

STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

21/0005/LRB

**REFUSAL OF PLANNING PERMISSION FOR ERECTION
OF LAND TO FORM YARD FOR ERECTION OF TWO
HOLIDAY UNITS AND THE INSTALLATION OF A SEPTIC
TANK – PLANNING APPLICATION REFERENCE
20/01542/PP**

GARDEN GROUND OF SOROBA LODGE, OBAN.

21.10.2021

STATEMENT OF CASE

The Planning Authority is Argyll and Bute Council ('the Council'). The appellant is Mr and Mrs Michael and Rowan Acey ("the appellant").

Planning permission 20/01542/PP for operational development consisting of the erection of two holiday units and the installation of a septic tank at land forming part of the recently extended garden ground for Soroba Lodge, Oban, Argyll and Bute (the "appeal site") was refused by the Planning Service under delegated powers on the 7th September 2021.

This decision is the subject of referral to a Local Review Body.

DESCRIPTION OF SITE

The site is located within part of the defined 'Countryside Zone' within the Soroba area of Oban and comprises a flat plateau of ground within an area of recently extended garden ground of the dwellinghouse (following the granting of retrospective planning application 20/02185/PP) which is set against a backdrop of rising land and mature woodland.

Photographs of the site and its surroundings, including the private access are attached to this Statement as Appendix B.

STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED

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, and all other material planning considerations and the determination shall be made in accordance with the plan unless material considerations indicate otherwise. This is the test for this application.

STATEMENT OF CASE

Argyll and Bute Council considers the determining issues in relation to the case are as follows:

- *Whether the proposed development is acceptable, having appropriate regard to Policy LDP 11 and SG LDP TRAN 4 of the adopted 'Argyll and Bute Local Development Plan' 2015 and Policy 37 of the proposed 'Local Development Plan 2' 2019; policies, both adopted and proposed, which seek to ensure that developments are served by an access which is safe and appropriate in its current form or else is capable of commensurate improvements considered by the Roads Authority to be appropriate and necessary to the scale and nature of the proposed new development, and that it takes into account any current access issues (informed by an assessment of usage).*
- *Whether the proposed operational development to construct two additional residential holiday letting buildings on the land would result in the intensification of use of a private access regime where there are known constraints and where it has not been demonstrated, through lack of structural details of the existing bridge, that the private access track is capable of serving the proposed development, either in its current state or else by any reasonable and necessary commensurate improvements to that access as informed by the submission and assessment of*

information necessary for the planning authority to properly assess this part of the proposed development.

- *Notwithstanding the above, whether the proposed development is acceptable in the absence of the requested Safety Audit/Risk Assessment/Traffic Management Plan to ascertain and mitigate any implications caused by the proposed development both during the construction phase and on completion of the development due to the fact that the proposed access is situated on a primary school/link path/cycle path which forms part of the Core Path Network.*

The Report of Handling (Appendix A) sets out the Council's full assessment of the application in terms of these key determining issues and concludes that:

The existing private access regime has known and uncontested constraints and must, in the absence of any of the requested information necessary to inform any competent assessment, be considered unacceptable and unsafe in its present form to serve the proposed development; a development which consists of a clear and unequivocal intensification of use of that access through the addition of two residential holiday letting buildings on the land served by the said access.

That the existing access would appear incapable of commensurate improvement at this time due to the fact that the appellant neither owns or controls any part of it.

And that, notwithstanding the above, the appellant has refused to supply either the requested structural survey of the existing bridge or the requested Safety Audit/Risk Assessment/Traffic Management Plan, and has refused to consider any method of securing the required commensurate improvements to the existing access, relying instead on a contrived, convoluted and, in the considered opinion of officers, wholly inaccurate argument that the development would not actually result in any intensification of the use of the existing private access.

It is therefore maintained that the proposed development would be contrary to the provisions of SG LDP 11 and SG LDP TRAN 4 of the adopted 'Argyll and Bute Local Development Plan' 2015 and Policy 37 of the proposed 'Argyll and Bute Local Development Plan 2'.

REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING

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 which is contained in Appendix A. As such it is considered that Members have all the information they need to determine the case. Given the above and that the proposal 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.

COMMENT ON APPELLANT'S SUBMISSION

The appellant's Agent (the Agent) has submitted a supporting statement. The following comments are made in relation to his submission:

- The Agent refers at several points in his statement to the development the subject of this Review consisting of the 'siting of pods' on the land.

Comment: *In doing so, the Agent, either mistakenly or deliberately, suggests that the development the subject of this review constitutes a ‘use of land’. This is not the case. The use of the word ‘pods’ is similarly misleading. – The development the subject of this Review consists of ‘operational development’ for the erection of two relatively modest holiday accommodation buildings. No argument has been advanced that these holiday units should be assessed as, effectively, ‘caravans’ simply sited on the land.*

- The Agent refers to planning application 19/02562/PPP which was refused in August 2020 for reasons relating to site access. The Agent points out that an appeal against that decision was then submitted to the Scottish Government DPEA, who granted planning permission in principle subject to conditions on 5 August 2021.

Comment: *This is correct but somewhat misleading. Planning application 19/02562/PPP was a planning permission in principle for the development of two house plots served by a substantial part of the same access regime to that the subject of the current Review. The 2019 application was advanced by a different developer and planning permission was refused by Members at the Planning, Protective Services and Licensing Committee meeting which took place on the 24th August 2020.*

The 2019 planning application was refused by Members (following the recommendation of officers) for a reason very similar to that the subject of the current Review. However, unlike the current Review, the developer for the 2019 application did own the majority of the private access, did provide a development-specific Safety Audit/Risk Assessment/Traffic Management Plan, did accept that his proposed development would represent an intensification of the use of the access and did attempt to resolve the roads issues through the use of planning conditions.

The single failing of the 2019 planning application was, like that of the current Review, the refusal of the developer to provide the necessary structural report into the condition and suitability of the bridge. However, unlike the current Review, the developer for the 2019 planning application did certify that he owned the bridge.

Whilst the decision to refuse planning permission for the 2019 development was overturned by the Reporter at Appeal, this was solely because the Reporter, whilst fully acknowledging the officer’s position in the case, took the view that the structural survey of the bridge and any commensurate improvements to it and the rest of the private access could reasonably be secured through the use of planning conditions.

The Reporter’s decision on the 2019 planning application was dated 5th August 2021 and is attached to this Statement as Appendix C. This decision is important because:

- *It acknowledges that the development would intensify the use of the access; an existing private road which also performs the function as a primary school link path/cycle path and, is part of the core path network;*
- *It acknowledges that the Council were right to require a safety audit, risk assessment and traffic management plan to be submitted to assess the potential impact (including during the construction phase) of the appeal proposal and to identify any necessary mitigation measures;*
- *It acknowledges that the Council were not unreasonable to seek to bring a section of the existing private road up to an adoptable standard in accordance with the Local Development Plan, and;*

- *It acknowledges that the Council were right to seek a structural assessment of the bridge from the developer in order to demonstrate that the bridge could accommodate the construction traffic, the likely additional vehicle movements post-development and to support the adoption of that part of the road.*

All of the above also relates directly to the development the subject of the current Review.

