

Created: 01/12/2017 11:16

A/03/18/PP.

[REDACTED]

[REDACTED]

Elizabeth Roxburgh, 42, , Edinburgh, EH10 4ED, info@roxburghmcewan.co.uk,
£202, 100077245-001

[REDACTED]

[REDACTED]

Listing complete for Payments 20171204

]

17/03/18/AP.

Elizabeth Roxburgh, 42, , Edinburgh, EH10 4ED, info@roxburghmcewan.co.uk,
£202, 100077245-001

[REDACTED]

Listing complete for Payments 20171204

□

Kemp-Smith, Cara

From: Customer Services <Linzi.Robertson@argyll-bute.gov.uk>
Sent: 03 January 2018 11:21
To: centralvalidationteam
Subject: FWD: Planning/Building Standards Payment



Forwarded By: Customer Services - Linzi.Robertson@argyll-bute.gov.uk

Subject

Planning/Building Standards Payment

Primary Contact Information:

First Name: Liz
Last Name: Roxburgh
Organisation (if applicable): Roxburgh McEwan Architects
Email Address: No Value
Home Phone: 01312293766
Mobile Phone: No value

Contact Address:

No address found - this contact has no address associated to it.

Secondary Contact Information:

Enquiry about the above Contact was made by:

The only contact associated with this incidents is the primary contact.

Incident Reference # 180103-000343

Assigned: Linzi Robertson
Date Created: 03/01/2018 11.21 AM
Date Last Updated: 03/01/2018 11.21 AM
Status: Resolved at First Point of Contact
Incident Address: No address found - this incident does not have a full address associated to it.

Note By (Customer Services) (03/01/2018 11:21 AM)

Hi,

Liz Roxburgh from Roxburgh McEwan Architects

The customer detailed above has made the following Planning Payment:

Payment of £180.00 paid by credit card for Advert Fee for planning ref - 17/03118/PP

Regards,

Customer Services Centre

Making Argyll and Bute a place people choose to live, learn, work and do business.



**Planning & Regulatory
Services**

Seirbheisean Planaidh is Riaghlaidh

Development Management • Policy

Building Standards • Animal Health

Trading Standards • Environmental Health

1A Manse Brae Lochgilphead PA31 8RD

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(SCOTLAND) REGULATIONS 2013**

REFUSAL OF PLANNING PERMISSION

REFERENCE NUMBER: 17/03118/PP

**Mr Gordon Lawson
Roxburgh McEwan Architects
42 Forbes Road
Edinburgh
UK
EH10 4ED**

I refer to your application dated 4th December 2017 for planning permission in respect of the following development:

Erection of boathouse

AT:

Land At Port A' Ghuail East Of West Barfad Tarbert Argyll And Bute

Argyll and Bute Council in exercise of their powers under the above mentioned Act and Regulations hereby refuse planning permission for the above development for the reasons(s) contained in the attached appendix.

Dated: 30 August 2018

Angus J. Gilmour
Head of Planning, Housing and Regulatory Services

www.argyll-bute.gov.uk



NOTES TO APPLICANT (1) RELATIVE TO APPLICATION NUMBER 17/03118/PP

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended) within three months from the date of this notice. A Notice of Review request must be submitted on an official form which can be obtained by contacting The Local Review Body, Committee Services, Argyll and Bute Council, Kilmory, Lochgilphead, PA31 8RT or by email to localreviewprocess@argyll-bute.gov.uk
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state, and it cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the landowner's interest in the land, in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997 (as amended).

APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **17/03118/PP**

- (A) 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**
- (B) The reason why planning permission has been refused:

In the absence of a locational need being accepted by the Planning Authority for the change of use of land and associated built development proposed, in circumstances where readily accessible facilities are available nearby for the storage of boats which would be preferential in development plan policy terms, the introduction of development in an undeveloped coastal location within the 'countryside' development management zone defined by the adopted development plan would be contrary to the approved Settlement and Spatial Strategy established by policies LDP STRAT 1; LDP DM 1; LDP 4 and SG LDP CST 1 of the 'Argyll and Bute Local Development Plan' 2015.

The erection of a boat house building and the associated ground engineering works to level an area of natural coastal scrub woodland with plastic grid and grass in-fill would result in a form and type of development which would be incongruous within, and detrimental to, the character of this sensitive area of undeveloped coastal landscape contrary to policies LDP 3 and SG LDP 14 of the 'Argyll and Bute Local Development Plan' 2015.



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LOCATION PLAN SCALE 1:10,000



OS Landplan Data Product Information

Serial Number : 00132000
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The representation of a road, track or path is no evidence of a right of way.

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Contours are at either 5 or 10 metre intervals.

Argyll and Bute Council
Planning and Regulatory Services

Application ref no: 17/03/18/PP
Date received: 3/1/18

Plan no. 1/5
Initials ds

New Boat House at Barfad, Tarbert, Argyll

Title: **Location Plan**

Status: **PLANNING**

Drwg no: 562-P-OS-01

Scale: 1:10,000@A4

Drawn By: **JF**

1st issue: 30.11.17

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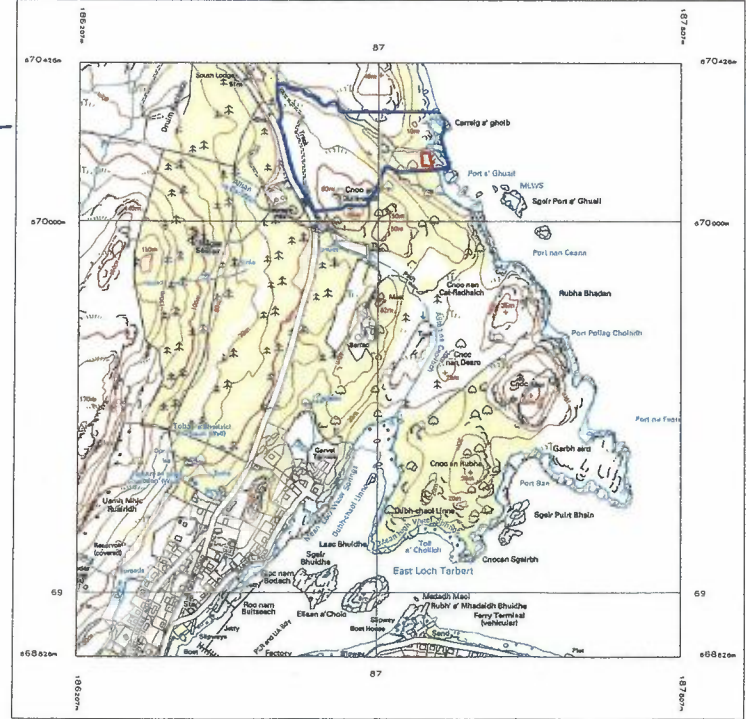
SMBSTN73
197121.570 East
670162.083 North
8.8m Height

Port a' Ghuail

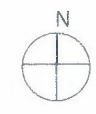
THE SEA



OS Landplan® Data



EXISTING SITE PLAN SCALE 1:200



LOCATION PLAN SCALE 1:10,000

B 13.05.15 Ownership boundary - Site Boundary revised. Access road omitted
A 22.10.14 Ownership boundary revised. Note added to existing path

New Bow House, M'Erish, Tarbert, Argyll
Title: Location Plan, Site Plan As Existing
Status: PLANNING
Drawn By: JF
Drwg no: 562-P-GA-01 Scale: 1:10,000 1:200@A1 1st issue: 30.11.17

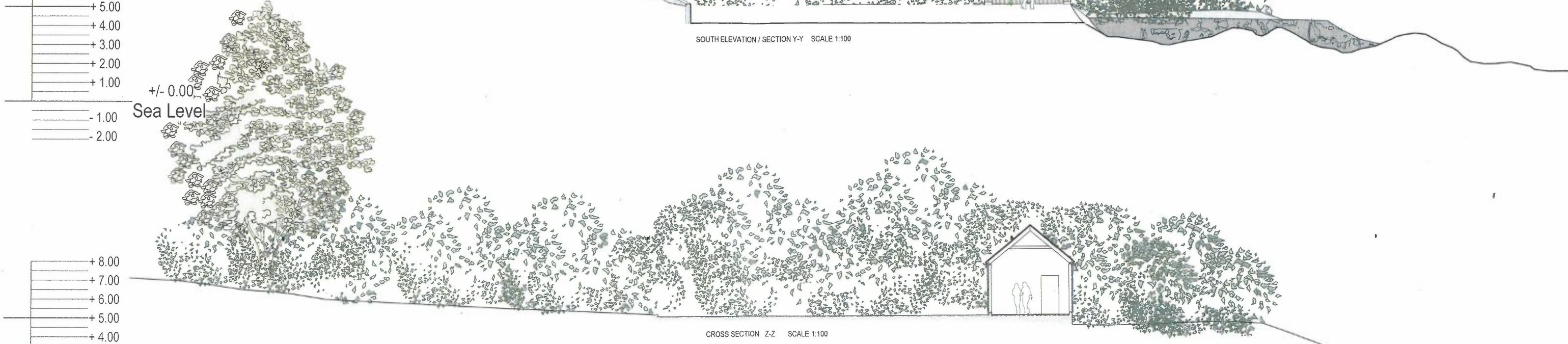
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SOUTH ELEVATION / SECTION Y-Y SCALE 1:100

