

FURTHER INFORMATION

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY
23/0003/LRB**

**REFUSAL OF PLANNING PERMISSION IN
PRINCIPLE FOR ERECTION OF
DWELLINGHOUSE AT LAND NORTH OF
SWALLOWTALE, ACHNAGOUL, INVERARAY**

**PLANNING PERMISSION IN PRINCIPLE
APPLICATION REFERENCE NUMBER
20/01901/PPP**

23rd MAY 2023

**ABC Development Management Service:
Response to the request for further information which was requested by
the LRB on 10th May 2023**

a) Appropriate conditions and reasons to attach to any consent in the event the Members of the LRB were minded to approve the application;

**SUGGESTED CONDITIONS AND REASONS RELATIVE TO LOCAL REVIEW
BODY REF. 23/0003/LRB**

PPP - Standard Time Limit Condition (as prescribed by regulation):

This consent constitutes a Planning Permission in Principle under Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended and as such does not authorise the commencement of development until matters requiring the further consent of the Planning Authority, as specified in Condition 1 (within the list of Additional Conditions below), have been satisfied.

Application(s) for Approval of Matters Specified in Conditions must be made in accordance with the provisions of Regulation 12 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 within the time limits specified below.

Any application for Approval of Matters Specified in Conditions must be submitted to the Planning Authority no later than three years from the date of this permission in principle.

Any elements of the Planning Permission in Principle for which further approval of the Planning Authority has not been sought within the prescribed three year time period will no longer be capable of being implemented within the terms of this permission.

The development to which this planning permission in principle relates must commence no later than five years from the date of this permission, or within the expiration of two years from the final approval of all Approval of Matters Specified in Conditions, whichever is the later. If the development has not commenced within this period, then this planning permission in principle shall lapse.

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

Standard Condition on Soil Management During Construction

Where the development involves ground breaking works, soil management should be undertaken in compliance with the established best practice set out in the DEFRA publication "[Construction Code of Practice for the Sustainable Use of Soils on Construction Sites 2009](#)", unless an alternative methodology for sustainable management of soil is submitted to and approved in writing by the Planning Authority.

Reason: In order to ensure that sustainable management of soils and compliance with the requirements of NPF4 Policy 5A.

Additional Conditions

1. **PPP – Matters Requiring AMSC Submission**

Plans and particulars of the matters specified in conditions 3, 5, 6, 7, 8, 9, and 10 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: To accord with Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended.

2. **PPP - Approved Details**

The development shall be implemented in accordance with the details specified on the application form dated 19/10/2020 supporting information and, the approved drawings listed in the table below.

Plan Title.	Plan Ref. No.	Version	Date Received
Location Plan	0927/300/B		16.12.2020
Site Plan	0927/301/A		09.12.2020

Reason: To accord with Regulation 28 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.

3. **PPP – Archaeological Watching Brief**

Pursuant to Condition 1 - no development or ground breaking works shall commence until a method statement for an archaeological watching brief has been submitted to and approved by the Planning Authority in consultation with the West of Scotland Archaeology Service.

The method statement shall be prepared by a suitably qualified person and shall provide for the recording, recovery and reporting of items of interest or finds within the application site.

Thereafter the development shall be implemented in accordance with the duly approved details with the suitably qualified person being afforded access at all reasonable times during ground disturbance works.

Reason: In order to protect archaeological resources.

Note to Applicant:

- Regard should be had to the West of Scotland Archaeology Service's consultation comments in respect of the proposed development.

4.* **Junction with the A83 (T) Trunk Road**

Prior to the construction of any dwellinghouse, visibility splays shall be provided and maintained on each side of the new access to the satisfaction of the local Planning Authority. These splays are triangles of ground bounded on 2 sides by the first 4.5 metres of the centreline of the access driveway (the set

back dimension) and the nearside trunk road carriageway measured 215 metres (the y dimension) in both directions from the intersection of the access with the trunk road. In a vertical plane, nothing shall obscure visibility measured from a driver's eye height of between 1.05 metres and 2.00 metres positioned at the set back dimension to an object height of between 0.26 metres and 1.05 metres anywhere along the y dimension.