None of the above has been addressed by the Appellant for the current Review.

Unlike the appeal decision for the 2019 planning application, none of the existing and acknowledged access deficiencies can be addressed through the use of planning conditions because the developer for the current Review does not own or control any part of the private access road. Whilst these matters could, potentially be secured through legal agreement, the Appellant in this case (through their Agent) has specifically stated their unwillingness to do so.

- *The Agent seeks to persuade the Review Body that officers have evaluated the current development and the 2019 application in 'an identical manner'. The Agent further seeks to promote his argument that the development the subject of this Review is somehow 'ancillary' to the existing use of Soroba Lodge and that it will not result in any increase in the use of the existing private access regime.*

Comment: *This is categorically not the case as explained within the appended Report of Handling. Officers simply do not accept any part of the argument being advanced by the Agent. The proposed development is for two new buildings to provide residential holiday accommodation. Whilst these buildings are evidently smaller than the two new dwellinghouses granted planning permission in principle on appeal, they nevertheless will, as a matter of clear fact, generate additional traffic movements along the existing and substandard private road. The two new holiday accommodation buildings are clearly to be provided in addition to the existing Soroba Lodge which is a large five bedroomed detached dwellinghouse with two of those bedrooms currently being offered for incidental bed and breakfast accommodation as provided for by planning legislation. The Agent maintains his suggestion that his Clients will somehow 'swap over' the existing incidental bed and breakfast accommodation in favour of the two proposed holiday accommodation buildings. This will not work. It cannot be secured through any enforceable means. There is no appropriate mechanism to limit the occupancy of the existing Soroba Lodge to offset the increased occupancy created by the proposed development. Even if the Review Body were to accept the 'word' of the developer on this, this would not secure the provision even beyond the short term.*

Whilst the arguments against the 2019 application and against the application the subject of this Review are similar, this is a function of how adopted planning policy works in consideration of the existing sub-standard private access regime – an access which is, for the most part, shared between the two developments. Officers are, of course, not suggesting that the two developments are the same. However they do both inescapably share a certain commonality – that they both, to differing degrees but still fundamentally, represent an intensification of use of an existing and substandard private access, and that they both are contrary to adopted and proposed planning policy without some degree of necessary commensurate improvement. The extent of the required commensurate improvement was easier to assess (at least in part) for the 2019 development because the developer had in that case provided some (though not all) of the necessary information in order to allow officers to make a competent assessment and because the developer for the 2019 application had certified that he owned the majority of the road. In the case of the application the subject of this Review (and as previously stated above), the developer has

failed to provide any of the necessary information and the developer does not own any part of the road.

The Local Review Body are respectfully invited to examine the Reporter's decision for the 2019 application (attached as Appendix C) and to observe that officers were right to conclude, and Members right to agree, that the existing private road was (and remains) substandard; that the road forms part of a primary school link path/cycle path and, is part of the core path network; that officers were right to require a safety audit, risk assessment and traffic management plan to be submitted to assess the potential impact (including during the construction phase) of the appeal proposal and to identify any necessary mitigation measures; and that officers were right to conclude, in the absence of any evidence to the contrary that the existing bridge was (and remains) potentially unable to accommodate the traffic generated by the proposed development without any improvements to it and to require an appropriate survey prior to the commencement of development in order to inform the necessary extent of any such improvements.

All of these points apply also to the development the subject of this Review. It is acknowledged that the extent of any required commensurate improvement might differ from that concluded in respect of the 2019 application; however officers cannot make that necessary assessment without the provision of the required and requested detail.

- The Agent provides details of a raft of approved planning applications which he uses to attempt to suggest parity with the development the subject of the current Review.

Comment: *Officers have examined the cases highlighted and can find no substantive material comparison between them and the current case and are not persuaded of any precedent sufficient to change their recommendation. These highlighted applications were approved because (in respect of the comparative roads issues) the sites were served by existing access regimes sufficient to accommodate the intensification of use suggested by the scale of development proposed. That is simply not the case with respect to the application the subject of this Review.*

With respect to the much earlier quoted permission for the change of use of the (then) ten bedroom private dwellinghouse, 'Elderslie' into a proposed guest house containing nine bedrooms plus owner's accommodation (application reference 07/01798/COU) officers again find no material inconsistency and would note that this application proposed no new built development and was considered under a different Development Plan to that currently in force.

- The Agent presents a scenario where his Clients propose a two-bedroom extension to their existing house and states that, in his opinion, 'It is inconceivable that the Roads Authority would have expressed any concerns, or that the Planning Authority would have refused a two-bedroom extension to the house based on road safety concerns regarding increased use of the existing site access.'

Comment: *Officers respectfully suggest that, to the contrary, this is exactly the likely outcome given the current and acknowledged condition and construction standard of the private road and the intensification of use of that road likely given the development proposed. Officers would almost certainly seek the necessary safety audit, risk assessment and traffic management plan and the necessary structural survey of the bridge in order to inform a competent assessment of the development and to assess the level and extent of any required commensurate improvements.*

CONCLUSION

Section 25 of the Town and Country Planning Act 1997 (as amended) requires that all decisions be made in accordance with the development plan unless material considerations indicate otherwise.

In this case, as detailed in the Report of Handling appended to this submission, and as outlined above, it is respectfully submitted that the application for Review be dismissed.

APPENDIX A – REPORT OF HANDLING

Argyll and Bute Council
Development and Economic Growth

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: 20/01542/PP

Planning Hierarchy: Local Development

Applicant: Mr and Mrs Michael and Rowan Acey

Proposal: Erection of 2 Holiday Units and Installation of Septic Tank

Site Address: Garden Ground of Soroba Lodge

DECISION ROUTE

Section 43 (A) of the Town and Country Planning (Scotland) Act 1997 (as amended)

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of two residential buildings to form holiday accommodation
- Installation of septic tank
- Connection to private water supply

(ii) Other specified operations

- Utilisation of existing vehicular access
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(B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission is **REFUSED** for the reasons appended to this report.

(C) HISTORY:

SITE:

20/02185/PP

Change of use of land to form extension to garden ground (retrospective) – Granted: 16/04/21

NEIGHBOURING SITE:

19/02562/PPP

Site for the erection of two dwellinghouses – Refused: 20/08/20

PPA-130-2077 (associated appeal to Scottish Government) – Appeal Upheld and Planning Permission in Principle Granted subject to conditions – 05/08/21

(D) CONSULTATIONS:

Roads Authority

Report dated 28/10/20 deferring their decision until such time as the following information was submitted in support of the application:

- A safety audit/risk assessment/traffic management plan will be required to ascertain and mitigate any implications caused by the proposed development both during construction phase and on completion of the development due to the fact that the proposed access track is shared on a primary school link path/cycle path. Path is part of the core path network.
- A full structural survey to demonstrate that the bridge accessing the site from the A816 public road can take a 44t vehicle. Such details will require to be submitted and agreed with the Council's Structures Team.

The Roads Authority also advised the following:

- A road to adoptable standard from the A816 junction to the junctions of the access track and the road to the hotel will be required including a turning head to the south of the bridge.
- A section 75 agreement may be required if necessary with the owners of the track that the proposed development will be served by.
- The developer will need to provide evidence of an agreement with Sustran, Scotways and any other stakeholders for the use of the access track for the proposals.