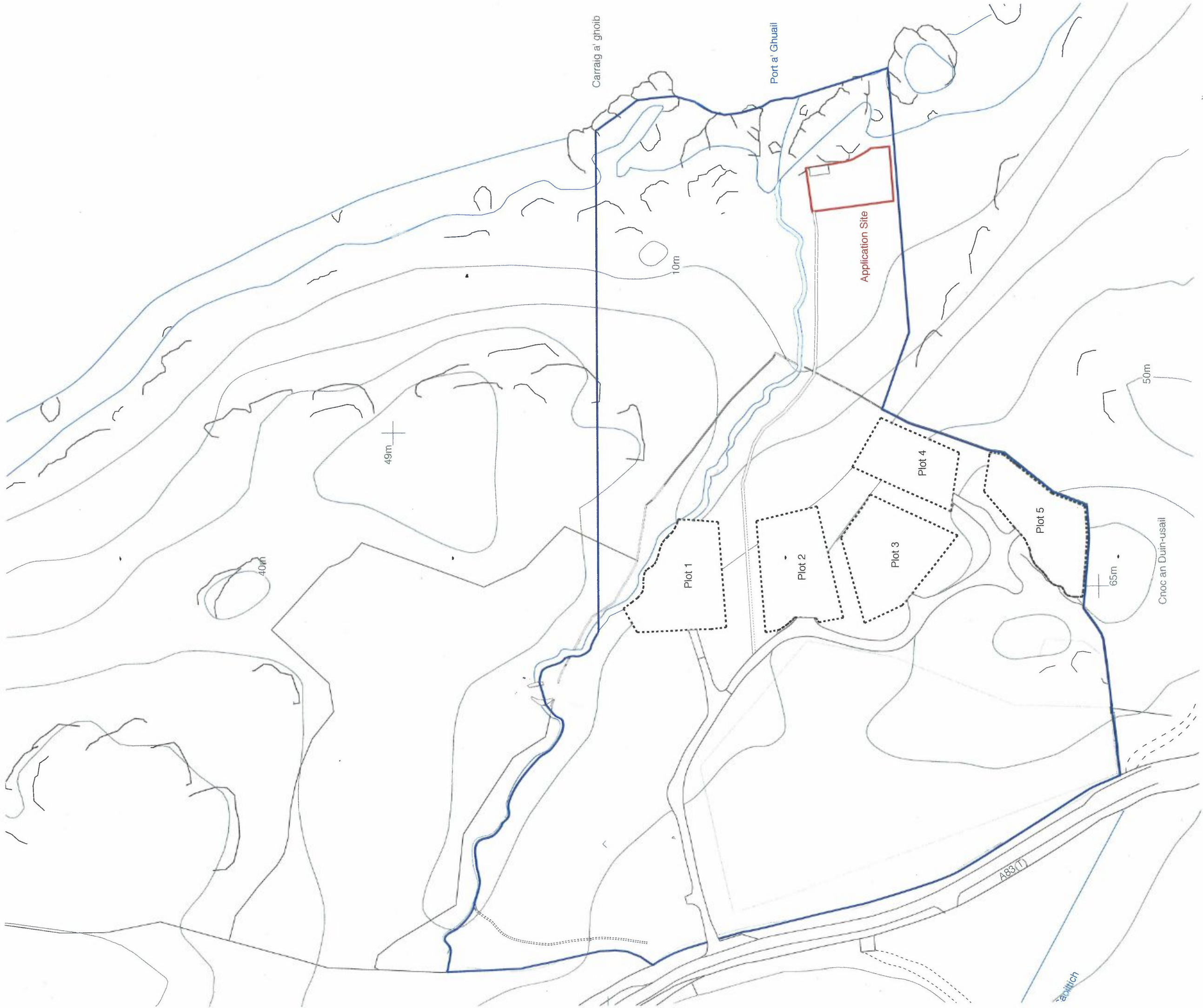


CROSS SECTION Z-Z SCALE 1:100



NORTH ELEVATION SCALE 1:100

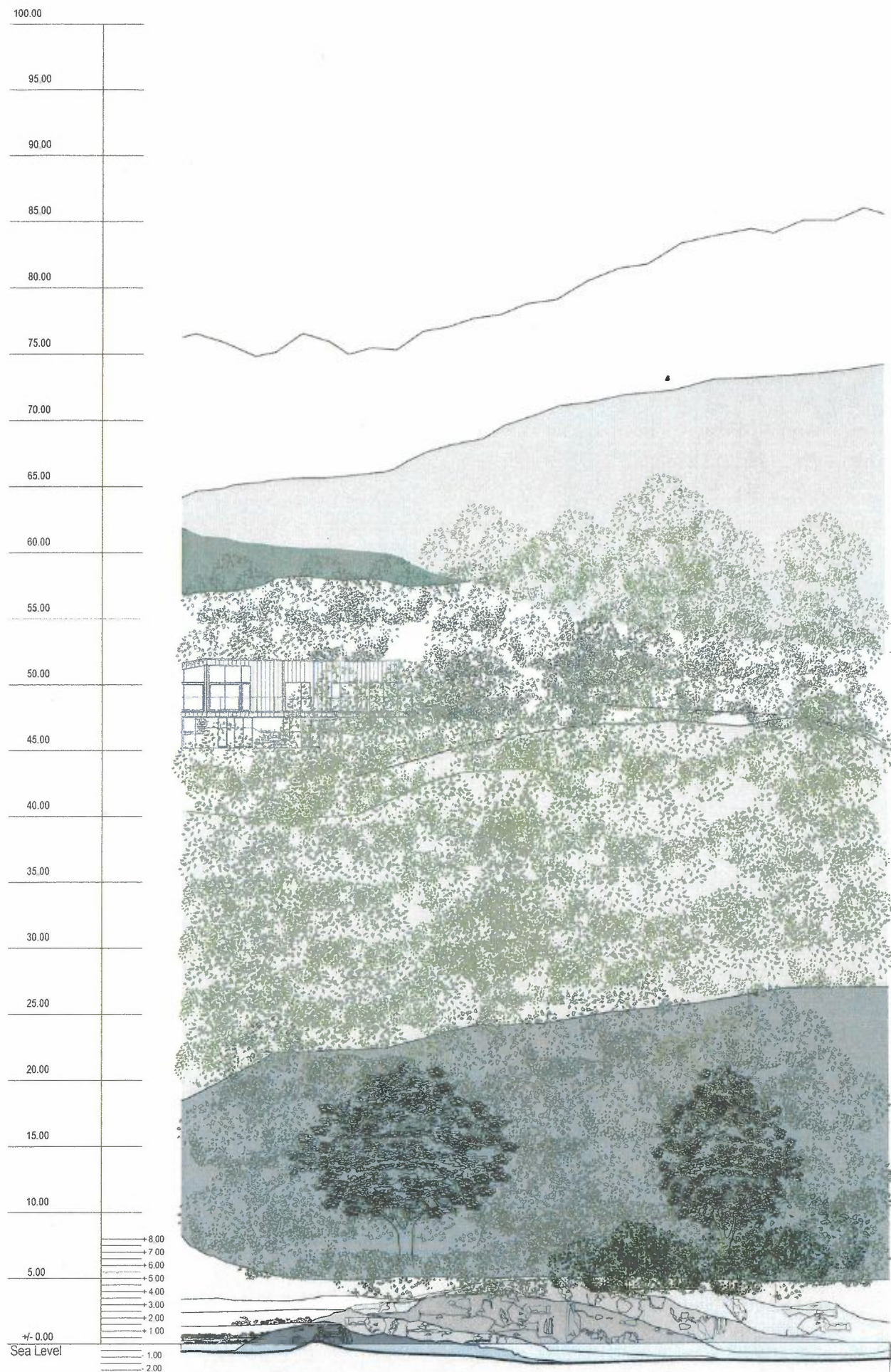
C 14.12.16 Boathouse revised
 B 13.05.15 East Gable revised
 A 22.10.14 Trees outlined to show building behind
 New Boat House at Parfad, Tarbert, Argyll
 Title: Proposed Sections / Elevations Scale 1:100
 Status: PLANNING Drawn By: JF
 Drwg no: 562-P-GA-03 Scale: 1:100@A1 1st issue: 30.11.17
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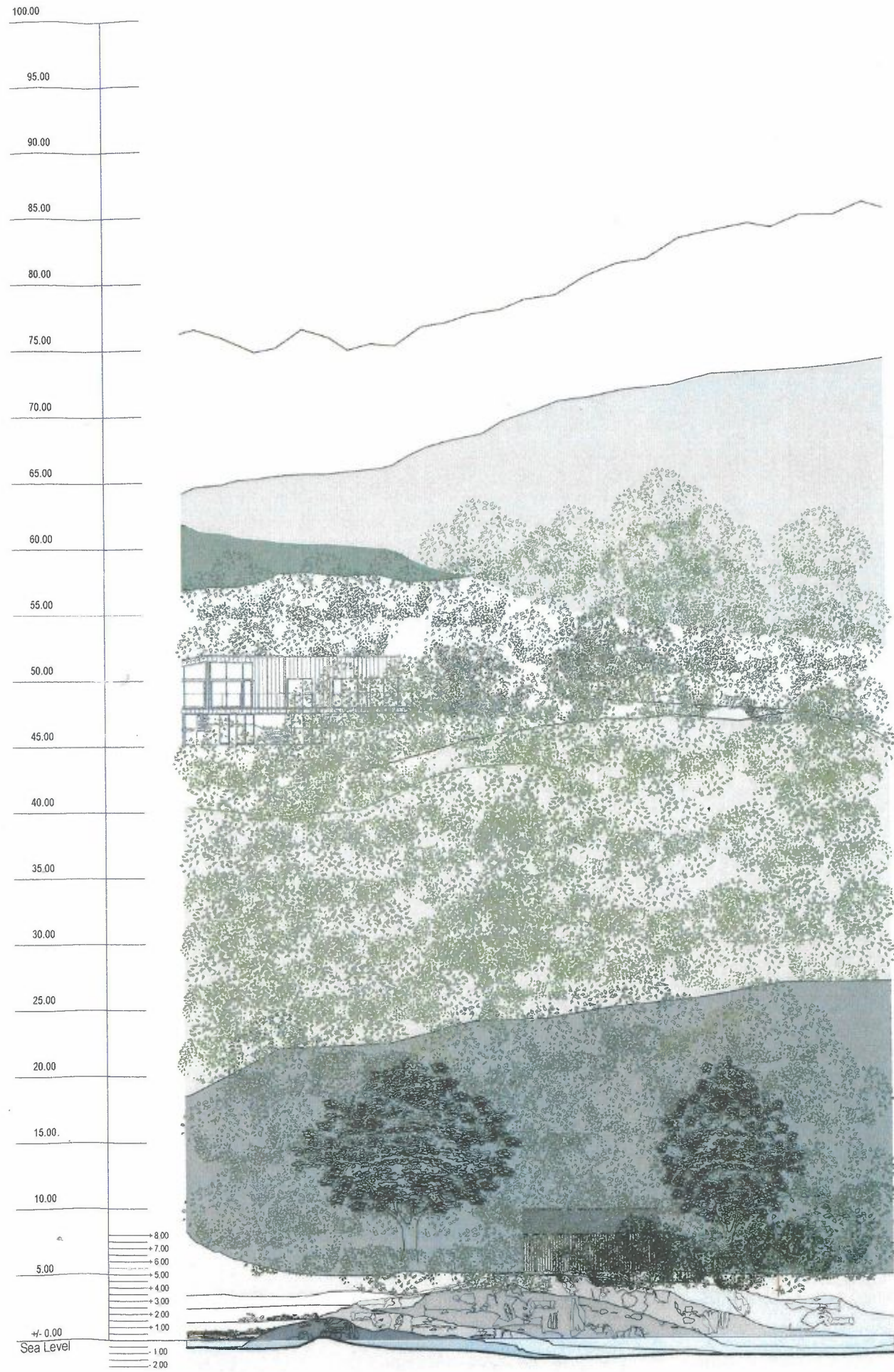
LOCATION PLAN SCALE 1:1250

