



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

*Executive Director: Douglas Hendry*

*Kilmory, Lochgilphead, PA31 8RT*  
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18 May 2020

**NOTICE OF MEETING**

A meeting of the **ARGYLL AND BUTE LOCAL REVIEW BODY** will be held by **SKYPE** on **MONDAY, 25 MAY 2020 at 10:30 AM**, which you are requested to attend.

Douglas Hendry  
Executive Director

**BUSINESS**

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST**
3. **CONSIDER NOTICE OF REVIEW REQUEST: LAND NORTH OF PENMORE MILL, PENMORE, DERVAIG, ISLE OF MULL (REF: 20/0001/LRB)**
  - (a) Further information received from Planning (Pages 3 - 8)
  - (b) Comments received from Applicant (Pages 9 - 10)

**Argyll and Bute Local Review Body**

Councillor George Freeman  
Councillor Jean Moffat

Councillor David Kinniburgh (Chair)

Contact: Fiona McCallum Tel: 01546 604392

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**McCallum, Fiona**

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**From:** Barrie, Andrew  
**Sent:** 26 February 2020 15:26  
**To:** McCallum, Fiona; Bain, Peter (Planning); Williams, Tim; envhealthwest; roadsconsoli; Jackson, James; 'mh@mhplanning.co.uk'; 'argyll\_Outerhebrides@snh.gov.uk'; 'campaigning@woodlandtrust.org.uk'  
**Cc:** localreviewprocess  
**Subject:** RE: REQUEST FOR FURTHER WRITTEN INFORMATION - Notice of Review Reference 20/0001/LRB (Planning Ref: 19/01737/PP - Land North of Penmore Mill, Penmore, Dervaig, Isle of Mull [OFFICIAL]  
**Attachments:** 1737 Conditions, AB 260220.docx

Good afternoon,

With reference to the recent request for additional information regarding the above, I attach a proposed list of draft planning conditions for consideration by the LRB panel.

It is respectfully noted however that should the LRB panel decide to reverse the decision of officers and grant planning permission for this development they may be required, in order to demonstrate a competent decision, to consider and appropriately iterate the 'exceptional case' based on a specific locational/operational need for the development as required by key planning policy LDP DM 1.

As no such 'exceptional case' argument has been advanced by the applicant and officers cannot, at the present time, know what is in the contemplation of the LRB panel, it is noted that the attached list of draft planning conditions may need to be augmented to add a planning condition (or conditions) to appropriately define and underpin any locational/operational 'exceptional case' relied upon to form the basis of any decision to grant planning permission.

Kind regards,

**Andrew Barrie MRTPI**

Planning Officer (Oban, Lorn and the Isles)  
Development Management  
Development and Economic Growth  
Argyll and Bute Council

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**CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 19/01737/PP**

**GENERAL**

1. The proposed development shall be carried out in accordance with the details specified in the application form dated 15<sup>th</sup> August 2019 and the approved drawings numbered 1 of 3 to 3 of 3 and stamped approved by Argyll and Bute Council.

*Reason: In order to ensure that the proposed development is carried out in accordance with the details submitted and the approved drawings.*

Standard Note: In terms of condition 1 above, the council can approve minor variations to the approved plans in terms of Section 64 of the Town and Country Planning (Scotland) Act 1997 although no variations should be undertaken without obtaining the prior written approval of the Planning Authority. If you wish to seek any minor variation of the application, an application for a non-material amendment (NMA) should be made in writing which should list all the proposed changes, enclosing a copy of a plan(s) detailing these changes together with a copy of the original approved plans. Any amendments deemed by the Council to be material, would require the submission of a further application for planning permission.

**ROADS, ACCESS AND PARKING**

2. Notwithstanding the provisions of Condition 1, a parking and turning area for three cars shall be constructed within the site and brought into use prior to the development first being occupied and shall thereafter be maintained clear of obstruction for the parking and manoeuvring of vehicles.

*Reason: In the interest of road safety in accordance with Policy LDP 11 and Supplementary Guidance SG LDP TRAN 6 of the adopted Argyll and Bute Local Development Plan 2015.*

3. Notwithstanding the provisions of Condition 1, no development shall commence on site or is hereby authorised until the vehicular access at the junction of the public road has been formed in accordance with the Council's Road Engineers Drawing Number SD 08/004a with visibility splays of 53m x 2.4m in each direction formed from the centre line of the proposed access. Prior to work starting on site these visibility splays shall be cleared of all obstructions above the level of the adjoining carriageway and thereafter maintained to the satisfaction of the Planning Authority.

The vehicular access granted consent shall be constructed to at least base course level prior to any work starting on the erection of the dwellinghouse which it is intended to serve and the final wearing surface of the road shall be applied prior to the first occupation of the dwellinghouse.

*Reason: In the interests of road safety in accordance with Policy LDP DM 11 and Supplementary Guidance SG LDP TRAN 4 and SG LDP TRAN 6 of the adopted Argyll and Bute Local Development Plan 2015.*

## **WATER AND DRAINAGE**

4. Notwithstanding the provisions of Condition 1, the development shall incorporate a surface water drainage system which is consistent with the principles of Sustainable urban Drainage Systems (SuDS) compliant with the guidance set out in CIRIA's SuDS Manual C753. The requisite surface water drainage shall be operational prior to the development being brought into use and shall be maintained as such thereafter.

*Reason: To ensure the provision of an adequate surface water drainage system and to prevent flooding in accordance with Policy LDP 10 and Supplementary Guidance SG LDP SERV 2 of the adopted Argyll and Bute Local Development Plan 2015.*

5. No development shall commence until an appraisal to demonstrate the wholesomeness and sufficiency of the private water supply to serve the development shall be submitted to and approved in writing by the Planning Authority. This assessment shall be carried out by a qualified and competent person(s).

