

STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

18/0012/LRB

Removal of condition 2 relative to planning permission reference 11/00875/PP (Redevelopment of 2 existing barns, 1 stable building and a static caravan to erect a dwellinghouse and form a new private vehicular access) in relation to existing barns and stable building being removed from site.

Land North East of Altnavullin, Benderloch, Oban

13th of December 2018

The Planning Authority is Argyll and Bute Council ('the Planning Authority'). The appellant is Dr and Mrs Norman MacDonald ('the Appellant'). The site the subject of this review is Land North East of Altnavullin, Benderloch by Oban ('the Site').

The statement of case on behalf of the Planning Authority is substantively contained within the Report of Handling for planning application 18/01157/PP, attached as Appendix B below, and as expanded upon within the commentary which follows.

1.0 BACKGROUND

1.1 Detailed planning permission 11/00875/PP was granted subject to conditions on the 12th of August 2011 for the redevelopment of two existing barns, one [existing] stable building and one [existing] static caravan to erect a dwellinghouse at the Site. The relevant Report of handling pursuant to this planning application is attached to this Statement as Appendix A.

1.2 Following a complaint received in August 2017 and a subsequent planning enforcement investigation it was found that whilst the dwellinghouse the subject of planning permission 11/00875/PP had been constructed and was occupied (and is known as 'Kennovara'), not all of the buildings required to be removed, both by the very nature and description of the development applied for and assessed, and subject to a requirement by planning condition (Condition 2) as underpinned by planning policy had, in fact, been so removed. Whilst the use of land for the stationing of a static caravan had ceased (actually before the submission of planning application 11/00875/PP) and one small barn building removed, the larger barn and the stable building remained.

1.3 Planning Condition 2 of planning permission 11/00875/PP requires that:

"Prior to the initial occupation of the dwellinghouse hereby approved, both of the existing barns and the stable building shall be removed from site to the satisfaction of the Planning Authority.

Reason: To underpin the justification of redevelopment for the dwellinghouse hereby approved. "

1.4 The Planning Authority attempted to resolve this issue through negotiation as required by the Council's published planning enforcement and monitoring charter. These negotiations failed and the Planning Authority therefore served a Breach of Conditions Notice on the owners of the land (the Appellant) in November 2017. The Appellant failed to comply with this Notice and, instead, sought to resolve the matter in his favour by seeking the removal of Condition 2 through the submission of a subsequent planning application.

1.5 Detailed planning application 18/01157/PP for the "Removal of Condition 2 relative to planning permission reference 11/00875/PP (Redevelopment of 2 existing barns, 1 stable building and a static caravan to erect a dwellinghouse and form a new private vehicular access) in relation to existing barns and stable

building being removed from site” was validated in June 2018 and subsequently refused on the 6th September 2018. The relevant Report of handling pursuant to this planning application is attached to this Statement as Appendix B.

1.6 The reason for refusal of planning application 18/01157/PP is:

“The proposal fails to meet policies LDP STRAT 1 and LDP DM1 of the Local Development Plan.

The erection of a new dwellinghouse clearly constitutes a new building, by which redevelopment can only be supported in circumstances involving significant demolitions. Without the removal of the subject buildings the development proposal cannot be considered a redevelopment opportunity. In considering the development against the other provisions in the LDP the development proposal in order to meet LDP DM 1 would be required to be considered as infill, rounding off and or an exceptional case in order to find policy support. The proposal is not infill, rounding off and no exception case argument has been advanced in support of this application. Accordingly, the proposal fails to accord with policy LDP STRAT 1 which sets out the sustainable development aims of the Council; nor policy LDP DM 1 without being advanced as a redevelopment opportunity.”

1.7 Following the assessment and subsequent refusal of planning application 18/01157/PP, a formal planning Enforcement Notice was served on the Appellant (this replacing the earlier Breach of Conditions Notice). This Notice requires the removal from the Land Affected of the remaining barn and stable buildings, labelled Building 1 and Building 2 upon a plan attached to the Notice and within four months from the date upon which the Notice takes effect. A copy of the plan attached to the Enforcement Notice is attached to this Statement as Appendix C.

1.8 The Enforcement Notice referred to above took effect on the 3rd December 2018 and therefore requires the buildings to be removed by 3rd April 2019. No appeal against the Enforcement Notice appears to have been lodged with the Scottish Government.

1.9 The matter the subject of this Review is, according to the Appellant’s submitted Formal Notice of Review, “Appealing planning condition reasons described in appeal statement” and, within the Appellant’s said statement, “This report provides the Grounds of Appeal against the decision of Argyll and Bute Council to refuse the permission to remove condition 2 relative to planning permission reference 11/00875/PP (Redevelopment of 2 existing barns, 1 stable building and a static caravan to erect a dwelling house and form a new vehicular access).”

1.10 This is unintentionally misleading and the Planning Authority submits that the actual substantive nature of this review request is against the decision of the Planning Authority to refuse planning application 18/01157/PP.

2.0 DESCRIPTION OF SITE

2.1 The site and the development the subject of this review is as described within the attached reports of handling (Appendix A and Appendix B).

3.0 **STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED**

3.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 provides that where, in making any determination under the Planning Act, regard is to be had to the development plan. The determination shall be made in accordance with the plan unless material considerations indicate otherwise. This is the test for this application.

4.0 **REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING**

4.1 It is not considered that any additional information is required in light of the Appellant's submission. The issues raised were assessed in the Report of Handling for planning application 18/01157/PP which is attached as Appendix B. As such it is considered that Members have all the information they need to determine the case. Given the above and that the proposal is small scale, has no complex or challenging issues, and has not been the subject of any significant public representation, it is not considered that a Hearing is required.

5.0 **RESPONSE TO APPELLANT'S STATEMENT OF CASE**

5.1 In Paragraph 2.0 of the Appellant's statement of case it is stated that: "This appeal relates to the refusal to grant planning permission for the removal of a planning condition." This is not, strictly, the case. The application (and subsequent refusal) the subject of this Review is actually for a reconsideration of the entire development by the Planning Authority; that reconsideration to be made without the benefit of a planning condition to secure the necessary removal of the remaining buildings. This is a small distinction, perhaps, but an important one because in refusing planning application 18/01157/PP, the Planning Authority have determined that the entire development is unacceptable. The reasoning for this is explained within the attached report of handling for this application (Appendix B). The substantive argument here is that, without the removal of the remaining buildings, the development cannot be considered an appropriate redevelopment opportunity pursuant to key adopted planning policy, notably LDP DM 1.