- KEY
- THE APPLICATION SITE
 - PLOT BOUNDARY - HOUSES
 - ACCESS ROAD
 - COMMON PATH
 - "COMMON GROUND"

New Boal House at Barfad, Tarbert, Argyll
 Title: Proposed Location Plan
 Status: PLANNING
 Drwg no: 562-P-LOC-02 Scale: 1:1250@A2
 Drawn By: NMI
 1st Issue: 30.11.17
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EXISTING SITE ELEVATION FROM THE EAST SCALE 1:200

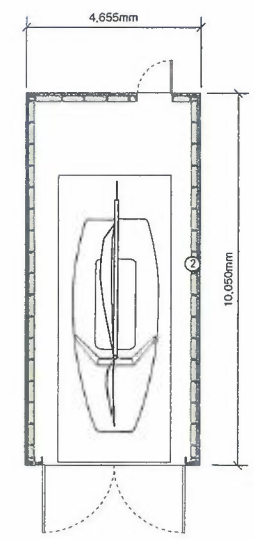


PROPOSED SITE ELEVATION FROM THE EAST SCALE 1:200

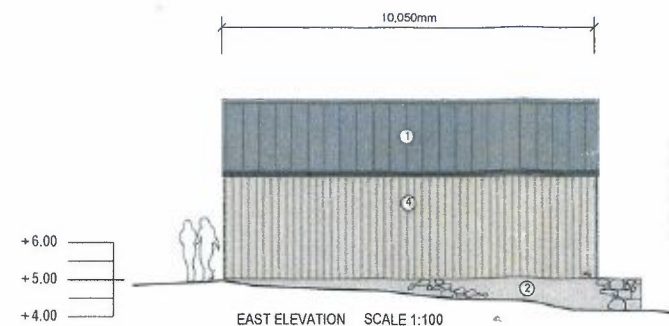
B 13.05.15 Revised East Gable
 A 23.10.14 Revised Size of elevation
 New Boat House at Barfak, Tathert, Argyll
 Title: East Elevation of Site as Existing and As proposed
 Status: PLANNING Drawn By: JI
 Drwg no: 562-P-GA-04 Scale: 1:200@A1 1st issue: 30.11.14
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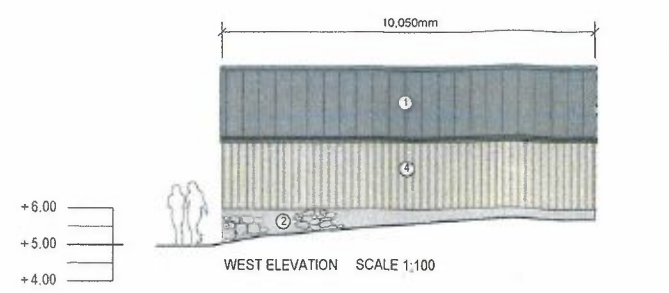
PROPOSED SITE PLAN SCALE 1:200



PLAN SCALE 1:100



EAST ELEVATION SCALE 1:100



WEST ELEVATION SCALE 1:100

- SCHEDULE OF MATERIALS
- ① Zinc roof sheeting (dark grey)
 - ② Natural stone walling from local source
 - ③ Clear sealed timber door
 - ④ Clear sealed timber boarding
 - ⑤ Compacted gravel path
 - ⑥ Grass with re-inforcement

DESIGN STATEMENT
Proposed Boathouse, Plot 3, Barfad, Mull of Kintyre.

The Proposal
The retired owner of Plot 3, Barfad, is a very keen boatsman and wishes to form a small traditional boathouse to store his small boat by the water below his house. Access to Tarbert by boat is very appealing from an Eco point of view as the only other route on the main road is extremely busy and without pavement in most part, thereby encouraging a car journey. A modest boathouse has been designed to store a small boat or a canoe along with the usual paraphernalia associated with boating e.g life jackets, wetsuits etc. It is of a traditional form designed to echo familiar structures found elsewhere on this sensitive Scottish coastal landscape. A pitched roof with timber and stone clad walls is proposed. It is located to almost disappear amongst the backdrop of woodland and grassy hillside. The elevation facing the water is to be constructed of stone recycled from old dilapidated walls on the existing land. The boat shed is approximately 4.5m high to the ridge internally and is 10m x 4m in size.

The Location
The application site, at Barfad shoreline, lies to the East and below the level of the existing Eco house sites for which Planning Permission was granted on 09/03/12 (Ref 11/01887/PP). The particular site has been selected as it includes a natural slipway between an existing rock formation on the shoreline facing East. The site provides visual protection from the loch and respects the existing unspoilt coastline in a very low key way.

The Existing Site
The site is identified as greenbelt and forms part of a landscape of pebble beach, rocks, cliffs and undulating wooded countryside. It already exists as an informal launch and landing site for boats. Vehicular access is via an existing forestry track leading to the shore. During the construction phase, the intention is that temporary use may be made of the existing, informal access route linking the application site and the A83. This route is currently extant and is occasionally used for the removal of timber. No upgrading of this informal road is proposed and it is not intended that a boat would be trawled to site by this route. The proposal is that a boat would reach the boathouse by sea taking advantage of the more formal launching facilities at Tarbert and elsewhere.

Visual Impact
The proposed structure will have a very low visual impact. It will not be visible from the A83 and all public viewpoints to the west. From Loch Fyne, the building will be largely screened by existing small trees, shrubs and rocks located between the application site and the sea.

Conclusion
This is a site specific scheme which pays great respect to both the local context whilst also meeting the individual owner's requirements to store his Dinghy. Taking all of the above into account we respectfully request that Argyll & Bute Council Planning would support and approve this application on the basis of a local need argument.

ROXBURGH MCEWAN ARCHITECTS
November 2017

- D 11.12.16 Boathouse revised
- C 13.05.15 Ownership + Site Boundaries revised, access road + slipway removed
- B 23.10.14 Footprint of Boathouse revised
- A 22.10.14 East wall revised. Note added to existing path. Trees updated

New Boat House at Barfad, Tarbert, Argyll
Title: Proposed Site Plan, Proposed Plan and Elevations
Status: PLANNING
Drawn By: JF
Drwg no: 562-P-GA-02 Scale: 1:200, 1:100@A1 1st issue: 30.11.17

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REASONS FOR REFUSAL RELATIVE TO APPLICATION NUMBER: 17/03118/PP

1. In the absence of a locational need being accepted by the Planning Authority for the change of use of land and associated built development proposed, in circumstances where readily accessible facilities are available nearby for the storage of boats which would be preferential in development plan policy terms, the introduction of development in an undeveloped coastal location within the 'countryside' development management zone defined by the adopted development plan would be contrary to the approved Settlement and Spatial Strategy established by policies LDP STRAT 1; LDP DM 1; LDP 4 and SG LDP CST 1 of the 'Argyll and Bute Local Development Plan' 2015.
2. The erection of a boat house building and the associated ground engineering works to level an area of natural coastal scrub woodland with plastic grid and grass in-fill would result in a form and type of development which would be incongruous within, and detrimental to, the character of this sensitive area of undeveloped coastal landscape contrary to policies LDP 3 and SG LDP 14 of the 'Argyll and Bute Local Development Plan' 2015.

The Key Challenge we face...

That the cost of resources will continue to rise and that the provision of infrastructure in challenging economic conditions will be increasingly difficult to deliver.

KEY OBJECTIVE H

To optimise the use of our scarce resources, including our existing infrastructure, vacant and derelict land and reduce consumption;

The Key Challenge we face...

That we can mitigate and adapt to the growing impacts of climate change in an affordable way at a local level.

KEY OBJECTIVE I

To address the impacts of climate change in everything we do and reduce our carbon footprint;

1.9 TAKING A SUSTAINABLE APPROACH TO DELIVER OUR VISION AND KEY OBJECTIVES

1.9.1 When we take decisions on land use planning matters there is a need to examine not only the short term consequences but also take account of the long term potential impacts and benefits. Consequently, the Council and its partners must align their investment programmes and decision making processes with established strategic priorities that take best advantage of our economic, social and environmental opportunities, while at the same time address some of the core weaknesses we have identified in specific areas. The following development principles should therefore help influence decision-making on land use, regeneration, transport and strategic transportation proposals:

POLICY LDP STRAT 1 – Sustainable Development

In preparing new development proposals, developers should seek to demonstrate the following sustainable development principles, which the planning authority will also use in deciding whether or not to grant planning permission:

- a) Maximise the opportunity for local community benefit;
- b) Make efficient use of vacant and/or derelict land including appropriate buildings;
- c) Support existing communities and maximise the use of existing infrastructure and services;
- d) Maximise the opportunities for sustainable forms of design including minimising waste, reducing our carbon footprint and increasing energy efficiency;
- e) Avoid the use of locally important good quality agricultural land;
- f) Utilise public transport corridors and active travel networks;
- g) Avoid the loss of important recreational and amenity open space;

- h) Conserve and enhance the natural and built environment and avoid significant adverse impacts on biodiversity, natural and built heritage resources;
- i) Respect the landscape character of an area and the setting and character of settlements;
- j) Avoid places with significant risk of flooding, tidal inundation, coastal erosion or ground instability; and
- k) Avoid having significant adverse impacts on land, air and water environment.