Oban Community Council (OCC)

E-mail dated 21/10/20 advising that the application was discussed at a meeting of OCC where application reference 19/02562/PPP for two dwellinghouses was raised which OCC state was rejected over issues relating to the bridge over the Soroba Burn, the access to the whole area. OCC queries that as the current application will also use this bridge, will the same issues not arise? The OCC also enquire as to whether the bridge is 'adopted' i.e. maintained by the Council or whether it is still the responsibility of the hotel.

Planning Authority Comment: *The application is fully assessed and the points raised by OCC discussed in the assessment at Section P below. The bridge, whilst considered a critical part of the access regime to the site, does not form part of any Council adopted road.*

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

(E) PUBLICITY:

The proposal has been advertised in terms of Regulation 20 procedures, closing date 22/10/20.

(F) REPRESENTATIONS:

4 objections have been received regarding the proposed development.

Dr Andrew K. Henderson, Birkmoss, North Connel, PA37 1RE (14/10/20)
Mrs Doreen I. Henderson, Birkmoss, North Connel, PA37 1RE (14/10/20)
Mr Nigel Evans, Channory, Polvinister Road, Oban, PA34 5TN (24/11/20)
Mrs Hazel Evans, Channory, Polvinister Road, Oban, PA34 5TN (24/11/20)

Summary of issues raised

- The site outlined for planning permission has only one route for vehicular access which is on the privately owned road that leads from the main Oban to Lochgilphead Road to the former Soroba House Hotel, the Mews Cottages, Elderslie and Soroba Lodge. This small road, and especially the bridge, is narrow with no pavement. The road leads across the narrow bridge before dividing to access either the hotel and adjacent Mews Cottages, or to Elderslie and then to Soroba Lodge. The road and particularly the bridge may not be suitable for heavy traffic that would be required during construction.

Planning Authority Comment: A report on the structural integrity of the bridge was requested by the Roads Authority during the processing of the application but has not been provided. A structural report of the bridge is considered necessary to prove that the structure, (in this case the bridge serving Soroba House, Elderslie, Soroba Lodge and surrounding properties) can safely and structurally cope with the increased weight and volume of traffic both during and post construction for the developments covered under the current application. As the report has not been submitted the Planning Authority intends to proceed to refuse the application due to the lack of technical evidence that the bridge is robust and structurally sound and solid enough to withstand the increased usage that the proposed development will cause the bridge to endure.

In addition, none of the road from its junction with the A816 to the development site itself is included within the current planning application. Therefore the planning authority have no satisfactory mechanism of ensuring that the necessary road improvements can be secured.

- This private road is at present part of a mainly traffic free right of way for pedestrians travelling from Glengallon Road to the main Oban to Lochgilphead Road. As such it is used by a large number of primary school children travelling to the joint St Columba's and Rockfield campuses. We understand that this right of way path was developed specifically to aid safe active transport for young school children. Additional motorised traffic would make this right of way less safe.

Planning Authority Comment: A Safety Audit/Risk Assessment/Traffic Management Plan was requested by the Roads Authority to ascertain and mitigate any implications caused by the proposed development both during the construction phase and on completion of the development due to the fact that the proposed access is situated on a primary school/link path/cycle path which forms part of the Core Path Network. As this information has not been forthcoming it will form part of the reasons for refusal of the application which are discussed in the assessment at Section P below. Insufficient evidence has been provided to demonstrate that the proposed development will not result in any materially increased harm to the users of the road, including pedestrians and cyclists.

- We understand that a previous application (19/01351/PPP) was rejected because of concerns from the Roads Department about the structure of the bridge and need for a structural survey; the upgrade of the road access and need for a footpath; and the need for consultation with other owners who also use the access from the main road to their properties. As owners of a Mews property we object to the proposed development until these issues have been addressed and resolved.

Planning Authority Comment: The planning permission referred to was refused by Members at the Planning, Protective Services and Licensing Committee for the reasons set out in the Report of Handling which is available to view via the Council's Public Access System using the following link: <http://www.argyll-bute.gov.uk/content/planning/publicaccess>.

- Concerns over the sewerage and water systems to serve the proposed development which are in need of an upgrade.

Planning Authority Comment: The application does not propose to connect to the public water or public drainage systems, private arrangements are proposed.

The above represents a summary of the issues raised. Full details of the letters 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:

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|---|--|------------|
| (i) | Environmental Statement: | No |
| (ii) | An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: | No |
| (iii) | A supporting statement: | Yes |
| A supporting statement outlining the proposed development has been submitted with the planning application. | | |
| (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 obligation 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 assessment of the application.**

Argyll and Bute Local Development Plan, 2015

LDP STRAT 1 – Sustainable Development
LDP DM 1 – Development within the Development Management Zones (*Countryside Zone*)
LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment
LDP 5 – Supporting the Sustainable Growth of our Economy
LDP 9 – Development Setting, Layout and Design
LDP 10 – Maximising our Resources and Reducing our Consumption
LDP 11 – Improving our Connectivity and Infrastructure

Supplementary Guidance

SG 2 – Sustainable Siting and Design Principles
SG LDP ENV 14 – Landscape
SG LDP SERV 1 – Private Sewage Treatment Plans & Wastewater Systems
SG LDP SERV 2 – Incorporation of Natural Features/Sustainable Drainage Systems (SuDS)
SG LDP SERV 6 – Private Water Supplies and Water Conservation
SG LDP TOUR 1 – Tourist Facilities and Accommodation, including Static and Touring Caravans
SG LDP TRAN 4 – New and Existing, Public Roads and Private Access Regimes
SG LDP TRAN 6 – Vehicle Parking Provision

(i) **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.**

Argyll and Bute Sustainable Design Guidance, 2006
Scottish Planning Policy (SPP), 2014
Consultee Responses
Third Party Representations

Argyll and Bute proposed Local Development Plan 2 (November 2019)

The unchallenged policies and proposals within pLDP2 may be afforded significant material weighting in the determination of planning applications at this time as the settled and unopposed view of the Council. Elements of the pLDP2 which have been identified as being subject to unresolved objections still require to be subject of Examination by a Scottish Government appointed Reporter and cannot be afforded significant material weighting at this time.

The provisions of pLDP2 that may be afforded significant weighting in the determination of this application are listed below:

- Policy 23 – Tourist Development, Accommodation, Infrastructure and Facilities
- Policy 37 – Development Utilising an Existing Private Access or Existing Private Road

(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
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(N)	Does the Council have an interest in the site:	No
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(O)	Requirement for a hearing:	No
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(P) Assessment and summary of determining issues and material considerations

Planning permission is sought for 'operational development' consisting of the erection of two holiday units and installation of a septic tank within the garden ground of Soroba Lodge, Oban.

In terms of the adopted 'Argyll and Bute Local Development Plan' (LDP) 2015 the application site is located within the Countryside Zone (CZ) where Policy LDP DM 1 gives encouragement to small scale development on an appropriate infill, rounding-off, redevelopment and change of use of building basis subject to compliance with other relevant policies and supplementary guidance (SG).