5.2 In Paragraph 3.0 of the Appellant's statement of case, it is claimed that at no point did the Appellant have any dialogue with anyone from the Planning Authority to say that there was any problem with the application. This claim is knowingly disingenuous because the Planning Authority had clearly and unequivocally raised substantive concerns regarding the failure to comply with Condition 2 of planning permission 11/00875/PP dating from the planning enforcement investigation triggered by the complaint received in August 2017 and the subsequent serving of the Breach of Conditions Notice on the Appellant. In addition to this, it is noted, for example, that on the 25th August 2017 (nearly one year before planning application 18/01157/PP was submitted) the Council's planning enforcement officer, Mr. J. Torrance sent an email to the

Appellant which (amongst other things) discussed the Appellant's proposal to seek to set aside Condition 2 of planning permission 11/00875/PP through the submission of a new planning application. This email stated that, "*The removal of the said sheds/caravan was actually a significant aspect in the determination and justification [of the development] as redevelopment. It would be my view that such an application [to seek approval for the development without the requirements of Condition 2] would be challenging and likely be refused.*"

- 5.3 The argument advanced in the Appellant's Paragraph 4.1 is unclear. The Planning Authority accepts that there are two buildings remaining (a barn and a stable building) and not three. This is evidenced by the fact that the Council's planning enforcement notice clearly refers to the need to remove two buildings (those buildings clearly marked on the accompanying plan – Appendix C). The Planning Authority further accepts that earlier published references to 'three remaining buildings' are inaccurate.
- 5.4 However, the point is moot. The fact remains that planning application 11/00875/PP was submitted by the Appellant on the basis of allowing a new dwellinghouse within the Countryside Zone as a replacement of two barns and a stable and the discontinuation of the use of land for the siting of a caravan. This argument was carefully assessed at the time and accepted as appropriate development in compliance with adopted planning policy. Because the proposed (and subsequently constructed and occupied) new dwellinghouse was not on the footprint of any of the buildings (or the caravan) to be removed, the Planning Authority properly sought to secure their removal by suspensive planning condition; a condition requiring that the occupation of the new dwellinghouse must not commence until such time that all of the buildings have been removed (and the use of land for the stationing of a caravan discontinued). This did not happen. The Appellant sought to substantially and deliberately disregard the requirement of the planning condition and therefore materially undermine both his own justification for the development in the first place and the considered reasoning by the Planning Authority for allowing it as an appropriate 'redevelopment' opportunity of an otherwise unacceptable site within the Countryside Zone. The Planning Authority notes that the Appellant did not seek to challenge this condition at the time of the approval of the development and neither did he discuss with the Planning Authority his intentions to only remove the smallest of the three buildings and discontinue the use of the land for the stationing of the caravan, thus leaving the two largest building in situ; plainly contrary to his planning permission and to the arguments and justification he himself submitted in support of his planning application.
- 5.5 The appellant (and his legal advisor) seeks to advance an argument at Paragraph 4.2 of his statement to the effect that had the Planning Authority been so concerned about this they would have surely acted earlier. This argument is robustly refuted. It is considered disingenuous in the extreme to suggest that because the Appellant has 'got away with it' for so long it doesn't matter. In the opinion of the Planning Authority, the Appellant has sought to conceal his intentions. He was fully aware of the requirements of Condition 2 of planning permission 11/00875/PP. Indeed, the Appellant was originally responsible for the very proposal that these buildings be removed in order to

justify the new dwellinghouse. The Appellant makes an unsupported claim that the 'head planner for Oban and Lorn' inspected the property at the time of its completion (approximately seven years ago) and that he didn't mention the continued unlawful presence of the remaining barn and stable buildings. This claim is irrelevant and unsupported. In addition, the officer presumed to be referenced here has long left the employment of the Council and I can find no written or anecdotal record of any such matter.

- 5.6 Whilst the Planning Authority admits that it is perhaps regrettable that this breach of planning control was not highlighted or noticed earlier than August 2017, this does not somehow convey tacit acceptance of the unlawful development. The Planning Authority maintains that there remains a sound reason for requiring the removal of the remaining outbuildings. That reason is, in essence, that without the removal of the remaining buildings, the (now retrospective) development of the adjacent land for the construction of a substantial detached dwellinghouse could not be considered to be an appropriate 'redevelopment' and, therefore, would, in the absence of any alternative and appropriate 'infill', 'rounding-off', 'change of use' or 'exceptional case' (supported by an agreed Area Capacity Evaluation) opportunity, be fundamentally contrary to adopted planning policy concerning development within the established Countryside Zone. This matter is expanded upon within the published report of handling for refused planning application 18/01157/PP (Appendix B).
- 5.7 The Appellant's argument at Paragraph 4.3 was advanced at the time of the consideration of planning application 18/01157/PP. It is refuted for the reasoning contained within Appendix B.
- 5.8 The Appellant's argument at Paragraph 4.4 is also referred to within Appendix B. The Appellant's argument on this matter is largely irrelevant to the current Review and it should be noted that planning application 18/01157/PP was not refused on road safety grounds. It is, however, worth noting that at the time of planning application 11/00875/PP the removal of this entire group of buildings, and the uses associated with them, was also considered necessary in order to 'offset' the likely additional traffic generated by a new dwellinghouse and utilising an access onto the public road which was, at that time, considered unacceptable to support any additional traffic movements. The argument at that time was that any increase in traffic generated by the proposed dwellinghouse could be balanced by the reduction in existing traffic to be secured through the removal of the existing buildings and their associated uses. This point is now largely irrelevant because this access has subsequently been upgraded following a specific grant of planning permission for those improvement works.
- 5.9 The Appellant appears to be advancing an argument in his Paragraph 5.2 that either or both of the remaining unlawful buildings could, in fact, be re-erected in the same place as 'permitted development' under the provisions of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (As Amended).

- 5.10 In this case, however, they couldn't. This is for the very simple reason that Condition 4 of planning permission 11/00875/PP removed residential permitted development rights for the new dwellinghouse (completed, occupied by the Appellant and known as Kennovara), including those pertaining to the erection of extensions, alterations or outbuildings.
- 5.11 It is anticipated that the Appellant will claim that the unlawfully remaining buildings are actually within the residential curtilage of the adjacent dwellinghouse, 'Altnavullin', and that there is no such restriction upon residential permitted development rights for Altnavullin. However, they are not. These buildings, whilst within land owned by the Appellant and adjacent to Altnavullin, are not within its residential curtilage. They occupy an area of adjacent 'paddock land', clearly separate from the defined residential curtilage and therefore do not benefit from 'residential' permitted development rights. Neither, in the opinion of the Planning Authority, would the re-erection of these buildings (or buildings of a similar scale and design) benefit from any other form of 'permitted development'. This land is very unlikely to be considered a working farm of a scale and type that would normally benefit from agricultural permitted development and even if it were be so considered, it is clear that not only is an 'equestrian' building not agricultural development, there is no agricultural permitted development for buildings which have already been erected – such buildings require the submission and consideration of a planning application.
- 5.12 It is noted, with regret, that the report of handling for planning application 18/01157/PP (Appendix B, Section P) states that the land currently occupied by the buildings "appear[s] to be within the curtilage of Altnavullin." This is an uncorrected drafting error within the report of handling. In the considered opinion of the Planning Authority following a robust examination of the site and the documents pertaining to this Review, it is considered that this wording should have read, "appear[s] to be within the *ownership* of Altnavullin." 'Ownership' is very different to 'curtilage' insofar as it relates to permitted development rights for ancillary residential curtilage buildings and the Planning Authority seek to correct this error here with apologies for any unintentional confusion and/or inconvenience.