1.9.2 Building on these principles, the LDP therefore requires potential developers considering large or medium scale development proposals and in other exceptional circumstances to complete a **sustainable checklist** that will allow them to consider matters of sustainability in relation to their particular proposal. The procedures relating to the checklist are fully explained in Supplementary Guidance (SG) that accompanies the LDP. As the planning application information requirements for aquaculture development are detailed and most finfish development requires environmental impact assessment, it is not intended that the sustainable checklist will apply to aquaculture development.

Policy LDP DM1– Development within the Development Management Zones

Encouragement shall be given to sustainable forms of development as follows:-

- (A) Within the Main Towns and Key Settlements up to and including large scale* on appropriate sites.
- (B) Within the Key Rural Settlements up to and including medium scale* on appropriate sites.
- (C) Within the Villages and Minor Settlements up to small scale* on appropriate sites.
- (D) Within the Rural Opportunity Areas up to small scale* on appropriate sites including the open countryside as well as small scale infill, rounding-off, redevelopment and change of use of existing buildings. In exceptional cases, up to and including large scale* may be supported if this accords with an Area Capacity Evaluation (ACE) **.
- (E) Within the Countryside Zone up to small scale* on appropriate infill, rounding off and redevelopment sites and changes of use of existing buildings. In exceptional cases development in the open countryside up to and including large scale* may be supported on appropriate sites if this accords with an ACE**. There is a presumption against development that seeks to extend an existing settlement into the Countryside Zone.
- (F) Within Very Sensitive Countryside encouragement will only be given to specific categories of development on appropriate sites. These comprise:
 - (i) Renewable energy related development
 - (ii) Telecommunication related development.
 - (iii) Development directly supporting agricultural, aquaculture, nature conservation or other established activity.
 - (iv) Small scale development related to outdoor sport and recreation.
- (G) Within the Greenbelt encouragement will only be given to very limited and specific categories of countryside based development. These comprise:
 - (i) Agricultural-related development.
 - (ii) Farm diversification – tourism and rural business related development (excluding dwelling houses)
 - (iii) Outdoor sport and recreational development.
 - (iv) Development required to manage and sustain the natural heritage and access resources of the Greenbelt.
 - (v) Demolition and replacement of buildings and alterations or extensions of such buildings, including dwelling-houses, subject to no change of use occurring.
 - (vi) Change of use of buildings to residential institutional use.In exceptional cases, a development outwith categories G(i) to (vi) may accord with this policy when it is successfully demonstrated that the proposal will:
 - 1) Retain a significant building at risk; or
 - 2) Directly support the provision of essential infrastructure; or
 - 3) Involve building development directly supporting recreational use of land.

* Scales of different development classes are defined in the relevant Development Management policies of the LDP and/or associated Supplementary Guidance where appropriate.

** Further information on how to carry out an Area Capacity Evaluation (ACE) can be found in SG LDP ACE 1.

An Area Capacity Evaluation (ACE) will not be required for renewable energy related developments which are the subject of environmental impact assessment.

2.7 JUSTIFICATION

2.7.1 The Development Management Zones help support the LDP's settlement strategy by guiding larger scales of development primarily to our larger key settlements and safeguarding our more sensitive and vulnerable areas from inappropriate scales of development. In exceptional cases, large and medium scales of development may also be allowed in Rural Opportunity Areas and the Countryside Zone where an ACE is undertaken and the findings considered acceptable. **Policy LDP DM 1** also details exceptional cases for allowing development opportunities in the Greenbelt. All development in all of the zones will also be considered in relation to all other policies of the Local Development Plan and Supplementary Guidance, where these are relevant.

This Policy conforms to:

- NPF3
- SPP (The Planning System)
- Key LDP Objectives A) to I)

2.8 DELIVERING AN EFFECTIVE HOUSING LAND SUPPLY THAT MEETS LOCAL NEED

2.8.1 The LDP fully recognises the need to ensure that our housing supply meets the needs and aspirations of the wide variety of households across Argyll and Bute in the interests of encouraging and supporting a growing population and thriving local economy.

2.8.2 The Argyll and Bute Housing Needs and Demand Assessment (HNDA) currently identifies a projected need and demand for approximately 9,500 (9,590) housing solutions over a ten year period. The LDP sets out a framework to deliver effective housing land to meet 7,450 (See **Table 2.1**) of these potential new households through new house building, with the remainder addressed through a variety of other interventions such as bringing empty properties back into use or house adaptations that have been identified in the Local Housing Strategy.

2.8.3 It is envisaged that allowing for this level of new housing will help reverse the projected population decline forecast by the General Register Office for Scotland (GROS), however this scenario will be highly dependent on securing sustainable economic growth.

2.8.4 The LDP will therefore seek to identify an effective, highly flexible and generous housing land supply up to year 10 from the date of adoption, ensuring a minimum 5 year effective land supply at all times to support sustainable economic growth throughout Argyll and Bute. The scale of uptake and level of provision will be kept under annual review through an annual housing land audit with the aim of ensuring sufficient land is identified to promote the sustainable growth of communities throughout Argyll and Bute.

3.4 Policy LDP 4 – Supporting the Sustainable Development of our Coastal Zone

Argyll and Bute Council will support onshore proposals for the sustainable development of our coastal zone*. Further information and detail in relation to a coastal development strategy and other matters relating to coastal development will be provided in Supplementary Guidance.

** Coastal Zone definition – Strip of land between Mean Low Water Springs (MLWS) and 1 km landwards. In some circumstances the coastal zone may extend further in land where the land exerts an influence on the uses of the sea and its ecology, or the lands uses and ecology are affected by the sea.*

Other relevant documents

- Forthcoming Regional Marine Plans
- Argyll and Lochaber River Basin Management Plan
- Clyde River Basin Management Plan
- Firth of Clyde Marine Spatial Plan
- Draft National Marine Plan

3.5 JUSTIFICATION

- 3.5.1 The coastal area of Argyll and Bute is an exceptional asset. Much of the population occupies settlements or areas that are immediately adjacent to the coast and it continues to provide a focus for economic activity, recreation and tourism.
- 3.5.2 The extensive and varied coastline is of national, and in some parts international significance, containing many areas of special landscape and ecological significance. It is therefore important that the character and environmental qualities of the Argyll and Bute coast are protected from inappropriate development and that development which requires a coastal location is directed to the least environmentally sensitive areas.
- 3.5.3 Developments in the renewable energy and aquaculture sectors have increased the focus on coastal and offshore areas with a likely increasing need for coastline locations for associated facilities. This policy recognises the significant economic potential of the coast and promotes the sustainable development of the coastal zone.
- 3.5.4 A Coastal Development Strategy will be prepared as Supplementary Guidance. It will show, through a range of indicators, where coastal development may, or may not, be acceptable, and the types of development that might be accommodated. It will also identify a spatial framework to provide a sequential order of preference for the different Development Management Zones, as defined in Policy LDP DM1.

Key Challenge:

That we make Argyll and Bute a better place to live

3.5.5 To assist the Council in supporting the sustainable development of the coastal zone, proposals for coastal development on land should demonstrate how they relate to the spatial framework and the regard which has been paid to the relevant indicators identified within the Supplementary Guidance. These indicators may include:

- a) Locational need;
- b) Form, location and scale;
- c) Natural, built or cultural heritage and amenity value;
- d) Landscape and seascape character;
- e) Public access;
- f) Uses or re-use of existing facilities;
- g) Shared use of facilities;
- h) Impact on existing development;
- i) Coastal flood risk and erosion;
- j) Ecological status of coastal and transitional water bodies;
- k) Marine Planning.

3.5.6 In assessing coastal development proposals, the Council will take account of other relevant plans and strategies not adopted by the Council, including River Basin Management Plans and the National Marine Plan and forthcoming regional marine plans.

3.5.7 This Policy conforms to:

- NPF3
- SPP paragraphs 87-91
- LDP Key Objectives A, B, C, D, E, G, H and I (pages 5-7)
- EU Water Framework Directive

SG LDP ACE 1 – Area Capacity Evaluation

This policy provides additional detail to policy *LDP 3 Supporting the Protection, Conservation and Enhancement of our Environment* of the Adopted Argyll and Bute Local Development Plan.

1.1 Introduction

1.1.1 This Supplementary Planning Guidance note has been developed in association with the Argyll and Bute Local Development Plan for use in the determination of applications in the Rural Opportunity and Countryside development management zones. This note sets out to explain why an ACE should be done, who should do it, what it should contain, and how it should be used to inform the development management decision making process.

For further general information on siting and design see also: **LDP Sustainable Siting and Design Principles**

2.1 When Should an Area Capacity Evaluation Be Carried Out

2.1.1 The Argyll and Bute Local Development Plan establishes when an ACE should be triggered through Policy LDP DM1 – Development within the Development Management Zones, Criteria (D) and (E) and this is explained below:

- An ACE will only be carried out for certain development proposals within these two development management zones (Rural Opportunity Areas and Countryside). It will never be carried out for medium or large scale housing development in either zone as there is a presumption against such development within SG LDP HOU1 – General Housing Development Including Affordable Housing Provision.
- Within Rural Opportunity Areas an ACE will be required for all non-housing development of medium and large scale (see table below for detail of scales), where an exceptional case has been made. An ACE will not be required for small scale housing in a Rural Opportunity Area.
- Within the Countryside Zone all development proposals which are not small scale infill, rounding off, or redevelopment will require to accord with an ACE subject to an exceptional case being made. An ACE will not be required for small scale housing which is infill, rounding off, or redevelopment within the Countryside Zone.
- Notwithstanding this, an ACE should never be carried out for renewable energy related developments which are the subject of environmental impact assessment or temporary buildings or proposals.
- The ‘exceptional case’ required to justify carrying out of an ACE is in all circumstances, either; the demonstration of a locational and/or operational need tied to a precise location which is agreed with and acceptable to the planning authority, or; demonstration of an overriding economic or community benefit which outweighs other policies of the Local Development Plan and is agreed with and acceptable to the planning authority.