Policy LDP 3 assesses applications for their impact on the natural, human and built environment, however, the site is not subject of any nature or landscape designations that require further consideration under the terms of this policy.

Policy LDP 5 gives support to new and existing businesses which help deliver sustainable economic growth throughout the area. SG LDP TOUR 1 expands on this policy giving a

presumption in favour of new or improved tourist facilities subject to a number of criteria including respecting the landscape character and amenity of the area; being reasonably accessible by public transport and being well related to the existing settlement pattern of development. This approach is consistent with Policy 23 of pLDP2 which seeks to achieve the same outcome.

Policy LDP 9 seeks developers to produce and execute a high standard of appropriate design and ensure that development is sited and positioned so as to pay regard to the context within which it is located. SG 2 expands on this policy requiring development layouts to take into account the location or sensitivity of the area within which they are to be sited, the impact from key viewpoints and give consideration to appropriate landscaping to integrate developments within the natural environment.

Policy LDP 11 supports all development proposals that seek to maintain and improve internal and external connectivity by ensuring that suitable infrastructure is delivered to serve new developments. SG LDP TRAN 4 and SG LDP TRAN 6 expand on this policy seeking to ensure developments are served by a safe means of vehicular access and have an appropriate parking provision within the site. This approach is followed through into Policy 37 of pLDP2 which seeks to achieve the same outcome.

The site comprises a flat plateau of ground within an area of recently extended garden ground of the dwellinghouse (following the granting of retrospective planning application 20/02185/PP) which is set against a backdrop of rising land and mature woodland. The proposed holiday letting buildings are relatively modest, single storey, mono-pitched structures with a covered external decked area. Each of the proposed buildings has a gross floor area of approximately 44 square metres and a maximum height of approximately 3.1 metres. Each of the proposed buildings would contain a bedroom, shower room, combined lounge/kitchen/dining room with a partially enclosed and covered decking area. Finishing materials comprise anthracite coloured sinusoidal sheeting to the main elevations and roof with the side elevations finished in timber cladding. The holiday letting buildings will nestle comfortably within the site where they will be viewed in the context of the existing dwellinghouse, rising land and mature woodland where their relatively modest scale and recessive finishing materials will ensure that they do not appear as incongruous features within the site or wider landscape. It is considered that the site represents a suitable opportunity within the garden ground of the dwellinghouse for this small-scale tourism development without having any significant adverse impact on the site or wider landscape at this location consistent with the provisions of the policies and guidance set out above and one which will benefit the local economy in accordance with one of the central challenges for Argyll and Bute; that of delivering sustainable economic growth.

The application proposes to utilise an existing private water supply to serve the proposed development with drainage via installation of a septic tank and soakaway. Whilst, with appropriate safeguarding conditions, this aspect of the proposal could be considered consistent with Policy LDP 11, SG LPD SERV 1 and SG LDP SERV 6 which give support to private drainage proposals and water supplies where connection to the public systems is not feasible, this is not relevant as the development is not considered consistent with policy as detailed below.

The application proposes to utilise the existing private access spurring from the A816 public road to serve the proposed development. Policy LDP 11 and SG LDP TRAN 4 of the LDP and Policy 37 of pLDP 2 state that the use of an existing private access will only be accepted if that access is either safe and appropriate in its current form or else is capable of commensurate improvements considered by the Roads Authority to be appropriate and necessary to the scale and nature of the proposed new development, and that it takes into account any current access issues (informed by an assessment of usage).

During the processing of the application the Council's Roads Authority deferred their decision until such time as the applicant submitted further information to allow a definitive decision on the proposal to be made. The consultation response was in two-parts: The first part required the submission of a Safety Audit/Risk Assessment/Traffic Management Plan to ascertain and mitigate any implications caused by the proposed development both during the construction phase and on completion of the development due to the fact that the proposed access is situated on a primary school/link path/cycle path which forms part of the Core Path Network. The second part of the consultation response required a full structural survey of the bridge accessing the site from the A816 public road to demonstrate that the bridge can safely support a 44 tonne vehicle, being the minimum weight necessary to service any construction site relying on this proposed route of access. The applicant declined to submit the requisite information advancing the following argument to justify the proposed development in the absence of any highway improvements or safety mitigation:

"The site is served by a private shared access with an acknowledged constraint. Our site already contains a 5-bedroom house with 2 double B&B rooms under Class 9 residential usage. Our proposal would provide two double bedrooms for letting purposes via the new pods within the garden ground, and the house would revert to solely domestic usage. We consider this to mean there would be no material increase in vehicular traffic using the access, and therefore that any existing constraints on the route can be accepted as being no worse off as a result of our proposal. Mr & Mrs Acey are happy to relinquish their rights for B&B usage within the house in association with achieving the two holiday units proposed under application 20/02185/PP. We are open to discussing the methods by which future B&B activity within the house should best be controlled, but suggest that the most pragmatic method is to take inspiration from a solution recently applied by the Planning Authority to a similar situation:

Planning application 18/02567/PP sought the provision of a one-bedroom ancillary unit within the grounds of a house served by a shared private access near Taynuilt, on which traffic levels were understood to be close to their limit. The application site in that case already contained a house with Class 9 B&B activity. The ancillary unit was intended to fulfil elderly parent requirements, but flexibility was sought for future holiday letting activity once family occupation was no longer required. Future usage of the ancillary unit, combined with ongoing Class 9 B&B activity levels within the site, was controlled via the following planning condition:

"Notwithstanding the provisions of Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997, the residential accommodation hereby permitted shall be occupied as an annex incidental to the use of the main dwellinghouse currently known as 'Corrachie Farmhouse' only and shall not be occupied independently thereof as a separate dwelling unit or for occupation as a holiday let unless at a level that remains incidental to the Class 9 use of the dwellinghouse.

Reason: To define the permission on the basis of the Planning Authority's assessment of the use applied for and for the avoidance of confusion given that there is an existing bed and breakfast holiday letting unit (known as 'The Byre') in existence.

Note to Applicant: For the avoidance of doubt this permission only provides for the occupation of the annex and the main dwelling by a single household and their non-paying guests. Specifically the occupation of the annex independently from that of the main dwelling (e.g. as a separate full time residence or a holiday letting unit at a cumulative occupancy level in excess of that permitted by Class 9) shall require the benefit of a separate planning permission.

The effect of this condition is that Class 9 B&B usage could continue within the example site at Taynuilt, but the householder retained flexibility on how B&B space was provided. Notably, the planning report accepted in that case that there was no intensification of use of the existing shared private access”.

The planning authority does not accept the arguments presented here. The example of the previous planning permission has very little parity with the current proposal. The site in Taynuilt was located within the Rural Opportunity Area and attracted no objection or request for additional information from the Council’s Roads engineer. The Taynuilt proposal was for the reuse of an existing commercial kennels business building to provide ancillary residential accommodation and utilised a road access which seems to have raised no roads capacity issues. Under these circumstances it is not surprising that the report of handling concluded that there would be no material intensification of use of the access.