6.0 CONCLUSION

- 6.1 The development the subject of planning permission 11/00875/PP, resulting in the erection and occupation of a substantial detached dwellinghouse known as 'Kennovara' is considered unlawful. The planning permission granted specifically requires that the new dwellinghouse cannot be first occupied until both of the existing barns and the stable building have been removed from the site to the satisfaction of the Planning Authority. Not only was this the stated intention of the Appellant at the time of the submission of his planning application 11/00875/PP but this intention formed a fundamental material planning consideration in the allowing of this substantial new dwellinghouse within the 'Countryside Zone' and in a location where the only justification for allowing it was based on the reasonable 'redevelopment' of the existing cluster of adjacent buildings.

- 6.2 Without the removal of this entire cluster of buildings, the Planning Authority maintain that the retrospective development of the dwellinghouse now known as Kennovara is unacceptable and contrary to the Council's key adopted settlement strategy policy LDP DM 1 and contrary to the sustainable development aims of the Council contained within policy LDP STRAT 1.
- 6.3 The proposed development, including the retention of the remaining stable building and barn, fails to represent a suitable redevelopment opportunity and no exceptional case argument has been advanced which would otherwise provide policy support for the development within the countryside. The proposal therefore does not accord with the relevant provisions of the Local Development Plan, notably with policies LDP STRAT 1, LDP DM1 and LDP 3 of the Argyll and Bute Local Development Plan 2015 and with all other material considerations. There are not considered to be any conditions which could otherwise enable the development to be supported by ensuring it met the policies of the local development plan.
- There are no other material considerations, including issues raised by third parties, which warrant anything other than the application being determined in accordance with the provisions of the local development plan.
- 6.4 There are, in the considered opinion of the Planning Authority, only two ways to appropriately remedy this unlawful development: either demolish the dwellinghouse Kennovara or else require that the remaining buildings be removed in accordance with the specific terms of the planning permission granted. The Planning Authority acknowledges that a requirement to demolish the dwellinghouse would be disproportionate in this case but seeks to secure the removal of the remaining buildings for the reasons specified above and in the attached appendices. The removal of these buildings is required by the Enforcement Notice already served on the Appellant. This Notice has taken effect and was not subject to any appeal.
- 6.5 Taking account of the above, it is respectfully requested that the application for review be dismissed.

LIST OF APPENDICES

The following appendices accompany this Statement:

- Appendix A.** Report of Handling – Planning Application 11/00875/PP
- Appendix B.** Report of Handling – Planning Application 18/01157/PP
- Appendix C.** Copy of Location Plan Relative to Enforcement Notice 17/00212/ENBOC2

APPENDIX A

Argyll and Bute Council
Development Services

Delegated or Committee Planning Application Report and Report of Handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 11/00875/PP

Planning Hierarchy: Local

Applicant: Dr Norman MacDonald

Proposal: Redevelopment of 2 existing barns, 1 stable building and a static caravan to erect a dwellinghouse and form a new private vehicular access

Site Address: Land north east of Alnavullin, Benderloch, Oban, Argyll and Bute, PA37 1QS

DECISION ROUTE

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

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Redevelopment of 2 existing barns, 1 stable building and a static caravan to erect a 1¾ storey dwellinghouse
- Construction of a new private vehicular access
- Construction of an associated parking and turning area
- Installation of a BioDisc sewage treatment plant
- Surface water discharging to an existing water course

(ii) Other specified operations

- Connection to an existing public water main
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(B) RECOMMENDATION:

Having due regard to the development plan and all other material planning considerations, it is recommended that planning permission be granted subject to the conditions and reasons appended to this report.

(C) HISTORY:

99/01173/DET

Proposed extension. *Application approved 5th October 1999*

(D) CONSULTATIONS:

Area Roads Manager

Initial response received 20th July 2011 – recommending refusal primarily due to:

- i) intensification of use of an existing access
- ii) insufficient space for the applicant to be able to upgrade the existing access to Operational Services Drawing No. (SD 08/004a); and
- iii) visibility splays not being achievable on ground under the applicants control.

Further response received 10th August 2011 – recommending no objection. After referring to the signed affidavit from both the previous site owners, and with the number of bedrooms proposed within the dwellinghouse being reduced to 3, the Roads Manager is content that there is in fact no material intensification of use of the existing access. There is therefore no requirement for the applicant to upgrade the existing access with the junction of the C26 Benderloch – South Shian public road, and the development can progress.

Historic Scotland

Response received 29th July 2011 – no objection

Public Protection Services

Response received 18th July 2011 – no objection

Scottish Water

Response received 28th June 2011 – no objection but please see advisory comments which can be viewed within section 'Note to Applicant' below

West of Scotland Archaeology Service

Response received 13th July 2011 – no objection

(E) PUBLICITY:

'Regulation 20 – Advert Local Application' from the 30th June 2011 to the 21st July 2011.

(F) REPRESENTATIONS:

One representation was received from;

- Mr Alan Cathro, Eilean na Mara, Laurel Crescent, Oban, Argyll and Bute, PA34 5ED (letter received 19.07.2011)

The concerns raised are summarised as follows:

- My wife and I own a plot of land which is in the zone for development and is accessed by the same road as the applicant. Advice, visits and letters from professionals advised it would be improbable to use the road access in its present form as it doesn't comply with the minimum guidelines set out by Argyll and Bute Council. Approval could therefore favour one applicant over another.

Comment: Advice the objector received from private sector professionals regarding an adjacent site are not relevant to the planning application under consideration. Every planning application must be assessed within its own merits. The objector's potential development has never been the subject of a planning application and it does not therefore form relevant planning history in this instance.

- The photographs shown in the application site are my own and approximately 5 years old. The applicant had no authority from me to use them.

Comment: Copyright is not a material planning consideration. The photographs confirm the size and siting of a static caravan on the application site.

- The caravan was removed approximately 1 year ago and is now no longer there.

Comment: In support of the planning application, the applicant submitted a signed affidavit from both the previous site owners which was signed in August 2010 certifying that there has been a static caravan situated at Altnavullin since 1998. The applicant further verified that he used the caravan for residential purposes prior to its removal from the application site. The caravan size and siting for more than 10 years is sufficient to indicate an established use at the application site. Albeit that the static caravan has recently been removed in preparation for the current planning application, it is not considered that the use has been formally abandoned. If the caravan were to re-appear, it is unlikely that formal enforcement action would be taken on the basis of the established residential use.

- It is wholly untrue to state that there would be no increase in traffic as the caravan had not been used for over 10 years and was uninhabitable during that time.

Comment: The sworn affidavit signed by the two previous site owners, the statements of the applicant now, and the photographs submitted during the

determination process of this planning application, collectively confirm to the satisfaction of the Planning Service that the static caravan was on-site for more than 10 years. There would be little point placing an caravan on the site in 1998, only 2 years before the objector now indicates is became uninhabitable. The photographs submitted with the application illustrate a caravan in reasonable condition. It is accepted that the static caravan was habitable and contained six bed spaces. The number of bedrooms proposed within the dwellinghouse has been reduced to 3. This, in conjunction with the removal of the barns and stables is considered sufficient to accept there is no intensification in use of the access. The proposed dwellinghouse is now compatible with the number of bed spaces within the pre-existing static caravan. This has been accepted by the Area Roads Manager, who advises the Planning Service on road safety matters. Therefore, the proposal does not involve a material increase in traffic that can use the access and the junction with the C26 Benderloch – South Shian public road need not be upgraded.