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2.1.2 The scales of development in relation to type of development are defined in the Argyll and Bute Local Development Plan, these are summarised in the table below:

Table 1: Definitions of Scale of Development by Type

Type of Development	Scale of Development		
	Large	Medium	Small
Business and Industry (Class 4,5,6 and 7)	Building of more than 600 square metres gross building or site area exceeding 2 hectares	Building between 200 and 600 square metres gross or site area between 0.5 and 2 hectares	Building up to 200 square metres gross or site area not exceeding 0.5 hectares
Retail (Class 1,2,and 3)	Building exceeding 1000 square meters gross	Building between 201 and 999 square meters gross	Building up to 200 square meters gross
Tourist facilities and accommodation, including static and touring caravans and campsites	Tourist facility buildings exceeding 600 square meters gross; more than 60 letting units; more than 50 caravans or stances; 100 tent pitches.	Tourist facility buildings between 200 and 600 square meters gross; 11 to 60 letting units; 11 to 50 caravans or stances; 50 to 100 tent pitches.	Tourist facility buildings up to 200 square meters gross; up to 10 letting units; up to 10 caravans or stances; up to 50 tent pitches.
Mineral extraction*	Extraction area exceeding 800 cubic meters, or more than 20 metres on the longest edge of the site or exceeding 2 metres in extraction depth.	*As large scale.	Extraction area not exceeding 800 cubic metres, or not exceeding 20 metres on the longest edge of the site and not exceeding 2 metres in extraction depth.
Housing	More than 30 housing units.	Between 6 and 30 housing units inclusive.	Not exceeding 5 housing units.
Waste related development	Sites exceeding 0.25 hectares.	Sites between 500 square metres and 0.25 hectares.	Sites less than 500 square metres.

2.1.3 Any application would also require to be assessed against all other relevant policies in the development plan, this may mean that satisfying the requirements of the ACE may not necessarily result in planning permission, e.g. retail developments would also require to accord with Policy LDP 7/ SG LDP RET 1.

2.1.4 An ACE is to be carried out by the planning authority, primarily by Development Management staff with support from Development Policy staff as appropriate. It is to be used as a tool to assess planning applications in the relevant development control zones, in order to establish the capacity of the wider countryside containing the application site to successfully absorb that particular development. Where an ACE has been triggered by a planning application it should be recorded as a component of the planning report on the submitted application.

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3.1 The Purpose Of The ACE

3.1.1 The aim of the ACE process is simply to comprehensively and methodically assesses the capacity of the landscape to successfully absorb the proposed development. **The aim should not be to identify a definitive quantity or how much development can be accommodated in a landscape but to explore landscape ‘sensitivity’ to the particular development proposal under consideration.**

3.1.2 Landscape capacity refers to the degree to which a particular landscape character type or area of common landscape character is able to accommodate change without significant effects on its character, or overall change of landscape character type. Capacity is likely to vary according to the type and nature of change being proposed. For the purposes of the ACE, Landscape Capacity should not refer to the quantity of development that can be accommodated.

3.1.3 We should take a comprehensive view of landscape, taking account of more than just the visible components and identifying the key environmental features. We should recognise that historical and cultural associations and the total experience of landscape through all the senses and through knowledge are integral to understanding landscape character.

4.1 Guidance For Carrying Out an ACE

4.1.1 The techniques described below are based on the current best practice guidance for a systematic approach to landscape and visual impact assessment developed by the Landscape Institute and the Institute of Environmental Management and Assessment with support from SNH. They are set out not as a prescriptive process but to provide a brief suggested framework for carrying out an ACE

Desk Top Preparation:

Collation of Existing Assessments, Maps, Aerial Photos

1. Collate and assess existing Landscape Character Assessments which have been carried out at a more macro level and will form the baseline. All areas will have at least the SNH Argyll and Clyde Character Assessment and any additional local and national designations should be noted.
2. Aerial Photographs and mapping at a detailed level with contours is available on Local View for all areas and should be printed.

Stage 1:

Record Landscape Components and Key Environmental Features

1. Print field sheets to structure the approach to observation and description. No standard Field sheet would accommodate all landscape types so they should be adapted as appropriate.
2. On site: **Use Field Sheets 1A & B to observe and note Landscape Components and Key Environmental Features.** All of these components are: real, physical, measurable, tangible–touchable as well as visible. They can be described with objectivity as a matter of fact, not opinion.
3. Some components will be more significant than others. The significant ones may contribute to the character of the landscape or may form conspicuous features within the landscape that are not typical. **Highlight visually important or frequent features on the field sheets.**

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- 4 Having identified and noted the landscape components and key environmental features in this way should allow an Area of Common Landscape Character or ACE Compartment to be defined. This should be identified and mapped using OS maps or aerial photographs. This will commonly be bounded by limits of inter-visibility with the proposal, but will sometimes be shortened by key changes in landscape character such as prominent linear features, lochs etc...

Stage 2:

Describe Experience of the Landscape and Sense Of Place

1. On site use **Field Sheet 2 to describe the experience and sense of place** by noting the non-physical components of the landscape. These do not lend themselves to accurate measurement but can be described within a range of common adjectives. For example: openness may be described as: tightly enclosed, confined, open or exposed. These adjectives give us a fairly descriptive picture.
2. Use field sheet 2 in combination with field sheets 1A&B to consider if the combination of landscape characteristics observed, create a unique Area of Common Landscape Character and if the ACE compartment should be refined to reflect this.

Stage 3:

Predict and Assess Visual Impact

1. On site use field sheet 3 to predict and assess the visual impact.
2. It is necessary to visualise the proposal in situ. It is important to consider the proposal at all stages of its life including, how it will be constructed, the means of access during construction and operation, import and export of material, infrastructure required, and mitigation measures which are proposed.
3. Visual receptors should commonly reflect those used to describe the landscape components and key environmental features in Field Sheet 1A&B. Amend Field Sheet 3 appropriately to reflect this.
4. The aim is to assess impact in terms of the sensitivity of receptors and the magnitude of impact. By combining the two gives an assessment of the significance of any impact and this can be recorded in the notes section of Field Sheet 3. For example a receptor which has low sensitivity (perhaps because of the infrequency with which it would be seen) might be combined with a magnitude of impact which is major, but still be considered of little significance. Equally the converse could apply with a very sensitive receptor and low magnitude impact.

Stage 4:

Predict and Assess Landscape Impact

1. On site use field sheet 4 to predict and assess landscape impact.
2. This is a very similar process to stage 3 visual impacts but it is important to differentiate.
3. Landscape receptors should also commonly reflect those used to describe the landscape components and key environmental features in Field Sheet 1A&B. Amend Field Sheet 4 appropriately to reflect this.

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4. Factors to consider:
 - the magnitude or scale of the impact;
 - duration whether it is a permanent or temporary impact;
 - the importance of the receptor as a landscape component (or the number of people affected, what they are doing and the context of the view).
 - Specific landscape components e.g. shoreline, hill or river
 - Areas of distinctive character
 - Valued landscapes such as local beauty spots or specific viewpoints
 - Historic, designed landscapes
 - People – residents, workers, travellers
 - Cumulative and visual impacts

5. Again the sensitivity of the landscape feature and the magnitude of effect should be combined to describe the significance of impacts in the notes effect.

Stage 5:

Key Outputs

1. If filled in systematically, following these stages should result in:
 - Desk top assessment of the area's landscape context.
 - Clear assessment of Area's landscape components and Key Environmental Features using Field Sheet 1 A & B.
 - Clear description of the Experience of the Landscape & Sense Of Place using Field Sheet 2.
 - Definition and refinement of ACE compartment.
 - Clearly differentiation between Landscape and Visual Impacts using Field Sheets 3 & 4.
 - Consideration of fair / accurate and appropriate illustrations (photo's/aerial photo's) if available but always used with caution.
 - Consideration of proposed and or potential mitigations and all stages of construction and operation.

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FIELD SHEET 1A: Landscape Components and Key Environmental Features

Location				
ACE title/ref.				
Date				
Visible, physical components of landform, its features and characteristics				
High Plateau	Peak	Knoll ridge	Spur/crags	Outcrops
Corrie/gully	Low plateau	Distinct hills	Rolling hills/slopes	Glen valley
Gorge	Bench/terrace	Flats	Wide basin	Confined basin
Den	Hollows	Plain	Mounds/moraines	Cliff
Coastal brae	Bay	Headland	Beach	Intertidal
Notes:				
Land cover and land use – water				
Sea	Sea loch	Intertidal	Mud/sand	Delta
Estuary	Loch	Lochans	Pools	River
Whitewater	Burn	Drain/ditch	Canal	Waterfall
Reservoir				
Notes:				
Land cover and land use – forestry, woodland and trees				
Coniferous plantation	Mixed plantation	Broadleaved plantation	Semi-natural woodland	
Tree clumps/copses	Shelterbelts/tree lines	Roadside tree belts	Policy/parkland trees	
Hedgerow trees	Notable single trees			
Notes:				
Land cover and land use – agriculture				
Arable	Horticulture	Intensive livestock	Ley grassland	
Permanent pasture	Unimproved grassland	Rough hill grazing	Moorland	
Animals:				
	Cattle	Sheep	Pigs	
	Poultry	Horses	Deer	
Notes:				
Land cover and land use – fields and boundaries				
Stone dykes	Dykes with fencing	Remnant dykes	Continuous hedgerows	
Hedgerows with gaps	Remnant hedgerows	Lost hedgerows	Post and wire fencing	
Post and rail fencing	High stone walls	Stone pillars	Wooden/metal gates	
Beech hedges	Hawthorn hedges			
Field size:				
	Very large	Large	Medium	Small
Maps/Aerial photos showing proposed ACE boundary				
Notes:				

Coastal Development

SG LDP CST 1 – Coastal Development

This policy provides additional detail to policies *LDP 4 - Supporting the Sustainable Development of our Coastal Zone*; *LDP 5 - Supporting the Sustainable Growth of our Economy* and *DM1 - Development within the Development Management Zones*, of the Adopted Argyll and Bute Local Development Plan.