The current planning application is very different in that it proposes the erection of two new purpose-built holiday accommodation buildings as additional development utilising an access regime with clear and acknowledged capacity constraint issues.

The argument that the applicant could relinquish the right to use two existing bed and breakfast accommodation bedrooms in the main dwellinghouse to offset the additional accommodation created by the proposed development will not, in the considered opinion of officers, work.

Soroba Lodge is a large five-bedroom dwellinghouse. At present there are two existing bed and breakfast accommodation bedrooms at Soroba Lodge (established after the current planning application was first submitted) and it is acknowledged that a maximum of two of these five bedrooms can be used to provide bed and breakfast accommodation without requiring planning permission. This is because established planning case law in Scotland acknowledges that large residential properties can often have the capacity to utilise up to two bedrooms for limited bed and breakfast accommodation without triggering a material change of use of the Class 9 dwellinghouse and, hence, without *development* occurring.

The applicant’s agent is seeking to relinquish limited incidental bed and breakfast accommodation which is not *development* within the control of the planning authority. The planning authority has no legal control over works or uses of land/buildings that do not constitute *development*. Therefore, officers can see no effective legal method to constrain the use or occupancy of the existing dwellinghouse Soroba Lodge in the way suggested by the applicant’s Agent (or, indeed, by any other way).

Even *if* the use of two of the five bedrooms in Soroba Lodge to provide bed and breakfast accommodation could be relinquished through Legal Agreement, such a mechanism could not remove the right to use those bedrooms as other forms of accommodation for a single large family grouping or to prevent the conversion of other existing rooms in the dwellinghouse into new bedrooms.

The potential capacity of any single dwellinghouse is constrained only by its size and the only way to prevent the existing dwellinghouse being utilised to its full capacity of occupancy would be to physically reduce its size and that, clearly, is not being offered.

The proposed development of two additional buildings to be used for tourism accommodation must, therefore, represent an intensification in the residential occupancy of the site and, therefore, an intensification of the use of the existing constrained access regime. Unlike the Taynuilt example advanced by the applicant’s Agent, this intensification of use is not being offset by the removal of existing business traffic.

Access to the site forms a critical part of this application for planning permission and whilst the engineering/construction details of any such access and any required access improvement works and highway safety audit could potentially be sought by way of suspensive planning conditions, this would be at the discretion of the planning authority having considered the likely effectiveness of such conditions. In this case, the fundamental suitability (or otherwise) of the proposed means of access is a matter which the Planning Authority should properly seek to resolve at this stage.

Whilst in the recent appeal decision for the neighbouring site utilising the same access regime (outlined in the history at Section C above), the Scottish Government Reporter was satisfied that the requirement for a report on the structural integrity of the bridge could be dealt with by way of a suspensive condition attached to the grant of planning permission, this approach should not be undertaken in the case of the current application as the bridge in question is not within the control of the applicant and has not been included within the area defining the application site. In addition, the remainder of the access to serve the proposed development is not included within the application site and is therefore likely not within the ownership or control of the developer.

The development constitutes a material intensification of the use of an existing and constrained access regime and would be capable of support only if compliance with various highway safety concerns can be demonstrated; either through the submission, examination and acceptance of competent detail or by the improvement of the existing road and pedestrian/cycle network, or a combination of both.

In this case, none of the required information has been submitted and no part of the roadway is included within the site boundary or acknowledged legal ownership/control of the developer. It is therefore concluded that it would be inappropriate in this case to leave these matters unresolved given the fundamental nature of the highway/pedestrian/cyclist safety issues raised by the development and the uncertainty as to the ability of the developer to bring about any necessary improvements.

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

(R) Reasons why planning permission should be refused.

See reasons for refusal below.

(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: Fiona Scott

Date: 06/09/21

Reviewing Officer: Peter Bain

Date: 07/09/21

Fergus Murray
Head of Development and Economic Growth

REASONS FOR REFUSAL RELATIVE TO APPLICATION REFERENCE 20/01542/PP

1. Policy LDP 11 and SG LDP TRAN 4 of the adopted 'Argyll and Bute Local Development Plan' 2015 and Policy 37 of the proposed 'Local Development Plan 2' 2019 state that the use of an existing private access will only be accepted if that access is either safe and appropriate in its current form or else is capable of commensurate improvements considered by the Roads Authority to be appropriate and necessary to the scale and nature of the proposed new development, and that it takes into account any current access issues (informed by an assessment of usage).

The proposed development would result in the intensification of use of a private access regime where there are known constraints and it has not been demonstrated, through lack of structural details of the existing bridge, that the private access track is capable of serving the proposed development, either in its current state or else by any reasonable and necessary commensurate improvements to that access as informed by the submission and assessment of information necessary for the planning authority to properly assess this part of the proposed development.

Furthermore the requested Safety Audit/Risk Assessment/Traffic Management Plan to ascertain and mitigate any implications caused by the proposed development both during the construction phase and on completion of the development due to the fact that the proposed access is situated on a primary school/link path/cycle path which forms part of the Core Path Network has not been forthcoming.

In addition, no part of the existing access forms part of the planning application site or within the acknowledged legal ownership/control of the developer. It is therefore concluded that it would be inappropriate in this case to attempt to resolve these matters through the use of suspensive planning conditions given the fundamental nature of the highway/pedestrian/cyclist safety issues raised by the development and the uncertainty as to the ability of the developer to bring about any necessary improvements.

In this regard, and in the absence of the submission and professional assessment of this necessary information, the proposal is considered contrary to the provisions of SG LDP 11 and SG LDP TRAN 4 of the adopted 'Argyll and Bute Local Development Plan' 2015 and Policy 37 of the proposed 'Argyll and Bute Local Development Plan 2'.

APPENDIX B – PHOTOGRAPHS OF THE SITE AND ACCESS



View of application site indicated by red arrow



View of application site indicated by red arrow with gated driveway to Soroba Lodge also shown



View of Soroba Lodge and application site from Glenshellach Road – site indicated by red arrow



View of Soroba Lodge and application site from Glenshellach Road – site indicated by red arrow



View of private access track spurring from A816 public road which serves the application site



View of junction of private access track with A816 public road



View of private access track leading to Soroba Lodge



Further view of private access track leading to Soroba Lodge with public footpath shown to the right of the picture

APPENDIX C – REPORTER’S APPEAL DECISION FOR 19/02562/PPP

See separate attachment



Decision by Gordon S Reid, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-130-2077
- Site address: land south east of Elderslie, Oban, PA34 4SA
- Appeal by G MacEachen against the decision by Argyll and Bute Council
- Application for planning permission in principle 19/02562/PPP dated 9 December 2019 refused by notice dated 24 August 2020
- The development proposed: site for the erection of two dwellinghouses
- Application drawings: Location Plan (PR003a-L01b), Site Plan (PR003a-L02b) and Proposed Footpath (PR003a-L03)
- Date of site visit by Reporter: 7 May 2021

Date of appeal decision: 05 August 2021

Decision

I allow the appeal and grant planning permission in principle subject to the nine conditions listed at the end of the decision notice.

Attention is drawn to the two advisory notes at the end of the notice.