The above represents a summary of the issues raised. Full details of the letter of representation are available on the Council's Public Access System by clicking on the following link <http://www.argyll-bute.gov.uk/content/planning/publicaccess>.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- | | |
|--|-----|
| (i) Environmental Statement: | No |
| (ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: | No |
| (iii) A design or design/access statement: | Yes |
| During the determination process of this planning application the applicant submitted a Design and Access Statement which provided further information in relation to the cubic volume of the proposed dwellinghouse and the existing buildings, the proposed access arrangements, justification for the requirement of the proposed dwellinghouse and the principles of design. | |
| (iv) A report on the impact of the proposed development e.g. retail impact, transport impact, noise impact, flood risk, drainage impact etc: | No |

(H) PLANNING OBLIGATIONS

- | | |
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| (i) Is a Section 75 agreement required: | No |
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(I) **Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:** No

(J) **Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application**

(i) **List of all Development Plan Policy considerations taken into account in the assessment of the application**

Argyll and Bute Structure Plan 2002

Policy 'STRAT SI 1 – Sustainable Development'

Policy 'STRAT DC 2 – Development in Countryside Around Settlement'

Policy 'STRAT DC 5 – Development in Sensitive Countryside'

Policy 'STRAT DC 8 – Landscape and Development Control'

Policy 'STRAT HO 1 – Housing – Development Control Policy'

Argyll and Bute Local Plan 2009

Policy 'LP ENV 1 – Development Impact on the General Environment'

Policy 'LP ENV 12 – Water Quality and Environment'

Policy 'LP ENV 19 – Development Setting, Layout and Design'

Policy 'LP HOU 1 – General Housing Development'

Policy 'LP SERV 1 – Private Sewage Treatment Plants and Wastewater (i.e. drainage) Systems'

Policy 'LP SERV 2 – Incorporation of Natural Features/Sustainable Drainage Systems (SUDS)'

Policy 'LP TRAN 4 – New and Existing, Public Roads and Private Access Regimes'

Policy 'LP TRAN 6 – Vehicle Parking Provision'

Appendix A – Sustainable Siting and Design Principles

Appendix C – Access and Parking Standards

(ii) **List of all other material planning considerations taken into account in the assessment of the application having due regard to Annex A of Circular 4/2009**

Argyll and Bute Sustainable Design Guidance (2006)

Scottish Planning Policy (2010)

The Planning etc. (Scotland) Act 2006

The Town & Country Planning (Scotland) Act 1997

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(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:

No

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

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

—

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

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(O) Requirement for a hearing (PAN 41 or other): No

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

This application is seeking planning permission for the redevelopment of 2 existing barns, 1 stable building and a static caravan to erect a 1¾ storey dwellinghouse and form a new private vehicular access on land situated to the north east of the existing dwellinghouse at Alnavullin, Benderloch, Oban, Argyll and Bute, PA37 1QS.

With reference to the Argyll and Bute Development Plan 2009, the application site is situated within the development zone identified as 'Sensitive Countryside'. With reference to the Argyll and Bute Structure Plan 2002, Policy 'STRAT DC 5 – Development in Sensitive Countryside' states:

“...encouragement shall only be given to small scale infill, rounding-off, redevelopment and change of use of building development...”

When referring to the Argyll and Bute Local Plan 2009, redevelopment is defined as:

“...a development of new buildings involving significant demolitions; or the extension of a building involving more than a doubling of the cubic volume of the building but not exceeding three times the cubic volume (less than a doubling being treated as a building extension and more than a trebling as new build)”.

In relation to the above, the proposal constitutes an acceptable form of small scale redevelopment (small scale corresponding to development not exceeding 5 dwelling units). The cubic volume of the existing buildings, including the yard, amounts to approximately 450m³. The footprint of the proposed dwellinghouse will measure approximately 100m² and has a cubic volume of 500m³. Therefore, it is considered that the proposal is technically described as building extension under the definition, but nonetheless satisfies the intentions of the Local Plan support for redevelopment as the cubic volume of the proposed dwellinghouse is below 1125m³. It is also considered that the design of the proposed dwellinghouse is acceptable and will represent a clear environmental enhancement benefit. Therefore, the proposal satisfies Policies ‘STRAT SI 1’, ‘STRAT DC 5’, ‘STRAT DC 8’ and ‘STRAT HO 1’ of the Argyll and Bute Structure Plan 2002.

The proposal is for the erection of a simple rectangular shaped, pitched roofed 1¾ storey dwellinghouse which will measure approximately 7.5 metres in height to the ridge of the roof, 16.2 metres in length and 7.4 metres in width. The outside walls will be finished in a combination of a white coloured wet dash render material and grey coloured vertical timber clad panels. The roof covering will be finished in a red coloured corrugated metal material, the doors will be finished in a grey coloured vertical timber clad panel and the windows will be finished in a medium grey coloured powder coated aluminium material. It is considered therefore that the scale, form, proportions, materials, detailing and colour of the proposed dwellinghouse are all acceptable which will ensure that the proposal will not cause any detrimental visual impact upon the immediately surrounding area. In terms of the red roof colouring, a colour sample is required by condition below, to ensure the shade is suitable and takes inspiration from the agricultural buildings of this style within the wider Lorn area. Furthermore, the proposal satisfies Policies ‘LP ENV 1’, ‘LP ENV 19’ and ‘LP HOU 1’ of the Argyll and Bute Local Plan 2009.

With regards to vehicular access arrangements it is proposed to utilise an existing vehicular access with the junction of the C26 Benderloch – South Shian public road. During the determination process of this planning application the Area Roads Manager was consulted and initially responded on the 20th July 2011 recommending refusal primarily due to:

- i) intensification of use of an existing access
- ii) insufficient space for the applicant to be able to upgrade the existing access to Operational Services Drawing No. (SD 08/004a); and
- iii) visibility splays not being achievable on ground under the applicants control.

However, after further consultation with the applicant and the Planning Authority, a revised response was received on the 10th August 2011 recommending no objection. The Roads Manager was able to refer to the signed affidavits from both the previous site owners, and the applicant had reduced the number of bedrooms proposed within the dwellinghouse to 3. These factors are considered sufficient, in conjunction with photographic evidence submitted with the application, and the removal of the barns and stables, to ensure there is no material intensification of use of the access, as discussed above. The proposed dwellinghouse is now compatible with the number of

bed spaces within the pre-existing static caravan. As such, there is no requirement for the applicant to upgrade the existing access with the junction of the C26 Benderloch – South Shian public road. Therefore, the proposal satisfies Policy ‘LP TRAN 4’ of the Argyll and Bute Local Plan 2009.