In recognition of the special qualities of the onshore coastal areas of Argyll and Bute this policy seeks to support their sustainable development by safeguarding the special coastal qualities as set out below.

The preferred location for developments requiring a coastal location is the Developed Coast, which consists of coastal areas within the Settlement Development Management Zone, excluding the Natural Foreshore.

There is a presumption against the development of the Natural Foreshore unless:

- i) there is a specific operational purpose for the proposals Natural Foreshore location; and
- ii) there is no effective alternative location for the development landward of the natural foreshore; and
- iii) the development does not damage or undermine the key features of the natural foreshore area including,
 - a) the dynamics and balance of the ecology of the foreshore;
 - b) the sustainable productive capacity of the foreshore for shell-fish farming; and
 - c) the effective functioning of the foreshore in providing access between land and water activity.

Safeguarding Special Coastal Qualities

In order to safeguard the special environmental and/or cultural qualities of the coastal areas, development proposals on or adjacent to the coast or that have an impact on the coast will require:

- i) To demonstrate that any positive or negative impacts on the ecological status of coastal and transitional water bodies and coastal processes have been addressed to the planning authorities satisfaction; AND
- ii) To assess the proposal against the conservation objectives of any affected Marine Protected Area and the national status of Priority Marine Features; AND
- iii) To assess the proposal's impact on existing marine and coastal commercial and recreational activity; AND
- iv) To demonstrate that the National Marine Plan, any relevant Regional Marine Plans and Council adopted local ICZM and marine plans have been taken into account.

1.1 Explanation of Policy Objectives

1.1.1 Recognising the key environmental sensitivities, existing use and the significant economic potential of the coast, this policy promotes the sustainable development of the Argyll and Bute coastal zone by setting out how the Council will consider coastal development proposals and where such development is most likely to be acceptable.

1.1.2 The policy recognises and seeks to provide for the development requirements of users requiring a coastal location, including ports and harbours, tourism and recreation, land-based development associated with aquaculture, marine renewable energy projects and specific defence establishments. Coastal infrastructure, particularly ports, ferry terminals and harbours are key economic generators in Argyll and Bute and are essential to the operation of a range of different marine and coastal industries and our transport network. Specific policy guidance on Ports & Harbours development is detailed in SG LDP TRAN 8 – Piers and Harbours.

1.1.3 It should be noted that this policy does not provide additional detail on relevant considerations for coastal development identified in Policy LDP 4, where other SG policies adequately address them. This includes coastal flooding and erosion, landscape, designated sites other than Marine Protected Areas, and public access. For all coastal development proposals assessment of effects on the landscape will consider seascape, defined as - *the coastal landscape and adjoining areas of open water, including views from land to sea, from sea to land and along the coastline.*

1.1.4 The maximum geographic scope of the coastal zone is defined in Policy LDP 4 and in practice the Council will determine whether this policy applies to a specific development proposal on a case by case basis. For clarification the seaward boundary of the coastal zone is Mean Low Water Springs (MLWS) and the landward boundary will be dictated by the extent to which the land is affected by coastal processes, the intervisibility between land and sea, and the potential for development to adversely affect the special qualities of the coast.

Spatial framework

1.1.5 It is important that the character of the Argyll and Bute coast is protected from inappropriate development and that development which requires a coastal location is directed in the first instance to areas where development has taken place. The LDPs Spatial Strategy is set out in LDP Policy DM1, which alongside this policy aims to direct development requiring a coastal location to areas with existing development, or sites where the character of the coastal zone could accommodate such development.

1.1.6 The 'Very Sensitive Countryside Zone', identified in LDP Policy DM1, relates to Isolated Coast where it abuts the coastline and has extremely limited capacity to successfully absorb development. Only limited categories of natural resource based development will be supported in these areas.

Natural Foreshore

1.1.7 The foreshore is the sensitive interface between land and sea. The natural foreshore corresponds to the area of land between mean low-water and high-water springs which has been largely unaltered by human activity. This therefore excludes substantial areas of made up land within the original foreshore which are now above current high water levels. This policy identifies environmental sensitivities and planning issues which impose severe limits on the acceptability of development on the natural foreshore.

Special Coastal Qualities

1.1.8 Coastal waters can be affected directly by engineering works and indirectly through pollution from surface water run-off and industrial processes. Coastal development should not result in the deterioration of the overall ecological status of these water bodies or protected areas such as Shellfish Waters and Bathing Waters.

Nature Conservation Marine Protected Areas (MPA) are designed to conserve a selection of marine biodiversity (species and habitats) and geodiversity (the variety of landforms and natural processes that underpin the marine landscapes), offering long-term support for the services our seas provide to society. Development proposals which have the potential to affect a Nature Conservation MPA will only be permitted where it can be demonstrated that there is no significant risk of the proposal hindering the achievement of the conservation objectives of the MPA.

Priority Marine Features (PMF) are species and habitats which have been identified as being of conservation importance to Scotland and provide a new focus for marine conservation in Scotland. Impacts of development on the national status of PMFs must be considered and where proposals have potential to impact PMFs, mitigation, including alternative locations, should be considered.

1.1.9 While the Council wishes to direct development requiring a coastal location to areas with existing development new coastal development should not have direct or indirect significant adverse impacts on existing development or coastal activities. Coastal development proposals should clearly demonstrate the implications for existing development, infrastructure and activities.

Marine Planning

1.1.10 The approval of the Marine (Scotland) Act in March 2010 introduced a new statutory marine planning framework to manage competing demands for the use of the sea whilst protecting the marine environment. Land based development proposals on the coast will need to consider their effects on the marine environment and its users and in addition to being consistent with LDP policies they will need to consider national and regional marine planning policy. In reaching planning decisions, Argyll and Bute Council will therefore have regard to the National Marine Plan and subsequent Regional Marine Spatial Plans in so far as they impact within the inter-tidal zone and on the wider coastal zone.

1.1.11 The Council has adopted the following Integrated Coastal Zone Management (ICZM) Plans and local marine spatial plans as non-statutory planning guidance which will be a material consideration in the determination of coastal development proposals in these areas.

- Loch Etive ICZM Plan
- Loch Fyne ICZM Plan
- Sound of Mull Marine Spatial Plan

1.1.12 This SG conforms to:

- NPF3
- SPP
- LDP Key Objectives A, B, C, D, E, G, H and I (pages 5-7)
- National Marine Plan
- EU Water Framework Directive



Decision by Nick Smith, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-130-2062
- Site address: land North of Braehead, Balevullin Beach, Balevullin, Isle of Tiree, PA77 6UA
- Appeal by Mrs Iona Larg against the decision by Argyll and Bute Council
- Application for planning permission 15/03260/PP dated 1 December 2015 refused by notice dated 23 February 2017
- The development proposed: beach hut (retrospective)
- Application drawings: maps and photographs appended to the council's refusal notice dated 23 February 2017.
- Date of site visit by Reporter: 28 June 2017

Date of appeal decision: 5 September 2017

Decision

1. I allow the appeal and grant planning permission subject to the 5 conditions listed at the end of this decision notice.

Reasoning

2. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. I agree with the council's report of handling section (J) (i), which outlines the relevant policies in the Argyll and Bute Local Development Plan (2015) and adopted supplementary guidance (March 2016). I agree that policy SG LDP ACE 1 'area capacity evaluation' is relevant because 'exceptional cases' in policy LDP DM 1 part E require an area capacity evaluation (ACE). Additionally, I consider that the following are also relevant to my consideration of this appeal:

- SG LDP TOUR 3 because Tiree is defined as a 'tourism development area' on local development plan pages 11 and 38, which is also relevant to SG LDP BUS 2 and SG LDP BUS 5;
- this site being part of a 'water conservation area' (local development plan page 54) because it relates to wider sustainability matters of how the site uses water whilst not being connected to the mains supply; and,
- SG LDP TRAN 1 which aims to safeguard and enhance public rights of access to the outdoors. I do not agree with the council that considering the proposal to have no impact on SG LDP TRAN 1 is the same as saying it is not a relevant consideration.

3. I note that the council apportioned limited weight to SG LDP CST 1 because it has not been approved by Scottish Ministers. However, I consider that this reflects national policy objectives; relating to water quality and marine designations for example. I therefore give this some weight in my consideration of this appeal.

4. The appellant refers me to the Ekos Report (June 2016) prepared for Tiree Community Development Trust. I consider that the relevant economic and demographic matters raised in this report are covered by local development plan chapter 4. I am therefore satisfied they have been integrated into the policy framework and that my consideration of the local development plan gives sufficient weight to these matters.

5. Having regard to the provisions of the development plan the main issues in this appeal are:

- whether this proposal is an 'exceptional case' with regard to policy LDP DM 1 part E;
- whether the area capacity evaluation (ACE) (required by policy LDP DM 1 part E for 'exceptional cases') concludes that the magnitude of impact from the proposal can be accommodated by the area;
- whether the proposal represents sustainable development as set out in policy LDP STRAT 1 and paragraph 3.5.5 relating to policy LDP 4;
- whether the benefits of the proposal outweigh any of the identified impacts; and,
- whether, as a result of the above, the proposal is consistent with policies LDP STRAT 1, LDP DM 1, LDP 3, LDP 4, LDP 5, LDP 8, LDP 9, LDP 10 and LDP 11; and, supplementary guidance SG 2, SG LDP ENV 5, SG LDP ENV 14, SG LDP BUS 2, SG LDP BUS 5, SG LDP TOUR 1, SG LDP TOUR 3, SG LDP REC/COM 1, SG LDP SERV 7, SG LDP TRAN 1, SG LDP TRAN 4, SG LDP TRAN 6, SG LDP ACE 1 and SG LDP CST 1.

6. The appellant refers to a building at nearby Loch Bhasapol, which is operated by another company running wind-surfing activities on the loch. The appellant argues this to be an example of a similar case. I saw this building in operation on my site inspection. I must consider each appeal case on its merits. I find that the existence of the building at Loch Bhasapol is contextually different from the appeal site. I do not have any evidence before me to draw further comparisons. I find that this is not a material consideration to which any significant weight should be given.