The appellant has made a claim for expenses. I have issued a separate decision on this claim.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. Having regard to the provisions of the development plan the main issues in this appeal are the principle of development, access arrangements, design/layout and effect on the natural and built environment.
2. As there is a listed building adjacent to the appeal site section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 applies and states that in considering whether to grant planning permission for development which affects a listed building or its setting, special regard should be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
3. Parties make reference to the adopted Argyll and Bute Local Development Plan (2015) and related supplementary guidance. My attention has also been brought to the guidance in Transport Scotland's Design Manual for Roads and Bridges (DMRB), the

council's non-statutory Sustainable Design Guidance (2006) and Small Housing Developments (2008) and, the appellant's Road Assessment document.

4. The appeal site is located to the south-west of the A816 (Soroba Road) and is accessed from a private road which serves Soroba House Hotel and Mews, Elderslie B&B and several residential properties. The private road to the appeal site also forms part of the core path network and is a link pedestrian/cycle path to the local primary school campus. The appeal site is a sloping area of overgrown ground with some shrubs and a single mature tree. A layout drawing is submitted for illustrative purposes demonstrating that the appeal site could accommodate two houses. A further illustrative drawing sets out the location of the proposed footway adjacent to the existing bridge/culvert.

Principle of development

5. Local development plan policy LDP DM 1 (Development within the Development Management Zones) sets out the acceptable scale of new development within seven defined development management zones. I note that the appeal site is located within the Oban management zone where encouragement is given to various scales of development on appropriate sites subject to compliance with other relevant policies and related supplementary guidance.

6. In terms of proposals for new housing local development plan policy LDP 8 (Supporting the Strength of Our Communities) recognises the need to ensure that existing communities are strengthened through the delivery of new sustainable development opportunities. In support of this policy, supplementary guidance LDP HOU 1 (General Housing Development including Affordable Housing) sets out a general presumption in favour of housing development of the appropriate scale within the defined management zones unless there is an unacceptable environmental, servicing or access impact. I note that the council, in its report of handling, concluded that, given the location of the appeal site (within the Oban management zone), it had the potential to accommodate two suitably sited and designed houses.

7. As the appeal proposal is small scale (less than 5) and is within the Oban management zone I am satisfied that it would, in principle, gain support from the presumption in favour of new housing development subject to meeting the requirements of LDP HOU 1 in relation to the environment and access. No issues in terms of servicing the appeal site were raised by the council.

Parking and Access

8. The main issue of concern raised by the council relates to whether a satisfactory means of access can be achieved for the appeal proposal. Local development plan policy LDP 11 (Improving Our Connectivity and Infrastructure) seeks to ensure that in supporting development proposals, best use is made of existing infrastructure and an appropriate standard of access is delivered to serve new developments including an appropriate level of car parking. Further detail for the delivery of these requirements is set out in supplementary guidance LDP TRAN 4 (New and Existing, Public Roads and Private access Regimes) and LDP TRAN 6 (Vehicle Parking Provision).

9. I note from the illustrative layout that provision for car parking and turning is to be accommodated within each site. I am satisfied, given the size of each plot that there would be sufficient space available to provide the required level of car parking which can be secured through the imposition of a condition. Therefore, I find that the appeal proposal, subject to a condition, would accord with the provisions of supplementary guidance LDP TRAN 6.

10. The appeal site is to be accessed from the existing private road, which joins Soroba Road (A816) to the north east of the appeal site. Supplementary guidance LDP TRAN 4 advises in Criterion (A) that in the first instance new developments should be served by a public road. However, where it is proposed to utilise an existing private road criterion 2(i) advises that the access should be capable of commensurate improvements considered by the council to be appropriate to the scale and nature of the new development taking into account any current access issues.

11. The appeal proposal would result in the increased use of an existing private road which also performs the function as a primary school link path/cycle path and, is part of the core path network. Therefore, the council in line with criterion 2(i) requested that a safety audit, risk assessment and traffic management plan be submitted to assess the potential impact (including during the construction phase) of the appeal proposal and to identify any necessary mitigation measures. The appellant submitted a Road Assessment Report covering each of the areas specified by the council. I note that the council in its report of handling advises that it found the appellant's assessment and mitigation measures to be acceptable. I would agree with this conclusion and find that subject to the implementation of the mitigation measures there would be no adverse impact on pedestrian or vehicle safety.

12. Notwithstanding the acceptance of the appellant's road assessment the council, in line with criterion (A) of LDP TRAN 4, requires that a short section of the private road at the existing bridge/culvert (which serves all of the existing properties) be brought up to an adoptable standard. The appellant advises that this matter was raised by the council prior to the submission of the appeal proposal for planning permission in principle and resulted in the inclusion of the proposed footway and the site boundary being amended to include this part of the private road. In addition, the council also requires a turning head to be provided in the area to the south of the bridge/culvert. I note that despite including the requirements recommended by the council the appellant questions the need for the road to be adopted. However, no objection has been raised by the appellant to the provision of a turning head subject to agreeing its exact location.

13. I note that supplementary guidance LDP TRAN 4 advises that new private roads should only be used for up to five dwellings. However, as highlighted by the appellant it is evident that the current number of properties served by the private road already significantly exceeds this level (17 properties). No evidence has been provided by the council to explain why the existing private road has not been brought up to an adoptable standard in the course of determining past developments in the area. Notwithstanding this, I am satisfied that given the number of properties that this section of the road now serves, and that it is also a primary school link/cycle path it is not unreasonable for the council to seek to bring this section of the road up to an adoptable standard. I find that this would be in accordance with criteria (A) of LDP TRAN 4.

14. In order to bring the private road up to a standard suitable for adoption the council contends that a structural survey of the bridge/culvert in accordance with the requirements of DMRB is required. I note that the appellant disputes the need for a structural survey and contends that the bridge/culvert is to an appropriate standard to accommodate the likely traffic generated by the appeal proposal. Although I note that the council carried out a visual inspection of the bridge/culvert I have no substantive technical evidence before me to demonstrate that the bridge could accommodate the likely additional vehicle movements. Accordingly, I am satisfied that the council's requirement for a structural survey is in accordance with the recognised national guidance (DMRB) for the adoption of a road that includes a bridge/culvert and that it is required in support of the appeal proposal to allow the adoption of the private road.

15. The council contends that as the structural integrity of the bridge/culvert is fundamental in demonstrating that a satisfactory access can be achieved and to the standard that allows it to be considered for adoption the use of a suspensive condition is not appropriate. The appellant argues that as this is technical information which is similar to other matters associated with the appeal proposal that require the submission of further details, it is appropriate to address this through the imposition of a suspensive condition.

16. Whilst I agree with the council's position regarding the requirement to bring the road up to an adoptable standard I am not convinced that the use of a suspensive condition is inappropriate in this particular case. The council has already accepted that there would be no pedestrian or vehicular issues with the access as a result of the proposed development. In addition, the appellant on the advice of the council, amended the site boundary to include this section of the road within the appeal site and the area for the provision of a new footway, and I note that the appellant has control of the land (through an ownership interest) at this section of road and the adjacent land immediately to the east. Therefore, any potential improvement identified by the survey could be implemented within the appeal site or on land in control of the appellant. Finally, as this appeal proposal is for planning permission in principle there are other detailed and technical matters that would be required to be covered by suspensive conditions.