The proposal is also for the formation of new private vehicular access which shall lead off of the existing private track up to the proposed development site. The proposed new private vehicular access is situated within the development zone of ‘Countryside Around Settlements’. It is important to acknowledge however that the proposed new private vehicular access constitutes a minor scale of development which shall not result in the loss of any meaningful countryside. The proposed new private vehicular access will be finished in a compacted type 1 hardcore material which shall ensure that it does not cause any detrimental visual impact upon the immediately surrounding area. Therefore, the proposal satisfies Policy ‘STRAT DC 2’ of the Argyll and Bute Structure Plan 2002 and Policy ‘LP TRAN 4’ of the Argyll and Bute Local Plan 2009.

With regards to parking and turning arrangements it is proposed to provide 3 on-site car parking spaces and an associated turning area within the curtilage and to the south west of the proposed dwellinghouse. Therefore, the proposal satisfies Policy ‘LP TRAN 6’ of the Argyll and Bute Local Plan 2009.

With regards to foul drainage arrangements it is proposed to connect to a biodisc sewage treatment plant which shall be situated within the curtilage and to the north west of the proposed dwellinghouse. During the determination process of this planning application Public Protection Services were consulted and recommended no objection. Therefore, the proposed foul drainage arrangements satisfy Policies ‘LP ENV 12’ and ‘LP SERV 1’ of the Argyll and Bute Local Plan 2009.

With regards to surface water run-off drainage arrangements it is proposed that all surface water shall discharge into an existing water course which is situated to the north west of the proposed dwellinghouse. During the determination process of this planning application Public Protection Services were consulted and recommended no objection. Therefore, the proposed surface water run-off drainage arrangements satisfy Policies ‘LP ENV 12’ and ‘LP SERV 2’ of the Argyll and Bute Local Plan 2009.

With regards to water supply arrangements it is proposed to connect to an existing public water main. During the determination process of this planning application Scottish Water were consulted and recommended no objection subject to advisory comments which can be viewed within section ‘Note to Applicant’ below. Therefore, the proposed water supply arrangements are acceptable.

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(Q) Is the proposal consistent with the Development Plan: Yes

—

(R) Reasons why planning permission should be granted

The proposal for the redevelopment of 2 existing barns, 1 stable building and a static caravan to erect a 1¾ storey dwellinghouse and form a new private vehicular access on land situated to the north east of the existing dwellinghouse at Alnavullin, Benderloch, Oban, Argyll and Bute, PA37 1QS is acceptable. The proposal constitutes an acceptable form of small scale redevelopment where the erection of a 1¾ storey

dwellinghouse will represent a clear environmental enhancement benefit. The scale, form, proportions, materials, detailing and colour of the proposed dwellinghouse are all acceptable which will ensure that the proposal will not cause any detrimental visual impact upon the immediately surrounding area. The proposal will also cause no evident privacy or amenity issues within the immediately surrounding area.

The removal of an established six berth caravan, 2 barns and a stable building is collectively sufficient to demonstrate that provision of the house proposed will not involve a material intensification of use of the existing access. As such, the Area Roads Manager has accepted that the existing access need not be upgraded to enable the development to proceed.

Furthermore, and in relation to all of the above, the proposal satisfies Policies 'STRAT SI 1', 'STRAT DC 2', 'STRAT DC 5', 'STRAT DC 8' and 'STRAT HO 1' of the Argyll and Bute Structure Plan 2002 and Policies 'LP ENV 1', 'LP ENV 12', 'LP ENV 19', 'LP HOU 1', 'LP SERV 1', 'LP SERV 2', 'LP TRAN 4' and 'LP TRAN 6' of the Argyll and Bute Local Plan 2009. It is considered therefore that there are no material considerations that would warrant the refusal of planning permission for this particular proposal.

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

N/A – the proposal is in accordance with the Local Development Plan.

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

Author of Report: Walter Wyllie

Date: 10th August 2011

Reviewing Officer: Stephen Fair



Date: 12/08/11

Angus Gilmour
Head of Planning

CONDITIONS AND REASONS RELATIVE TO APPLICATION 11/00875/PP

1. The development shall be implemented in accordance with the details specified on the application form dated 28th May 2011 and the approved drawing reference numbers:

- Plan 1 of 4 (489-PL-GA-00) (Location Plan at a scale of 1:10,000)

- Plan 2 of 4 (489-PL-GA-04) (Site Plan Outlining the Proposed Access Road at a scale of 1:500)
- Plan 3 of 4 (489-PL-GA-02) (Site Plan at a scale of 1:500)
- Amended Plan 4 of 4 (489-PL-GA-03) (Proposed Elevations and Floor Plans at a scale of 1:150 and 1:100 respectively)

unless the prior written approval of the Planning Authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

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

2. Prior to the initial occupation of the dwellinghouse hereby approved, both of the existing barns and the stable building shall be removed from site to the satisfaction of the Planning Authority.

Reason: To underpin the justification of redevelopment for the dwellinghouse hereby approved.

3. Prior to the commencement of development, full details of the proposed roof material and colour finish including a sample shall be submitted to and approved in writing by the Planning Authority. The corrugated sheeting must be the narrow profile corrugation akin to traditional corrugated tin roofs used in the wider area, as opposed to a modern wide corrugation profile which would not visually integrate with surrounding traditional buildings. The development shall thereafter be completed in strict accordance with such details as are approved.

Reason: To ensure the development visually integrates with its landscape setting.

4. Notwithstanding the provisions of Class 1 and Class 3 of the Town & Country Planning (General Permitted Development) (Scotland) Order 1992 as amended, no alterations, extensions or outbuildings may be formed at the site without the prior written consent of the Planning Authority.

Reason: To underpin the justification of redevelopment for the dwellinghouse hereby approved, and to prevent over-development of the site or intensification in use of the existing sub-standard access, which could otherwise occur.

NOTE TO APPLICANT

- **Length of this planning permission:** The development to which this permission relates must be begun within three years from the date of this permission in accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on-site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.

- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997, it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.

Scottish Water have advised as follows:

Scottish Water has no objection to this planning application. This response is made based on the information available to us at this time and does not guarantee a connection to Scottish Water's infrastructure. A separate application should be submitted to Scottish Water for connection to our infrastructure after planning permission has been granted.

There are no public sewers within the vicinity of the proposed development site.

Tullich Water Treatment Works currently has capacity to service this proposed development.

If this development requires the existing network to be upgraded, to enable connection, the developer will generally meet these costs in advance. Scottish Water can make a contribution to these costs through Reasonable Cost funding rules.

Scottish Water's current minimum level of service for water pressure is 1.0 bar or 10 metres head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements installed, subject to compliance with the current water byelaws. If the developer wishes to enquire about Scottish Water's procedure for checking the water pressure in the area then they should write to the Customer Connections Department at the address illustrated below.

If connection to the public sewer and/or water main requires to be laid through land out-with public ownership then the developer must provide evidence of formal approval from the affected landowner(s). This should be done through a deed of servitude.

Should the developer require information regarding the location of Scottish Water infrastructure they should contact:

Property Searches Department
Bullion House
Dundee
DD2 5BB

Tel: 08456 018855

If the developer requires any further assistance or information on our response then please contact:

Scottish Water
Customer Connections Department
419 Balmore Road
Glasgow
G22 6NU

Tel: 01413 555511

Web: www.scottishwater.co.uk

APPENDIX TO DECISION APPROVAL NOTICE

Appendix relative to application **11/00875/PP**

- (A) Has the application required an obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended).