Note to Applicant:

- The applicant should be informed that the granting of planning consent does not carry with it the right to carry out works within the trunk road boundary and that permission must be granted by Transport Scotland Roads Directorate . Where any works are required on the trunk road, contact details are provided on Transport Scotland's response to the planning authority which is available on the Council's planning portal.
- Trunk road modification works shall, in all respects, comply with the Design Manual for Roads and Bridges and the Specification for Highway Works published by HMSO. The developer shall issue a certificate to that effect, signed by the design organisation.
- Trunk road modifications shall, in all respects, be designed and constructed to arrangements that comply with the Disability Discrimination Act: Good Practice Guide for Roads published by Transport Scotland. The developer shall provide written confirmation of this, signed by the design organisation.
- The road works which are required due to the above Conditions will require a Road Safety Audit as specified by the Design Manual for Roads and Bridges.
- Any trunk road works will necessitate a Minute of Agreement with the Trunk Roads Authority prior to commencement.

5. PPP - Single Building Access Requirements – Commensurate Improvement of Private Road & Parking Provision**

Pursuant to Condition 1 – no development shall commence until plans and particulars of the means of vehicular access and parking/turning arrangements to serve the development have been submitted to and approved by the Planning Authority. Such details shall incorporate:

- i) The private access between the development and the A83(T) to be widened to 3.25m;
- ii) Provision of inter-visible passing places at maximum spacing of 150m on the private access between the development and the A83(T). Passing places to be constructed as per the Council's Standard Detail drawing ref. SD 08/003 Rev a. (type A);
- iii) Provision of a 1.5m verge on the private access between the development and the A83(T);
- iv) The existing road surface of the private access between the

development and the A83(T) to be regraded and all potholes filled;

- v) Provision of a turning head for a commercial vehicle within the development site;
- vi) The provision of parking and turning in accordance with the requirements of policy LP TRAN 6 and Appendix C of the Argyll and Bute Local Plan 2015.

The approved scheme of works i) – v) shall be completed prior to work starting on site.

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.

6. **PPP – Details of New Private Foul Drainage System**

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.

Note to Applicant:

- Private drainage arrangements are also subject to separate regulation by Building Standards and SEPA.

7. **PPP – Surface Water Drainage – No detail required for approval**

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.

Note to Applicant:

- Further advice on SuDS can be found in SEPA's Standing Advice for Small Scale Development – www.sepa.org.uk

8. **PPP – Full Landscaping Scheme**

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) 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;
- v) A biodiversity statement demonstrating how the proposal will contribute to conservation/restoration/enhancement of biodiversity, and how these benefits will be maintained for the lifetime of the development;
- vi) 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.

The biodiversity statement should refer to [Developing with Nature guidance | NatureScot](#) as appropriate.

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

9. **PPP – Tree Survey, Retention and Protection**

Pursuant to Condition 1 – no development shall commence until a scheme for the retention and safeguarding of trees during construction has been submitted to and approved by the Planning Authority. The scheme shall comprise:

- i) A survey of trees on and overhanging the site indicating the location, species, height, canopy spread and condition of each tree;
- ii) An assessment of the amenity and nature conservation value of tree groups and individual trees which shall inform the layout of the development proposed;
- iii) Details of all trees to be removed and the location and canopy spread of trees to be retained as part of the development;
- iv) A programme of measures for the protection of trees during construction works which shall include fencing at least one metre beyond the canopy spread of each tree in accordance with BS 5837:2005 “Trees in Relation to Construction”.

Tree protection measures shall be implemented for the full duration of construction works in accordance with the duly approved scheme. No trees shall be lopped, topped or felled other than in accordance with the details of the approved scheme unless otherwise approved in writing by the Planning Authority.

Reason: In order to retain trees as part of the development in the interests of amenity and nature conservation.

10. **PPP BUILDING SITING, DESIGN & FINISHES – INDIVIDUAL BUILDING**

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) Local vernacular design;
- iii) Maximum of 1 ½ storeys in design;
- iv) Symmetrically pitched roof angled between 37 and 42 degrees finished in natural slate or good quality artificial slate;
- v) External walls finished in natural stone, timber cladding, or wet dash render or, a combination of these elements;
- vi) Details of finished ground floor levels relative to an identifiable fixed datum located outwith the application site;
- vii) Window openings with a vertical emphasis;

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.

11. **PP/PPP – Further investigation of potential for land contaminants from historic use required**

Unless otherwise agreed in writing and in advance by the Planning Authority, no development shall commence until a scheme has been submitted by the Developer (at their expense) to identify and assess potential contamination on site.

No construction work shall commence until the scheme has been submitted to, and approved, by the Planning Authority, and is thereafter implemented in accordance with the scheme so approved.