17. Therefore, given the bridge/culvert is within the appeal site I am satisfied that the use of a suspensive condition requiring the carrying out of a structural survey is appropriate in this instance. Furthermore, if further physical works outwith the appeal site are required the appellant has control over adjacent land that would allow these to be undertaken.

18. Therefore, I find that subject to the imposition of appropriately worded conditions the appeal proposal would accord with the requirements of supplementary guidance LDP policy TRAN 4, policy LDP 11 and supplementary guidance LDP HOU 1.

Design/layout

19. From the illustrative layout provided by the appellant I am satisfied that the appeal site could accommodate two houses. I note that the council also came to this conclusion in its report of handling. However, to ensure that the appeal proposal would accord with the provisions of policy LDP 9 (Development Setting, Layout and Design) and SG2 (Sustainable Siting and Design Principles) the details of design and layout would require to be subject to future applications for the approval of matters specified in conditions. As I am minded to uphold this appeal I have attached conditions covering these matters.

Natural and Built Environment

20. The appeal site is located approximately 25 metres to the south west of Soroba House Hotel which is a category C listed building. In addition, there is an area of ancient woodland further to the south-east. Local development plan policy LDP 3 (Supporting the Protection, Conservation and Enhancement of our Environment) seeks to ensure that new developments do not adversely impact on the natural, human and built form. I noted at my site inspection that the appeal site is located to the south-west of the principle elevation of Soroba House Hotel and given the topography of the area sits at a much lower level with mature landscaping along the adjoining boundary. Furthermore, I noted that new residential development (Soroba Mews) has been developed immediately to the east of the hotel. Given the location of the appeal site relative to Soroba House I am satisfied that subject to appropriate siting, design, finishing materials and landscaping the appeal proposal would not adversely affect the setting of the listed building. In addition, I note that Historic Environment Scotland and the council raised no concerns in relation to the impact on the setting of the listed building.

21. In terms of the effect on existing woodland I established at my site inspection that there was only one mature tree within the appeal site which is located at the south-west boundary. Given its position this tree could be accommodated within the site without adversely affecting the layout of the appeal proposal. I am satisfied that no other mature trees or woodland would be adversely affected by the appeal proposal. However, I agree with the council that given there are mature trees in the surrounding area a condition be attached requiring a detailed landscaping plan including boundary treatments to ensure that the appeal proposal is appropriately accommodated within the wider landscape setting.

22. Accordingly, subject to conditions I find that the appeal proposal accords with the provisions of policy LDP 3, supplementary guidance LDP ENV 16(a) (Development Impact on Listed Buildings), Section 59 of the Planning (Listed Building and Conservation Area) (Scotland) Act 1997, supplementary guidance LDP ENV 6 (Development Impact on Trees/Woodland), supplementary guidance LDP ENV 14 (Landscape) and supplementary guidance LDP HOU 1.

23. Overall, I am satisfied that subject to conditions the principle of residential development for two houses at the appeal site would accord with the relevant policies of the local development plan and the related supplementary guidance.

Other matters

24. Apart from the matters raised by the council's roads service no objections were raised by any of the consultees subject to the imposition of conditions relating to flood risk, drainage and finished floor levels. The council has provided me with conditions to address each of these matters. I note that the appellant raises concerns that the proposed conditions in relation to design are overly restrictive and contends that these would be more appropriately addressed at the detailed design stage. In light of these concerns I have made some minor amendments to the council's proposed conditions to allow for the further consideration of these matters by parties. The revised conditions are attached at the end of the decision notice.

25. The appeal proposal attracted 18 letters of representation raising concerns regarding the impact of the proposed development in terms of over development of the area, traffic and pedestrian safety, parking, drainage, flooding and the condition and structural integrity of the existing bridge. I have taken full account of these concerns in my considerations as set out above. Reference was also made in the representations to previous applications at the appeal site, but I note that these applications were withdrawn prior to determination by the council and, therefore, I find that they are not relevant to the current appeal case.

26. The appellant makes reference to other planning applications approved by the council within the council area that have included the use of private roads. Whilst I note these matters I am unaware of the circumstances of these particular planning applications and in any case I must determine the appeal case before me on its own merits.

Conclusion

27. I therefore conclude, for the reasons set out above, that the appeal proposal, subject to conditions, accords overall with the relevant provisions of the development plan and that there are no material considerations which would justify refusing to grant planning permission. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

Gordon S Reid
Reporter

Conditions

1. Plans and particulars of the matters specified in conditions 3, 4, 5, 6, 7, 8 and 9 below shall be submitted by way of application(s) for Approval of Matters Specified in Conditions in accordance with the timescales and other limitations in Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended. Thereafter, the development shall be completed wholly in accordance with the approved details.

Reason: In accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended).

2. The development shall be implemented in accordance with the details specified on the application form for planning permission in principle reference 19/02562/PPP dated 15/05/19 and the approved drawing reference numbers as follows: Location Plan PR003a-L01b, Site Plan PR003a-L02b and Proposed Footpath PR003a-L03.

Reason: To accord with Regulation 28 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008.

3. Pursuant to Condition 1. – No development shall commence until details of the required improvements to the service road and connection with the existing public road have been submitted to and approved by the planning authority. Such details shall incorporate:

i) A vehicular access layout providing a road from the junction with the U128, Soroba Hill Road, extending for 33 metres or thereabouts (including bridge/culvert) in a southerly

direction, to the Soroba House Hotel/Soroba Lodge junction on the private track, over which the public has a right of access in terms of the Roads (Scotland) Act 1984.

ii) The junction with the existing public road improved to provide visibility splays of 2.4 metres to point X by 42 metres to point Y formed from the centre line of the junction.

iii) A turning head for the public service vehicle to be located to the south of the bridge, opposite the Soroba House Hotel/Soroba Lodge junction.

Prior to work starting on site, the junction with the existing public road shall be fully formed and surfaced and the visibility splays shall be cleared of all obstructions such that nothing shall disrupt visibility from a point 1.05 metres above the junction at point X to a point 0.6 metres above the public road carriageway at point Y. The visibility splays shall be maintained clear of all obstructions thereafter.

All access roads and footways granted consent shall be constructed to at least base course level prior to any work starting on the erection of the buildings which they are intended to serve and the final wearing surface of the roads and footways shall be applied concurrently with the construction of the final building.

Reason: In the interests of road safety and to ensure the timely provision of a service road commensurate to the scale of the overall development and having regard to the status of the proposed access as a residential service road.

4. Pursuant to Condition 1 – no development shall commence until plans and particulars of the parking/turning arrangements to serve the development have been submitted to and approved by the planning authority. Such details shall incorporate:

i) The provision of parking and turning in accordance with the requirements of Policy SG LDP TRAN 6 of the adopted 'Argyll and Bute Local Development Plan' 2015. The approved parking and turning layout shall be implemented in full prior to the development first being occupied and shall thereafter be maintained clear of obstruction for the parking and manoeuvring of vehicles.

Reason: In the interests of road safety.