No

- (B) Has the application been the subject of any “non-material” amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing.

Yes

- Plan 4 of 4 (489-PL-GA-03) (Proposed Elevations and Floor Plans at a scale of 1:150 and 1:100 respectively) now illustrates 3 bedrooms within the proposed dwellinghouse as opposed to the original proposal for 5 bedrooms.
-

- (C) The reasons why planning permission has been approved.

The proposal for the redevelopment of 2 existing barns, 1 stable building and a static caravan to erect a 1¾ storey dwellinghouse and form a new private vehicular access on land situated to the north east of the existing dwellinghouse at Alnavullin, Benderloch, Oban, Argyll and Bute, PA37 1QS is acceptable. The proposal constitutes an acceptable form of small scale redevelopment where the erection of a 1¾ storey dwellinghouse will represent a clear environmental enhancement benefit. The scale, form, proportions, materials, detailing and colour of the proposed dwellinghouse are all acceptable which will ensure that the proposal will not cause any detrimental visual impact upon the immediately surrounding area. The proposal will also cause no evident privacy or amenity issues within the immediately surrounding area.

The removal of an established six berth caravan, 2 barns and a stable building is collectively sufficient to demonstrate that provision of the house proposed will not involve a material intensification of use of the existing access. As such, the Area Roads Manager has accepted that the existing access need not be upgraded to enable the development to proceed.

Furthermore, and in relation to all of the above, the proposal satisfies Policies ‘STRAT SI 1’, ‘STRAT DC 2’, ‘STRAT DC 5’, ‘STRAT DC 8’ and ‘STRAT HO 1’ of the Argyll and Bute Structure Plan 2002 and Policies ‘LP ENV 1’, ‘LP ENV 12’, ‘LP ENV 19’, ‘LP HOU 1’, ‘LP SERV 1’, ‘LP SERV 2’, ‘LP TRAN 4’ and ‘LP TRAN 6’ of the Argyll and Bute Local Plan 2009. It is considered therefore that there are no material considerations that would warrant the refusal of planning permission for this particular proposal.

APPENDIX B

Argyll and Bute Council

Development & Infrastructure Services

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

Reference No: 18/01157/PP

Planning Hierarchy: Local

Applicant: Norman MacDonald Ltd

Proposal: Removal of condition 2 relative to planning permission reference 11/00875/PP (Redevelopment of 2 existing barns, 1 stable building and a static caravan to erect a dwellinghouse and form a new private vehicular access) in relation to existing barns and stable building being removed from site

Site Address: Land North East Of Altnavullin, Benderloch, Oban

DECISION ROUTE

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

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Redevelopment of 2 existing barns, 1 stable building and a static caravan to erect a 1¾ storey dwellinghouse

- Construction of a new private vehicular access
- Construction of an associated parking and turning area
- Installation of a BioDisc sewage treatment plant
- Surface water discharging to an existing water course

(iii) Other specified operations

- Connection to an existing public water main
-

(B) RECOMMENDATION:

Having due regard to the local development plan and all other material planning considerations, it is recommended that planning permission be Refused

(C) CONSULTATIONS:

Area Roads Oban	07.08.18	Recommend the application be refused on the grounds the retention of the stables and barn represents further intensification of the site. The retention of the buildings will create an additional redevelopment opportunity for this site.
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(D) HISTORY:

11/00875/PP: Granted 12.08.2011, Redevelopment of 2 existing barns, 1 stable building and a static caravan to erect a dwellinghouse and form a new private vehicular access

(E) PUBLICITY:

ADVERT TYPE:

Regulation 20 Advert Local Application

EXPIRY DATE: 12.07.18

(F) REPRESENTATIONS:

(i) Representations received:
Objection

- Stephen Wilson, Cluanm Benderloch
- Elaine Trigg, Creagavillin, Benderloch Oban

(ii) Summary of issues raised:

- The application is from a building firm and I have concerns that removing the condition from the planning application will legitimise commercial use of the barns, with the continued daily disturbance this causes.

Comment: The change in use of the barn and shed buildings from being incidental to the enjoyment of the principle dwellinghouse at Altnavullin, to commercial use, constitutes development requiring the benefit of expressed planning permission in accordance with Section 26 of the Town and Country Planning (Use Classes Order) (Scotland) 1997. The potential change in the use of these buildings is not a material consideration in the assessment of this application. The Planning Authority can only consider those matters relevant to the application

before them, which in reference to this application, requires consideration as to whether the development can still be considered a redevelopment opportunity with the retention of those existing outbuildings.

- The access track for these buildings runs within yards of our children's bedroom, who have already suffered daily disturbance from commercial deliveries, construction vehicles and a general increase in the volume of traffic to land that has supposedly had no legitimate intensification.

Comment: At the time of granting Planning Permission 11/00875/PP it was accepted that the removal of an established shed, six berth caravan, 2 barns and a stable building was collectively sufficient to demonstrate that provision of the house proposed would not surmount to an intensification of use of the existing access. This was agreed with the Area Roads Engineer at that time. As such, Roads agreed that the existing access need not be upgraded to enable the development to proceed. The Roads Engineer has assessed this current proposal and recommended the application be refused on the grounds that the development now constitutes an intensification of the use of this access. However, this assessment is based on the understanding that the retention of these buildings may constitute a further redevelopment opportunity in the future. As noted above, any such proposal would require the benefit of express planning permission and is therefore not a material planning consideration in the assessment of this application. Notwithstanding the above comments, as will be discussed in more detail within this report, it is considered that the retention of these buildings no longer represents a redevelopment opportunity for the erection of the 1 and $\frac{3}{4}$ story dwellinghouse. Accordingly, it is recommended planning permission be refused.

- I have grave concerns that the applicant will repeat his intentions to intensify land outwith the local development plan by converting the barns into habitable accommodation without due planning consent or concern for the preservation of peace and amenity of neighbouring properties.

Comment: The change in use of these buildings is not a material consideration in considering this application.

- The conditions were put on the property for a specific reason – to stop intensification of the site. From my observations, the amount of vehicles have increased from 2 or 3 when Altnavullin was the only property at the end of the track, to at least 8 or more per day, this is not including delivery vans. There is potential for him to convert the barns, if not into housing but for storage for his construction business, thereby increasing the traffic even further.

Comment: The change in use of these buildings is not a material consideration in considering this application.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) **Environmental Statement:** No
- (ii) **An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No
- (iii) **A design or design/access statement:** No
- (iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** No

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: No

(I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: No

(J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the

assessment of the application

- (iii) **List of all Development Plan Policy considerations taken into account in assessment of the application.**

'Argyll and Bute Local Development Plan' (Adopted March 2015)

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

Supplementary Guidance

SG LDP ENV 1 – Development Impact on Habitats, Species and our Biodiversity.