Public interest

7. This appeal proposal has generated significant public interest. There are representations supporting and opposing the proposal from people living on Tiree and from people living elsewhere. Several representations comment on both this proposal and a separate but similar proposal at Gott Bay. The Gott Bay proposal is not part of this appeal and I have only considered matters raised in relation to this appeal proposal.

8. Tiree Community Council refers to an island-wide ballot. This asked registered voters on the Tiree electoral role whether they supported or opposed the planning officer recommendations to refuse this proposal. However, the ballot gives no indication of the

reasons for the choices made and whether these were informed by material planning considerations. It also only considers those registered to vote on Tiree. These issues limit the weight it can be given in my consideration of this appeal. My decision notice gives greatest weight to the relevant planning matters raised by representations from all sides of the debate.

Scale and hut definition

9. The beach hut is 47 square metres including the decking. The hut itself measures three metres by four metres. This falls within the 'small scale' development for tourism-related uses of below 200 square metres defined in Table 1, page 32 of SG LDP ACE 1 and Schedule B1, page 56 of SD LDP BUS 2.

10. I saw no evidence of concrete footings, or of mains water, gas, electricity or sewage connections or that the hut is used for any form of residence. I consider this to mean it could be easily removed with little or no impact on its surroundings. The hut is made of low impact materials (as considered below). I am therefore satisfied that it fulfils the definition of a 'hut' in Scottish Planning Policy (2014). There is no dispute by either the council or those making representations regarding these matters. I agree with the council that the hut's lack of connections to utilities, including water, mean that SG LDP SERV 6 is not relevant in considering this proposal.

11. Were I to allow the appeal, I could impose a condition restricting the connection of the facility to mains gas, mains water, mains sewage and mains electricity. This would retain the definition as a 'hut', which is integral to my conclusions about the magnitude of impact in the area capacity evaluation (below). Alterations to this would be a material change to the proposal and would affect its impact on the locality. Embedded renewable energy generation is not covered by this appeal and such proposals would be subject to the normal processes.

Interpretation of the development plan

12. The appeal site is located in a 'countryside zone'; one of a hierarchy of development management areas in policy LDP DM 1. The appellant argues that this policy gives greater scope for sporting-related development in 'very sensitive countryside zones' and 'greenbelt land' compared with 'countryside zones'. I do not agree with this argument. I consider that the more restrictive the development management area, the more it is possible to specify appropriate development types. I find that sporting-related uses are appropriate in 'countryside zones', subject to meeting the relevant provisions of policy LDP DM 1 part E and other relevant policies in the local development plan.

Exceptional Case

13. I agree with the council that the proposal is not 'in-fill', 'rounding off' or 'redevelopment' under policy LDP DM 1 part E and it must therefore demonstrate an 'exceptional case'. SG LDP ACE 1, paragraph 2.1.1 bullet point five describes 'exceptional cases' as either: a demonstration of locational and/or operational need tied to a precise location, or; demonstration of an overriding economic or community benefit which outweighs other policies.

14. I agree with the appellant that a sea-based surfing business requires a location that is immediately accessible to the sea, such as a beach. The council argues that some elements of the business do not require a beach location and could be delivered from, for example, temporary pitching of tents or from vehicles in the public car park and other premises.

15. I find that sea-based surfing is the primary operation of the business and related first aid/life-saving equipment, changing facilities and safe storage for equipment (such as boards and wet suits) and customers' belongings are integral to this. I find that this demonstrates the need to locate specifically on the beach in order to fulfil these operations. I note that the appellant has identified other administrative, business management and related operations which take place from her residence elsewhere on the island. I agree that these later uses do not justify a beach location and I have no evidence to suggest they are presently carried out at the beach hut. I find this to demonstrate an appropriate separation between the functions of the business that must be delivered from a beach location and those which do not justify this.

16. The alternative sites/operations suggested by the council are not part of this appeal and the local development plan does not require their consideration. However, I find that the appellant's arguments about the practicalities of the council's suggestions reinforce my conclusions (above) regarding the 'exceptional case' for a beach location. I find that locations adjacent to Balevullin Beach are too far from the sea and/or pose greater risks to the nature conservation sensitivities of the machair surrounding the beach (including the public car park) and the dunes than the hut site on the beach itself. I consider this matter in more detail later in this decision notice. I cannot comment on the likelihood or otherwise of obtaining consent to cross common grazing land and this is not before me.

17. I find that the locational arguments above demonstrate that this appeal proposal is an 'exceptional case' in a 'countryside zone'. I therefore find that this proposal is consistent with policy LDP DM 1 part E subject to the conclusions of an area capacity evaluation (ACE) and its implications for other policies in the plan.

18. Were I to allow this appeal, I could impose a condition that the hut could be used only in connection with beach and water sports activities. The council has asked for this condition should the appeal be allowed. I could draft this condition to allow for the hosting of surfing-related events and activities such as the surf club; subject to any other permissions and licences as might be appropriate. I could also impose a condition preventing on-site food preparation for sale to customers at the hut. The justification for this would be that food preparation on-site is not a direct requirement of a surfing business and would not justify a beach location under the 'exceptional case' definition. These conditions would maintain a link between the hut and the activities of the surfing business, which have justified this as an 'exceptional case' under policy LDP DM 1 part E.

Area capacity evaluation (ACE)

19. Under policy LDP DM 1 part E 'exceptional cases' require an area capacity evaluation (ACE) to consider if the proposal can be successfully accommodated in the area. The council completed a draft ACE at the request of elected members. The appellant has argued that this draft ACE contains inherent bias, has not been properly carried out and has not properly explained the reasoning for reaching its conclusions.

20. I have used the draft ACE prepared by the council for my consideration of this appeal. I consider that this draft ACE was completed consistent with SG LDP ACE 1. I agree that the council's draft ACE identifies the appropriate receptors and I accept the judgements it makes about their respective levels of sensitivity in field sheets 3 and 4, column 2. I am not persuaded that the area capacity evaluation should consider the matter of precedent, since this assumes a potential impact of possible future, and as yet, undefined proposals in other locations for which there is no evidence. I consider matters of precedent later in this decision notice.

21. Given that this proposal is retrospective I was able to see the beach hut in-situ on my site inspection. The council's draft ACE makes a series of judgements about the magnitude of impact from the hut and concludes this is 'major' for several receptors in field sheets 3 and 4. During my site inspection I considered the council's draft ACE conclusions about the magnitude of impact. I have, however, reached different conclusions to the council for some of these receptors.

22. On my site inspection I saw that the beach hut is located to the rear of the beach immediately adjacent to the dunes, but not on the dunes. Its position and height means it is largely hidden from the landward side. It is visible from most parts of the beach, some parts of the dunes and some of the higher surrounding machair and rocks that enclose either end of the beach; including the public car park.

23. The beach hut is constructed of light coloured wood, which is a similar shade to the pale sands of the beach. I also saw the variety of colours and textures both on and surrounding the beach. These include the blue sea, pale sands, the greenery and flowers of the machair, the earthy colours of the rocks, the reddish brown of the deposited seaweed band on the shore line and the inter-mixed sand and green of the dunes. The area is also characterised by the white-painted properties near to Balevullin Beach, which are visible when looking landward from some parts of the beach and the surrounding machair and dunes.

24. Whilst the beach hut can be seen I do not find this to mean that it automatically has an adverse visual impact. When looking landward the nearby white-painted properties are far more eye catching. There are no landscape designations in this area. Scottish Natural Heritage has not raised any landscape concerns. As noted above, the proposal is set back from the beach and its visual signature is muted by its scale, colour, materials and position. This diminishes the visibility of the beach hut to the onlooker. The beach hut is also only visible from some parts of the beach, the dunes and the surrounding machair. I do not consider that the beach hut inhibits views from these points in a significant way.

25. As such I cannot conclude, as the council did, that this proposal would have a 'major' impact on 'open space and recreation areas' or on 'rights of way/paths/core paths' to or around the beach. I consider the magnitude of impact on both of these receptors to be 'low' with regard to the area capacity evaluation field sheets 3 and 4. I also cannot conclude that the impact of the proposal on view points, landform, linear features, texture or pattern is 'major', as the council did. I consider that the combination of hut's materials, colours and positioning mean that colour, texture and pattern have a 'moderate' to 'low' impact. I also conclude that these factors contribute to a 'moderate' to 'low' impact on landform, linear features and important viewpoints.

26. On my site inspection I saw no evidence of advertising hoardings at or near the proposal. There is a public safety notice and a local wildlife information board at the public car park. On the beach hut itself there is a blue plaque identifying the company. I have taken this plaque into consideration in my area capacity evaluation findings above.

27. According to the local development plan proposals map for Tiree and Coll supplied by the council, Balevullin Beach is one of the only parts of the Tiree coast that is not covered by one or more national or international, natural heritage designations. The nearby local nature conservation site covers some parts of the dunes but does not cover the appeal site or the beach. No objections have been raised by Scottish Natural Heritage or by RSPB Scotland. I have no evidence before me to indicate that the proposal has or would lead to adverse impacts on wildlife or upon the integrity of nearby designated areas. I cannot conclude that there is a 'major' impact from the proposal on the local nature conservation site. I conclude that the impact of this proposal on the receptor 'other land uses' in the area capacity evaluation is 'low'.

28. The proposal is located well back from the sea and close to the Abhainn Bhan, where it crosses the beach to the sea. The hut has no obvious interaction with this water body. There is no evidence that the hut is connected to mains utilities (including water and sewage). Scottish Environment Protection Agency has not raised any concerns regarding the potential impacts of this proposal on nearby water bodies. The positioning, colour and materials diminish the impact the proposal could have on the seascape and views as noted above. I have no evidence before me to suggest that the proposal has a 'major' impact on the 'water' receptor, as the council concluded. I conclude that the impact of the proposal on this receptor in the area capacity evaluation is 'low'.

29. I conclude that the magnitude of impacts of the proposal on the receptors identified in the area capacity evaluation are, on balance, 'low' rather than 'major'. This low impact is entirely due to the hut's scale, position, colour and materials. I find that the appeal proposal is therefore sited and positioned so as to pay regard to the context within which it is located. I also find that the layout is adapted to take into account the location or sensitivity of the area. This is consistent with policies LDP 9, LDP STRAT 1 and LDP 3 and supplementary guidance SG 2 and SG LDP ENV 14, subject to conditions. The proposal is therefore consistent with policy LDP DM 1 part E.