5. Pursuant to Condition 1 – no development shall commence until a detailed structural survey of the existing bridge/culvert has been submitted to and approved in writing by the planning authority in consultation with the Council's structures team. The required survey shall be prepared by a qualified structural engineer and shall be sufficient to certify that the existing bridge/culvert is able to safely accommodate up to 44 gross metric tonnes multi axle heavy goods vehicles. Or, should such certification not be demonstrated provide a detailed written schedule and specification of the works necessary to improve or replace the existing bridge/culvert in order that it will accommodate vehicles of the type and weight specified in above.

Any improvement/rebuilding/replacement works agreed by virtue of the above requirements must be fully completed to the satisfaction of the planning authority in consultation with the Council's structures team before any other part of the development commences.

Reason: In the interests of road safety.

6. Pursuant to Condition 1 – no development shall commence until details of the proposed means of private foul drainage to serve the development have been submitted to and approved by the planning authority. The duly approved scheme shall be implemented in full concurrently with the development that it is intended to serve and shall be operational prior to the occupation of the development.

Reason: To ensure that an adequate means of foul drainage is available to serve the development.

7. Notwithstanding the provisions of Condition 2, the development shall incorporate a surface water drainage system which is consistent with the principles of sustainable urban drainage systems (SuDS) compliant with the guidance set out in CIRIA's SuDS Manual C753. The requisite surface water drainage shall be operational prior to the development being brought into use and shall be maintained as such thereafter.

Reason: To ensure the provision of an adequate surface water drainage system and to prevent flooding.

8. Pursuant to Condition 1 – no development shall commence until plans and particulars of the site layout, design and external finishes of the development have been submitted to and approved by the planning authority. These details shall incorporate:

- i) A statement addressing the action checklist for developing design contained within the Argyll and Bute Sustainable Design Guide 2006;
- ii) A local vernacular design;
- iii) External walls finished in natural stone, wet dash render, timber cladding or a mixture of these materials;
- iv) Details of finished ground floor levels relative to an identifiable fixed datum located out with the application site; and
- v) Details of existing and proposed site levels shown in the form of sectional drawings/contour plans/site level survey, or a combination of these.

Reason: To accord with Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended, and in order to integrate the proposed dwellinghouse with its surrounds.

9. Pursuant to Condition 1 – no development shall commence until a scheme of boundary treatment, surface treatment and landscaping has been submitted to and approved by the planning authority. The scheme shall comprise a planting plan and schedule which shall include details of:

- i) Existing and proposed ground levels in relation to an identified fixed datum;
- ii) Existing landscaping features and vegetation to be retained;
- iii) The location, design and materials of proposed walls, fences and gates;
- iv) Proposed soft and hard landscaping works including the location, species and size of every tree/shrub to be planted; and
- v) A programme for the timing, method of implementation, completion and subsequent on-going maintenance.

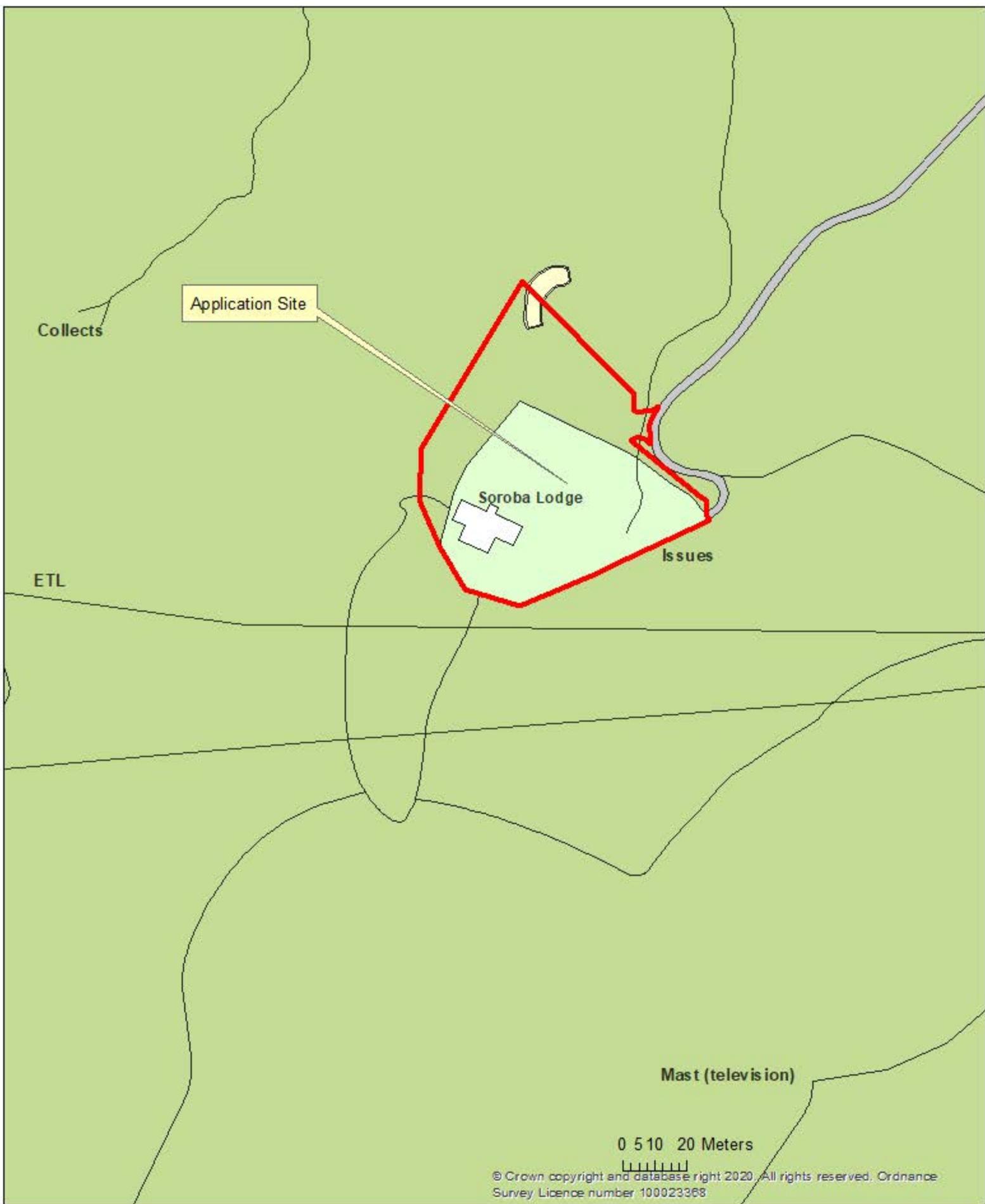
All of the hard and soft landscaping works shall be carried out in accordance with the approved scheme unless otherwise approved in writing by the planning authority.

Any trees/shrubs which within a period of five years from the completion of the approved landscaping scheme fail to become established, die, become seriously diseased, or are removed or damaged shall be replaced in the following planting season with equivalent numbers, sizes and species as those originally required to be planted unless otherwise approved in writing by the planning authority.

Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity.

Advisory notes

- 1. Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action. (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).)
- 2. Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position. (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended).)



Location plan relative to: 21/0005/LRB



1:1,500