SG LDP ENV 12 -

SG LDP ENV 14 – Landscape

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

SG LDP TRAN 6 – Vehicle Parking Provisions

- (iv) **List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 3/2013.**

- Third party representation
 - Scottish Planning Policy (SPP)
-
-

(K) Is the proposal a Schedule 2 Development not requiring an Environmental

Impact Assessment: No

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

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

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

(O) Requirement for a hearing: No

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

This is a proposal seeking planning permission for the redevelopment of 2 existing barns, 1 stable building and a static caravan to erect a 1 and $\frac{3}{4}$ storey dwellinghouse, to construct a new private access, to construct an associated parking and turning area and for the installation of a biodisc sewage treatment plant. The 1 and $\frac{3}{4}$ story dwellinghouse, new private access and parking, and installation of the onsite wastewater system, have already been constructed and occupied for a period of approximately 7 years, being approved under Planning Permission 11/00875/PP. However, condition 2 of this permission required the applicant to remove from the site the 2 existing barns, 1 stable building and a static caravan. After receiving a complaint, and subsequently carrying out an enforcement investigation it has been confirmed that the 2 existing barns and stable building remain onsite, constituting a breach of planning control. The applicant now wishes to retain these out buildings. Accordingly, this application seeks to vary Planning Permission 11/00875/PP by removing condition 2. Whilst the approval and significant implementation of Planning Permission 11/00875/PP is a substantial material planning consideration in the assessment of this application, the whole development must be looked at afresh in considering whether it is appropriate to remove condition 2.

The site is located on the edge of the settlement of Benderloch, being accessed off the C26 Benderloch to South Shian Road. The site is located down a private access road, servicing both dwellings being approximately 500 m from the main road. There are 2 existing dwellings located on the site along with several out buildings, including 2 stable buildings, a barn and a small garage / storage shed. All of those outbuildings appear to be within the curtilage of Altnavullin.

In the adopted Argyll and Bute Council Local Development Plan, the application site is shown within the 'Countryside Zone'. Policy LDP DM 1 provides that encouragement shall only be given to developments in the countryside up to small scale, on appropriate infill, rounding off and redevelopment. In exceptional cases development in the open countryside may be supported if it accords with an area capacity evaluation. Whilst there is a presumption against development in the countryside zone the development proposal advanced at the time of granting Planning Permission 11/00875/PP was for a redevelopment opportunity, seeking to redevelop 2 existing barns, 1 stable building and a static caravan to erect a 1 and $\frac{3}{4}$ storey dwellinghouse. Redevelopment in the LDP is defined as:

“...a development of new buildings involving significant demolitions; or the extension of a building involving more than a doubling of the cubic volume of the building but not exceeding three times the cubic volume (less than a doubling being treated as a building extension and more than a trebling as new build)”.

In relation to the above, the proposal constitutes an acceptable form of small scale redevelopment (small scale corresponding to development not exceeding 5 dwelling units), resulting in the removal of outbuildings from this site in favour of a proposed dwellinghouse. However, the applicant now wishes to advance the same development proposal but retaining the 2 existing stables and a barn buildings. The applicant has submitted that the proposal still constitutes redevelopment on the basis that the cubic volume of the existing buildings amounts to approximately 450m³. The footprint of the proposed dwellinghouse will measure approximately 100m² and has a cubic volume of 500m³. Therefore, it is considered that the proposal is technically described as a building extension under the definition, but nonetheless satisfies the intentions of the LDP support for redevelopment as the cubic volume of the proposed dwellinghouse is below 1125m³.

The argument put forward by the applicant is considered to be flawed as it fails to take account fully of the definition of redevelopment in the LDP. The erection of a new dwellinghouse clearly constitutes a new building, by which redevelopment can only be supported in circumstances involving significant demolitions. Whilst the

report of handling in support of Planning Permission 11/00875/PP made reference to the overall cubic volume of buildings at this property being less than what could otherwise be developed in cases where a building extension was proposed, this reference was cited in support for the overall intentions of the development being advanced. Without the removal of the subject outbuildings the development proposal cannot be considered a redevelopment opportunity.

In considering the development against the other provisions in the LDP the development proposal in order to meet LDP DM 1 would be required to be considered as infill, rounding off and or an exceptional case in order to find policy support. The proposal is not infill, rounding off and no exception case argument has been advanced in support of this application. Accordingly, the proposal fails to accord with policy LDP STRAT 1 which sets out the sustainable development aims of the Council; nor policy LDP DM 1 without being advanced as a redevelopment opportunity.

The proposal does however, accord with policy LDP 9 which requires developers to produce and execute an appropriately high standard of design. In respect of policy LDP 11 which offers support to development that seeks to maintain and improve connectivity and infrastructure by ensuring, amongst other things, that access and parking is provided to an appropriate standard Roads have recommended the proposed development be refused on the grounds that the development constitutes an intensification of use of the existing access. At the time of assessing Planning Permission 11/00875/PP the Area Roads Engineer raised concerns that the development constituted an intensification of the use of the existing vehicle access to the property from the C26 Benderloch – South Shian public road. As this existing access did not meet the required engineering specifications to support an increase in the number of properties it serviced, any further development was considered to require the access to be upgraded before it could be supported. However, after further consultation the Roads Authority was able to agree that the proposal resulted in no material intensification of use of the access. As such, there was no requirement for the applicant to upgrade the existing access, subject to a condition requiring those outbuildings and static caravans to be removed from the site. There has been no material changes in the condition of the access serving this development (in respect of supporting an increase in the number of dwellings it services) and accordingly, any further intensification of its use would not be supported by the Roads Authority. The current assessment by the Roads Authority has recommended this application be refused on the grounds that the development, with the retention of those outbuildings, now constitutes further intensification of the access. However, this assessment only considered that those outbuildings if retained would constitute a further redevelopment opportunity in the future. Such a development proposal would require the benefit of expressed planning permission. Accordingly, this is not a material planning consideration in respect of this application. The proposal could confirm with policy LDP 11 and SG LDP TRAN 4.

With regards to parking and turning arrangements it is proposed to provide 3 on-site car parking spaces and an associated turning area within the curtilage and to the south west of the proposed dwellinghouse. Therefore, the proposal satisfies policy SG LDP TRAN 6. With regards to foul drainage and surface water management it is proposed to connect to a biodisc sewage treatment plant and dispose of surface water to a nearby watercourse. The proposed arrangements satisfy policies LDP ENV 12 and LDP SERV 1. Connection to the public water supply has already been completed.

(Q) Is the proposal consistent with the Development Plan: No

(R) Reasons why Planning Permission or Planning Permission in Principle Should be Refused:

The proposed development, including the retention of those stable buildings and barn, fails to represent a suitable redevelopment opportunity and no exceptional case argument has been advanced which would otherwise provide policy support for the development within the countryside. The proposal therefore does not accord with the relevant provisions of the Local Development Plan, notably with policies LDP STRAT 1, LDP DM1 and LDP 3 of the Argyll and Bute Local Development Plan 2015 and with all other material considerations. There are not considered to be any conditions which could otherwise enable the development to be supported by ensuring it met the policies of the local development plan.

There are no other material considerations, including issues raised by third parties, which warrant anything other than the application being determined in accordance with the provisions of the local development plan.