The scheme shall be undertaken by a competent person or persons in accordance with relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the most up-to-date version(s) of any subsequent revision(s) of, and/or

supplement(s) to, these documents. This scheme should contain details of proposals to investigate and remediate potential contamination to the satisfaction of the Planning Authority, and must include:-

a) A desk study and development of a conceptual site model including (where necessary) a detailed site investigation strategy. The desk study and the scope and method of recommended further investigations shall be agreed with the Council **prior to** addressing parts b, c, and d of this condition. Should the desk study show the need for further assessment this will be undertaken in the following sequence:

b) A detailed investigation of the nature and extent of contamination on site, and assessment of the risks such contamination presents.

c) Development and agreement of a remedial strategy (if required) to treat/remove contamination ensuring the site is made suitable for its proposed use (this shall include a method statement, programme of works, and proposed verification plan).

d) Submission of a verification report for any agreed remedial actions detailing and evidencing the completion of these works.

Written confirmation from the Planning Authority, that the scheme has been implemented and completed shall be required by the Developer before any development hereby approved commences. Where remedial measures are required as part of the development construction detail, commencement must be agreed in writing with the Planning Authority.

Reason: To ensure that the potential risks to human health, the water environment, property, and, ecological systems arising from any identified land contamination have been adequately addressed.

Further commentary on matters that the LRB would require to modify/clarify prior to setting conditions on any grant of planning permission:

It is noted that planning application ref. 20/01901/PPP was refused on the basis that officers were unable to identify a competent means of utilising planning conditions to satisfactorily mitigate concerns relating to the suitability of the proposed means of access and the impact of the proposed development upon road safety. This position remains unchanged and whilst it is necessary in responding to the LRB request for further information with some advice on the general requirement and format of conditions to address roads issues within any potential grant of planning permission in principle, officers are not in a position to provide competent wording for those conditions. Explanatory commentary for this position is provided as follows:

Condition 4* Junction with A83(T) Trunk Road

Officers are unable to fully advise the LRB on this particular issue as Transport Scotland have not provided any draft condition for consideration in this matter and advised that planning permission be refused. To provide

assistance to the LRB, officers have provided standard condition wording utilised by Transport Scotland in such matters elsewhere. The drafted condition wording accordingly sets out a requirement for a minimum visibility splay standard of 215m in each direction as the appropriate standard to be applied to a trunk road junction where the national speed limit applies.

The LRB is however advised that a condition worded in this manner would not be competent to apply for two reasons – firstly it is understood that the land required for formation of the extended visibility splay lies outwith the control of the applicant and as such future maintenance of the splay could not be secured even if the applicant were legally able to form the visibility splay; and secondly, Transport Scotland have confirmed that due to the vertical alignment of the A83(T) where there is a brow of a hill there is little opportunity to physically improve the existing visibility to the north which is currently between 120-130m.

In the event that the LRB were minded to grant planning permission subject to conditions then it would be necessary for the members of the LRB to modify the wording of condition 4 in order to identify the visibility splays required (and which were deliverable) and to justify why it is considered appropriate to grant planning permission without the minimum technical standards being attainable. In reaching a view on the terms to be applied to any requirement to improve the access onto the A83(T) members of the LRB are referred to Scottish Government Circular 4/1998 which sets out the six tests that require to be met in applying planning conditions:

- *necessary*
- *relevant to planning*
- *relevant to the development to be permitted*
- *enforceable*
- *precise*
- *reasonable in all other respects.*

It is further noted that this matter would require to be notified to Scottish Ministers prior to a formal determination being reached.

Condition 5 - Commensurate Improvement of Private Road & Parking Provision**

Suggested condition 5 has been set out to incorporate the commensurate improvements identified by the Council's Roads Officers in their latest response to the current LRB. It is however highlighted that the identified requirements of items i) – iv) would involve land that is understood to be outwith the control of the applicant and as such may be undeliverable unless otherwise confirmed by the applicant. This would be a matter for the LRB to consider further prior to reaching their own view on whether the terms of the condition are compliant with the requirements of Circular 4/1998 (see above for detail).

b) Confirmation as to whether or not a condition for signage to be erected on the trunk road would address the road safety issues in respect of vehicles entering and leaving the traffic stream on the A83(T) and waiting to turn right off the A83(T) and, if so, to include that in the list of conditions and reasons requested.

It is the understanding of officers that the provision of warning signage would not be an appropriate form of mitigation that would address road safety issues in this instance, accordingly no such provision has been made in the suggested list of conditions and reasons above.

It is however recognised that this is a matter where Transport Scotland have locus as a statutory consultee and that they have also advised against use of signage as an appropriate form of mitigation in this instance.