30. Were I to allow this appeal, I could impose a condition requiring the materials of the beach hut to remain un-treated and un-coloured. This condition was sought by the council if the appeal was allowed. The colour and nature of these materials are integral to my findings regarding the magnitude of impact on sensitive receptors in the area capacity

evaluation (above). Alterations to these would make a material change to the proposal that would affect its impact on the locality.

Access

31. The beach (and therefore the hut) is accessible from a series of informal paths from the dunes and from the machair at either side of the beach; including several points from the public car park. During my site inspection there were around 15 people using the beach for activities such as dog walking and recreation. I observed no evidence that their enjoyment of or access to the beach was disrupted or inhibited in any way by the location, design or layout of the proposal. The area covered by the proposal is very small relative to the overall size of the beach. The hut is located to the rear of the beach with considerably more than four metres between its front and the foreshore. This is consistent with the principles of policy LDP 11 and SG LDP TRAN 1, which promote access to the outdoors, including the foreshore, and safeguard public rights of way.

32. The beach is served by a public road and during my site inspection I also saw people arrive using the island's bus service, bikes and cars. The public car park is informal but marked out using rods linked by rope and capable of holding several dozen vehicles. These factors enable the proposal to be consistent with the principles of policy LDP 11 to promote access by a range of modes and also SG LDP TRAN 4 and SG LDP TRAN 6.

Sustainable development and coastal development

33. The lack of connection to utilities supports a low carbon footprint; consistent with the principles of policies LDP STRAT 1 part D and LDP 10. The absence of connections to water infrastructure also raise no issues for policy LDP 11. There is a rain water harvesting system on one side of the hut. This is consistent with the principles of operating in a water conservation area (local development plan page 54) and reflects the principles of policy LDP STRAT 1 regarding resource consumption.

34. The proposal is not located on agricultural land used for grazing or food growing. Whilst the proposal is not on brownfield land I have concluded that it is an 'exceptional case' that justifies a beach location in a 'countryside zone'. I have also concluded for the area capacity evaluation that the magnitude of impact from the proposal is, on balance, low. Scottish Environment Protection Agency has not raised any objections with regard to flood risk. I am therefore satisfied that the proposal meets the principles of policy LDP STRAT 1 and SG LDP SERV 7.

35. I find that this appeal proposal reflects the requirements for sustainable development as outlined in policy LDP STRAT 1 and those set out in paragraph 3.5.5, relating to policy LDP 4. This proposal is located in the coastal zone covered by policy LDP 4 (land between the mean low water spring and 1 kilometre inland). Given the conclusions above I find that this appeal proposal is consistent with policy LDP 4, which supports onshore proposals for sustainable development in the coastal zone.

36. I have no evidence before me from statutory agencies to indicate that the proposal would result in adverse impacts on the ecological status of coastal and transitional water; coastal processes; on marine designations (there are none near to Tiree) or on relevant

elements of the national marine plan or regional marine plans/other coastal plans. My conclusions regarding the 'exceptional case', sustainable development and the area capacity evaluation (above) demonstrate that the appeal proposal meets the requirements of supplementary guidance policy SG LDP CST 1.

Economic, community and social benefits

37. The appellant argues that the proposal plays a vital role in encouraging visitors to the island. I agree it is plausible that an increase in the popularity of surfing (and related events) and use of the hut could contribute to more visitors to Tiree. It is also plausible that this could support catering and accommodation businesses and the viability of sea and air links. I do not have before me any empirical evidence to quantify any causal link between the beach hut and visitor numbers. However, I find that this proposal seeks to be part of a new set of tourism-related opportunities supported by the surfing conditions on the island. I consider this to represent a full understanding of the wider and related economic relationships between individual proposals and Tiree's economy, albeit one that is not quantified.

38. The council argues that the proposal is not an exceptional case and that it has failed the area capacity evaluation. As such it concludes that it fails numerous local development plan policies and supplementary guidance within which these are key considerations. However, I have found (above) that this is an exceptional case and that it has a low impact in the area capacity evaluation. I have also found that the proposal is 'small scale' as set out in supplementary guidance schedule B1 relating to SG LDP BUS 2.

39. My conclusions above reflect the principles of policy LDP 5. This gives priority to new business that delivers sustainable economic growth in 'economically fragile areas'. Tiree is a 'tourism development area' and an 'economically fragile area' (local development plan pages 11 and 38). Local development plan paragraphs 4.1.3 and 4.1.4, preceding policy LDP 5, explain the importance of tourism as a major sector of the economy.

40. I find that the proposal is consistent with SG LDP BUS 2 and SG LDP BUS 5. These recognise the locational requirements of various sectors and scales of business and the potential of growth sectors such as tourism. For these reasons I also find that the proposal consistent with supplementary guidance SG LDP TOUR 1 and SG LDP REC/COM 1. These presume in favour of new development consistent with policy LDP DM 1.

41. I also find that this proposal is consistent with SG LDP TOUR 3. This recognises that tourism development areas contain significant opportunities for sustainable growth of the tourism industry. I do not agree with the council that this means only proposals promoted by statutory agencies or local tourist organisations are appropriate. I agree with the appellant that customer experience is integral to the economic wellbeing of Tiree's tourism offer. This also reflects SG LDP TOUR 3, which encourages new, high quality tourism development, intended to add to the appeal of Argyll and Bute as a tourist destination subject to other policies. The accessibility of Balevullin Beach (and therefore this appeal proposal) by a variety of travel modes also reflect SG LDP TOUR 3.

42. I did not see the surf club in operation on my site visit. However, representations from both sides of the debate acknowledge there are free surfing lessons for islanders run

from the hut. As part of the 'exceptional case' the presence of supervised water sports offers a dimension of safety cover for all beach users. This reflects the principles of policy LDP 8 to strengthen communities and make Tiree a better place to live, work and visit.

43. Overall I find that the proposal achieves direct and indirect economic and community benefits but that these are difficult to quantify. Given my conclusions for the area capacity evaluation I find that these benefits assist in outweighing any adverse impacts resultant from the proposal. This is consistent with policy LDP 3 and SG LDP ENV 5. Although not necessary, this suggests that the proposal would also meet the 'exceptional case' requirement using the second element of supplementary guidance paragraph 2.1.1. This reinforces to me the conclusions I made for an 'exceptional case' under policy LDP DM 1 (above).

Precedent

44. The council's draft area capacity evaluation and some representations consider that allowing the hut would set a precedent and adversely affect the 'unspoilt' beaches of Tiree. I have explained above that I do not consider it appropriate for an area capacity evaluation to consider matters of precedent.

45. On my site inspection I visited several beaches on Tiree. Balevullin beach is one of the few parts of the Tiree coastline not to be protected by national and/or international, natural heritage designations. These designations elsewhere limit the potential for development on other beaches that is judged to compromise the qualifying interests of the respective designation(s).

46. Policy LDP DM 1 and related policies contain the necessary and appropriate decision making framework for considering other beach development proposals. Whilst I reached different conclusions to the council, this decision notice does not pre-suppose the outcome of evaluating other proposals against policy LDP DM 1 and related policies. This is also reinforced by the conditions I have imposed on this appeal proposal.

Conclusions

47. I find that this proposal is consistent with policy LDP DM 1 as an 'exceptional case' with a low impact; following re-consideration of the area capacity evaluation. This low impact is due to the specific placement, position, scale, materials and colour of the hut. For these reasons and its lack of connection to utilities the proposal reflects the locational and sustainability requirements of the local development plan and the relevant supplementary guidance policies. I find that the proposal is supported by the development plan's provisions for 'tourism development areas' and 'economically fragile areas' and related policies and supplementary guidance. As such I find that the benefits of the appeal proposal outweigh any adverse impacts.

48. I therefore conclude, for the reasons set out above, that the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would still justify refusing to grant planning permission. Accordingly I allow the appeal subject to the conditions set out below.

Nick Smith

Reporter

Conditions

1. The beach hut herein granted permission shall only be used for beach and water sports activities including:

- storage of surf boards and related equipment, wet suits, first aid and life-saving equipment, customers' valuables and other material integral to the operation of the surfing business at Balevullin Beach;
- for use as a shelter and changing facility for customers and operators of the business; and,
- hosting of activities that relate to surfing events and the surf school, subject to any other permissions and licences, as appropriate.

(Reason: to retain the 'exceptional case' for the proposal justified by the need for a surfing business to have a beach location consistent with Argyll and Bute Local Development Plan (2015) policy LDP DM 1, which forms the basis for approval.)

2. No food shall be prepared at the hut for sale to customers. This does not prevent food prepared elsewhere being brought to the site.

(Reason: in the interests of public health and amenity. Food preparation does not justify a beach location as part of the 'exceptional case' consistent with Argyll and Bute Local Development Plan (2015) policy LDP DM 1, which forms the basis for approval.)

3. The operators of the hut shall provide refuse collection facilities consistent with the Waste (Scotland) Regulations 2012.

(Reason: in the interests of amenity and public health. To ensure that the impact of the proposal remains low, as per the findings of the area capacity evaluation in this decision notice, which forms the basis of this approval.)

4. The wood used to construct the beach hut herein granted planning permission shall remain un-treated and un-coloured.

(Reason: to ensure that the visual impact of the proposal remains low, as per the findings of the area capacity evaluation in this decision notice, which forms the basis of this approval.)

5. No connection shall be made between the hut and mains water, sewage, gas and electricity supplies and the hut shall not be used as a residence.

(Reason: to retain the definition of a 'hut' under Scottish Planning Policy (2014) and maintain the conclusions reached in the area capacity evaluation upon which this approval is based.)

Application drawings:

- 1034/PL/01 1:10,000 scale map dated 9 December 2015
- 1034/PL/02 1:1,250 scale map dated 9 December 2015
- 1034/PL/03 1:500 scale map dated 10 December 2015
- 1034/PL/04 north west and south west elevation photographs dated 9 December 2015

Boat shed.