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

Plan

N/A

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

Author of Report: Jamie Torrance **Date:** 10.08.18

Reviewing Officer: Peter Bain **Date:** 28.08.18

Angus Gilmour

Head of Planning & Regulatory Services

REASONS FOR REFUSAL RELATIVE TO APPLICATION REFERENCE 18/01157/PP

1. The proposal fails to meet policies LDP STRAT 1 and LDP DM1 of the Local Development Plan.

The erection of a new dwellinghouse clearly constitutes a new building, by which redevelopment can only be supported in circumstances involving significant demolitions. Without the removal of the subject buildings the development proposal cannot be considered a redevelopment opportunity. In considering the development against the other provisions in the LDP the development proposal in order to meet LDP DM 1 would be required to be considered as infill, rounding off and or an exceptional case in order to find policy support. The proposal is not infill, rounding off and no exception case argument has been advanced in support of this application. Accordingly, the proposal fails to accord with policy LDP STRAT 1 which sets out the sustainable development aims of the Council; nor policy LDP DM 1 without being advanced as a redevelopment opportunity.

APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **18/01157/PP**

- (D) Has the application required an obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended).

No

- (E) 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

- (F) The reason why planning permission has been refused.

The proposed development, including the retention of those stable buildings and barn, fails to represent a suitable redevelopment opportunity and no exceptional case argument has been advanced which would otherwise provide policy support for the development within the countryside. The proposal therefore does not accord with the relevant provisions of the Local Development Plan, notably with policies LDP STRAT 1, LDP DM1 and LDP 3 of the Argyll and Bute Local Development Plan 2015 and with all other material considerations. There are not considered to be any conditions which could otherwise enable the development to be supported by ensuring it met the policies of the local development plan.

There are no other material considerations, including issues raised by third parties, which warrant anything other than the application being determined in accordance with the provisions of the local development plan.

APPENDIX TO DECISION APPROVAL NOTICE

Appendix relative to application (18/01157/PP)

- (A) Has the application required an obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended): **No**

If Yes: The terms of the Section 75 obligation may be viewed on the Council's website at www.argyll-bute.gov.uk by recalling the application reference number on the Council's Public Access Module and then by "Clicking" Section 75 Obligation under the attached correspondence or by viewing the Public Planning register located at Planning Services, Dalriada House, Lochgilphead, Argyll, PA31 8ST.

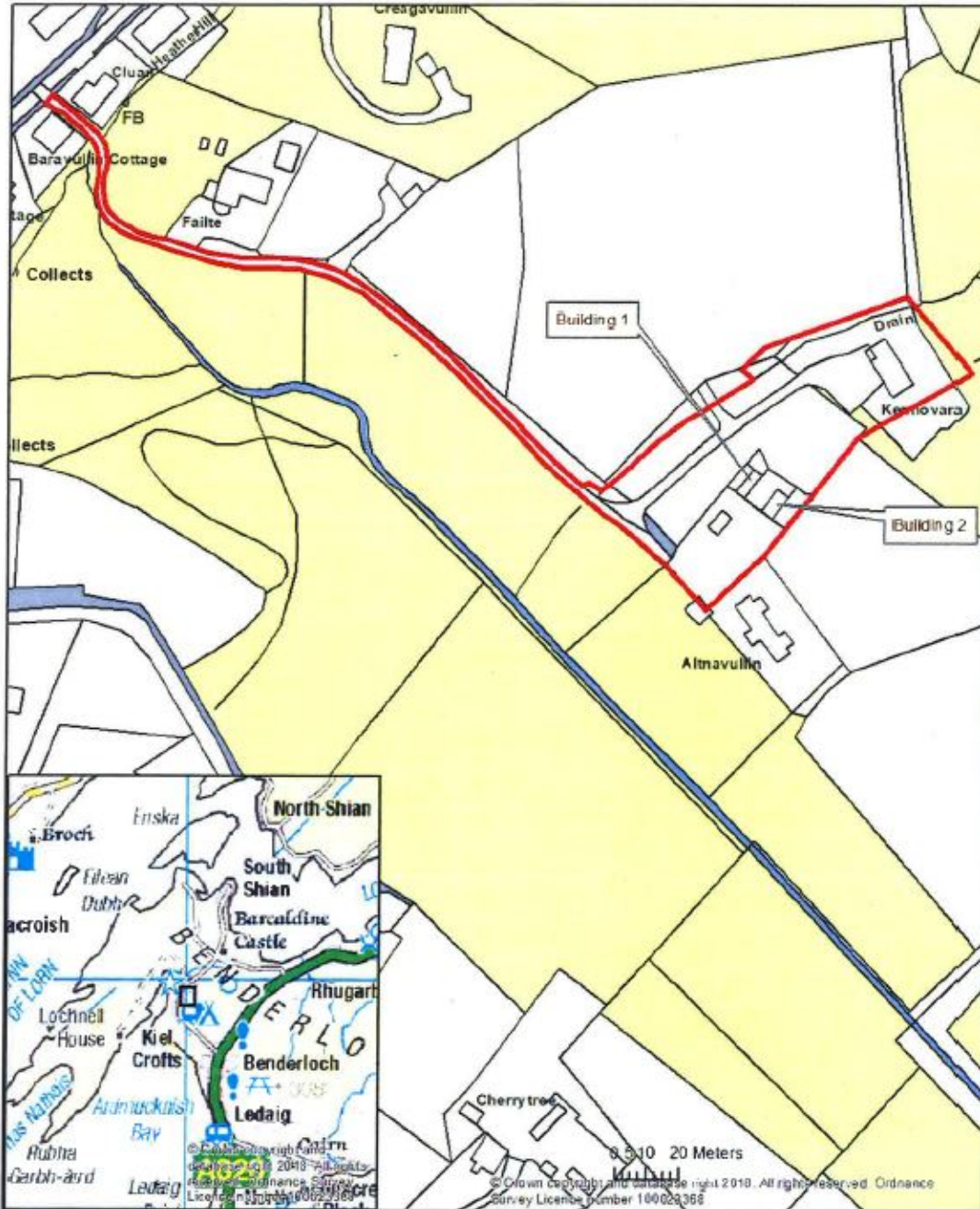
- (B) Has the application been the subject of any "non-material" amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing. **No**


- (C) The reason why planning permission has been refused:


The proposed development, including the retention of those stable buildings and barn, fails to represent a suitable redevelopment opportunity and no exceptional case argument has been advanced which would otherwise provide policy support for the development within the countryside. The proposal therefore does not accord with the relevant provisions of the Local Development Plan, notably with policies LDP STRAT 1, LDP DM1 and LDP 3 of the Argyll and Bute Local Development Plan 2015 and with all other material considerations. There are not considered to be any conditions which could otherwise enable the development to be supported by ensuring it met the policies of the local development plan.

There are no other material considerations, including issues raised by third parties, which warrant anything other than the application being determined in accordance with the provisions of the local development plan.

APPENDIX C



 **Location Plan Relative to Enforcement Notice:**
17/00212/ENBOC2


1:1,500

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