Such appraisal shall include a risk assessment having regard to the requirements of Part 3 of the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 and shall on the basis of such risk assessment specify the means by which a wholesome and sufficient water supply shall be provided and thereafter maintained to the development. Such appraisal shall also demonstrate that the wholesomeness and sufficiency of any other supply in the vicinity of the development, or any other person utilising the same source or supply, shall not be compromised by the proposed development. Furthermore, the development itself shall not be brought into use or occupied until the required supply has been installed in accordance with the agreed specification.

*Reason: In the interests of public health and in order to ensure that an adequate private water supply in terms of both wholesomeness and sufficiency can be provided to meet the requirements of the proposed development and without compromising the interests of other users of the same or nearby private water supplies in accordance with Policy LDP 11 and Supplementary Guidance SG LDP SERV 6 of the adopted Argyll and Bute Local Development Plan 2015.*

## **EXTERNAL COLOUR**

6. No development shall commence until written details of the colour of the proposed timber cladding has been submitted to and approved in writing by the Planning Authority. The development shall thereafter be completed using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.

*Reason: In order to integrate the development into its surroundings in accordance with Policies LDP 3, LDP 9 and Supplementary Guidance SG LDP ENV 14 of the adopted Argyll and Bute Local Development Plan*

2015.

## LANDSCAPING AND BOUNDARY TREATMENTS

7. No development shall commence until a scheme of boundary treatment, surface treatment and landscaping has been submitted to and approved in writing by the Planning Authority. The scheme shall include details of:
- i) Location, design and materials of proposed walls, fences and gates;
  - ii) Surface treatment of proposed means of access and hardstanding areas;
  - iii) Any proposed re-contouring of the site by means of existing and proposed ground levels.
  - iv) Proposed hard and soft landscape works.

The development shall not be occupied until such time as the boundary treatment, surface treatment and any re-contouring works have been completed in accordance with the duly approved scheme.

All of the hard and soft landscaping works shall be carried out in accordance with the approved scheme during the first planting season following the commencement of the development, unless otherwise agreed in writing by the Planning Authority.

*Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity in accordance with Policies LDP 3, LDP 9 and Supplementary Guidance SG LDP ENV 14 of the adopted Local Development Plan 2015.*

## USE

8. The pool house/workshop hereby granted shall be used for purposes incidental to the enjoyment of the dwellinghouse hereby approved and for no other purpose.

*Reason: To define the permission on the basis of the Planning Authority's assessment of the use applied for.*

## NOTE TO APPLICANT

- **The length of the permission:** This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
- 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.

- A system of surface water drainage is required to prevent the flow of water onto the public road.
- Further advice on SuDS can be found in SEPA's Standing Advice for Small Scale Development – [www.sepa.org.uk](http://www.sepa.org.uk)



**From:** [Mike Hyde](#)  
**To:** [Barrie, Andrew](#); [McCallum, Fiona](#); [Bain, Peter \(Planning\)](#); [Williams, Tim](#); [envhealthwest](#); [roadsconsoli](#); [Jackson, James](#); [argyll.Outerhebrides@snh.gov.uk](#); [campaigning@woodlandtrust.org.uk](#)  
**Cc:** [localreviewprocess](#)  
**Subject:** RE: REQUEST FOR FURTHER WRITTEN INFORMATION - Notice of Review Reference 20/0001/LRB (Planning Ref: 19/01737/PP - Land North of Penmore Mill, Penmore, Dervaig, Isle of Mull [OFFICIAL])  
**Date:** 02 March 2020 11:23:41  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image007.png](#)  
[image008.png](#)  
[image009.png](#)  
[image011.png](#)  
**Importance:** High

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Hello Fiona

With all due respect, I take exception to the additional comments made by the Planning Officer in his response, which go way beyond the "provision of appropriate conditions and reasons to attach to any consent if the LRB were minded to approve this application". The Planning Officer is clearly seeking to influence the outcome of the LRB, and this is considered to go beyond his remit. I would nevertheless respond to the Planning Officer's additional (and unsolicited) comments as follows.

Should the Local Review Body be minded to overturn the officer's decision, and grant planning permission for the erection of the new dwelling, there should be no requirement for the applicant to be able to demonstrate an "exceptional case" in order to comply with the requirements of Policy LDP DM 1. The applicant was not required to advance such a case in 2008, when planning permission 08/00438/OUT was granted, or in 2010 when 10/01597/PP was granted. The Planning Officer is fully aware that the applicant cannot demonstrate an "exceptional case", and to seek to introduce this as a relevant consideration at this stage of the 'appeal' process constitutes unreasonable behaviour.

The applicant is fully aware that the proposal does not comply with the requirements of Policy LDP DM 1; it similarly did not comply with policy in 2008, and again in 2010, when the previous permissions were granted. What is however being requested is, having regard to the provisions of Section 25 of the Town and County Planning (Scotland) Act 1997, that the LRB attach significant weight to the planning history of the site, and that this weight be sufficient to outweigh any conflict with the requirements of Policy LDP DM 1. The very relevant material consideration in this respect is that the Council have admitted to twice granting planning permission "in error" for the erection of the appeal dwelling, and that on the basis of these errors the applicant has expended a considerable amount of money on site investigation and drainage reports, architects and engineers fees, and the submission of a building warrant application. It was only due to personal circumstances that the permission granted in 2010 was not fully implemented.

Should these relevant material planning considerations be considered to outweigh the requirements of Policy LDP DM 1, it will clearly not then be necessary for the applicant to be able to demonstrate an "exceptional case" in order to comply with the policy. The weight to be attached to any material planning consideration is entirely within the gift of the decision maker, in this instance the Local Review Body.

Regards

Mike Hyde

Michael Hyde MRTPI  
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