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**Response to Planning Authority submission of additional information relative to
Notice of Review 21/0005/LRB
Argyll and Bute Council – Local Review Body**

Appellant: Michael & Rowan Acey

Project Ref: 2020034

Development: Refusal of planning application 20/01542/PP:
Erection of 2 holiday pods and installation of septic tank

Site: Grounds of Soroba Lodge, Oban, PA34 4SB

Scale: Local development

Response

Thank you for the opportunity to respond to the Planning Authority's provision of additional information submitted on 05/01/22 relative to Notice of Review 21/0005/LRB.

The Local Review Body sought information from the Planning Authority on three specific points, within a framework of exploring options for a competent motion:

- 1) The use of a planning condition covering a construction method statement.
- 2) The use of a planning condition or Section 75 Agreement covering overall B&B activity within the site.
- 3) Clarification of the nature of planner's concerns around intensification of use in the event that B&B activity was limited.

Planning officers have defended their initial negative assessment rather than just responding to the information requests as presented. That is perhaps understandable due to the inherent nature of the LRB process, but in so doing, they have lost some objectivity and overlooked alternative perfectly legitimate outcomes which could be applied without difficulty.

1) Construction method statement

Construction Method Statements (CMS) commonly feature in planning conditions to regulate how a development is implemented.

Compliance with a CMS, or enforcement of any associated planning condition, is not dependent on an applicant owning the entire access regime, nor even part of it, because the condition relates to behaviours and appropriate enforcement action in the event of a breach would be to stop the development.

We have declined to offer upgrades to the existing private access within the project (because no intensification of use of the access would arise from the development), but we have also consistently volunteered from the outset to provide and adhere to a CMS relating to construction traffic.

For small-scale developments, there is no need to provide a full risk assessment/safety audit/traffic management plan upfront and all previous Council requests for these documents were to secure an upgrade to the existing access regime. To demand that of the applicants in this case would be disproportionate to the scale of the project that is being advanced. The single storey timber frame pods can literally be built on site utilising the 3.5T van already owned by the applicant (which uses the access on a daily basis), plus a small trailer to enable a 2T excavator to be brought to and from site to complete the initial ground works. No abnormal loads or heavy goods vehicle activity would be generated.

Considering that the shared access serves multiple properties requiring oil fuel deliveries bin lorry access, parcel deliveries etc on a regular basis, any impacts arising from the construction of these two small pods would be minimal. A CMS should proportionately cover facets of construction activity such as vehicle weight, vehicle size or vehicle movements, or the timing of deliveries/movements to and from the site. The project will be self-built - directly managed by the applicant on a day-to-day basis.

CMS are a perfectly acceptable and legitimate method by which to control the impact of construction phases. They are commonly used by planning authorities, including Argyll and Bute Council, and there is no reason why one could not be used in this instance.

An example planning condition could read:

No development shall commence or is hereby authorised until a Construction Method Statement (CMS) has been submitted to and approved in writing by the Planning Authority. The CMS shall include a full description of material delivery methods, construction vehicle size, vehicle numbers and vehicle weights proposed for use during construction phases, as well as defined hours during which all construction vehicle movements will be confined having regard to the nearby primary school campus term time opening hours. Thereafter, the development shall only be undertaken in strict accordance with such details as are approved.

Reason – in the interests of road and pedestrian safety.

2) Control of overall B&B activity

Planning conditions have already been used by the Planning Authority to control the total level of guest accommodation provided within multi-building house sites, such as in the Taynuilt example highlighted in our Notice of Review.

Planning conditions are also regularly used to cover matters that are normally not subject to planning control – such as by limiting or removing permitted development rights or narrowing down the specific activity within a use class that may occur on individual sites, and so on.

Planning conditions can legitimately be used in this instance, to ensure that the level of guest accommodation at the site does not exceed two double bedrooms in total and in so doing, guarantee that there is no intensification of use of the access arising from the development beyond that which already occurs.

An example planning condition could read:

Notwithstanding the provisions of Class 9 of the Use Classes (Scotland) Order as amended, from the date of the first occupation of either holiday pod hereby approved there shall be no bed and breakfast accommodation within the existing house whatsoever - unless first otherwise agreed in writing by the Planning Authority.

Reason – to ensure that vehicle numbers do not increase from their existing levels, in the interests of road safety.

Alternatively, the planning condition could be worded to limit the total number of guest bedrooms within the site to a maximum of two and still achieve the same purpose.

Section 75 Agreements offer an alternative method of control.

The heads of terms for an Agreement in this case would be to remove the right to undertake B&B activity within the house as provided under Class 9 of the Use Classes (Scotland) Order as amended, in conjunction with planning permission being granted for the two pods within the garden ground as applied for under application 20/01542/PP.

The appellants remain willing to enter into a Section 75 Agreement if one is deemed necessary, but we consider a planning condition, like the example condition shown above, to represent a simpler, more practical and appropriate option in this instance.

3) Concerns regarding total bedroom usage

We understand that the planner's concern regarding intensification is indeed as the Local Review Body has suggested i.e. that the five bedrooms within the house could still be used by friends and family in addition to the two pods being used by guests within the garden grounds.

The planning unit currently comprises a five-bedroom house, including two B&B double bedrooms, plus residential curtilage.

If allowed, the development would create a planning unit with seven bedrooms in total, two of which would provide holiday accommodation.

Going from a five-bedroom house to a seven-bedroom house would necessitate no additional parking under SG LDP TRAN 6, and either size of house could accommodate up to two bedrooms for B&B purposes under Class 9 of the Use Classes Order in normal circumstances.

Within that context, we assert that changing from a five-bedroom house with two serving as B&B to a five-bedroom house plus two pods for holiday accommodation would have a negligible impact on vehicle numbers.

The likelihood of all bedrooms in the house being fully occupied by friends and family would be so rare as to not require Planning Authority control – as evidenced by the lack of general requirement to continually add parking spaces as and when larger houses are extended under the local development plan (SG LDP TRAN 6).

We re-assert that if we had sought to extend the existing house by adding two bedrooms (to create a seven-bedroom house in the process), the issue of road safety would never even have arisen.

Summary

There are paths to a resolution in this case that allow the development to proceed whilst also safeguarding the shared access regime.

The 2007 precedent decision on the Elderslie site (07/01798/COU) could itself legitimately form the basis of a competent motion to grant planning permission – because the council concluded then that a development generating a larger increase in traffic than would occur with our proposal did not comprise an intensification of use of the access.

It would also be entirely competent for the Local Review Body to grant planning permission with planning conditions covering B&B activity within the site to demonstrate that there was categorically no increase in traffic and therefore no impact on the existing access regime, and to secure a Construction Method Statement ensuring that construction is undertaken appropriately.

The Local Review Body is asked to support this Notice of Review and enable a small positive contribution towards tourist accommodation to be provided in a way that accords with local and national planning policy and raises no unacceptable impacts.



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Stephen Fair MRTPI MURP

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11 January 2022