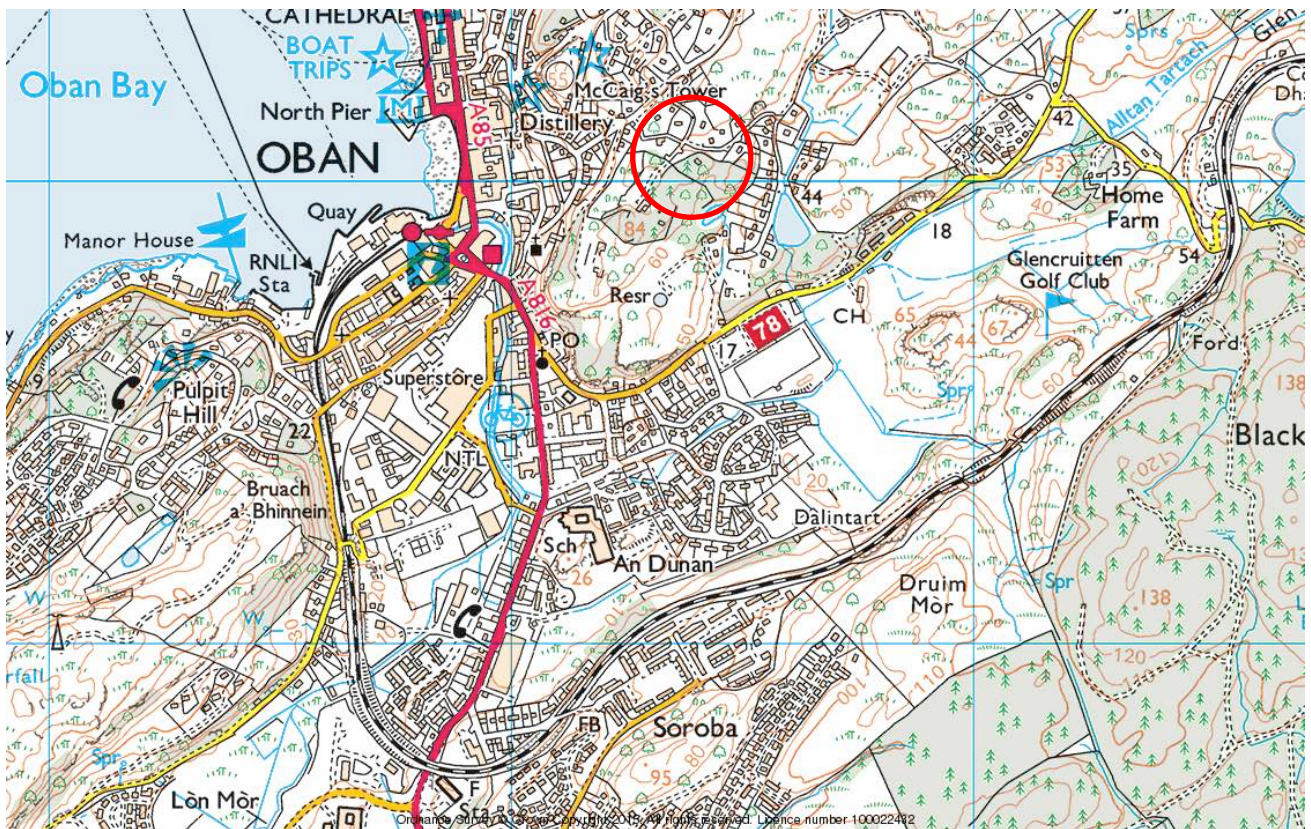




Written statement for Notice of Review to Argyll and Bute Council – Local Review Body

- Appellant:** Martin & Arlene McLeod
- Project Ref:** 2023002
- Development:** Refusal of planning application 22/01001/PP:
Use of land for the siting of a glamping pod
- Site:** Garden ground of Broom Hill, Ardconnel Hill, Oban, PA34 5DY
- Scale:** Local development



Introduction

Planning application 22/01001/PP, submitted on 17 May 2022 by Great Glen Designs on behalf of Martin and Arlene McLeod, sought planning permission for the siting of one glamping pod within the grounds of Broom Hill, Ardconnel Hill, Oban.

The application was refused under delegated powers on 18 July 2023 for the following reason:

1. The proposed development conflicts with NPF4 Policy 13, and Policies LDP 11 and SG LDP TRAN 4 of the adopted 'Argyll and Bute Local Plan' 2015 and Policy 37 of emerging proposed 'Local Development Plan 2' as the proposed development would result in the intensification in vehicular use of a sub-standard private road with no delineation between pedestrian or vehicular use.

The proposed 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 could be demonstrated through the submission, examination and acceptance of competent detail.

The land necessary for the upgrade of the existing private road, if achievable, does not form part of the planning application site and is not within the acknowledged legal ownership/control of the Applicant.

During the planning application process, and within the delegated report of handling, planning officers confirm that they find the development acceptable in all terms other than concerns regarding the existing shared private access to the site. The proposal is confirmed as appropriate in all other planning respects. This Notice of Review therefore focusses on the single issue of concern as reflected in the reason for refusal.

Mr & Mrs McLeod submit this Notice of Review for the reasons set out in below and respectfully invite the Local Review Body to grant planning permission.

Discussion

As confirmed throughout the planning report of handling, the application is considered acceptable in all terms other than access. The planning service assessment confirms that the design, siting, water supply, drainage, biodiversity and other matters are all satisfactory or can be controlled by planning conditions.

The essential question on which the planning decision rests is whether the existing private access is sufficient to serve the proposed glamping pod or not.

The Roads Engineer considers that there would be a material intensification of use of an existing sub-standard private access and has accordingly objected to the application. A single objection from a member of the public also raises concern over the existing shared access.

The applicants, through their former agent, confirmed that the existing house was used for the letting of two bedrooms for B&B purposes* and that such usage would be modified to achieve a glamping pod within the garden grounds. Limiting B&B accommodation within the main family home and enabling a self-contained pod in the garden grounds would facilitate privacy for guests and to the McLeods and their children.

Swapping B&B rights to one bedroom within the house for a glamping pod within the garden ground ensures that there would be no additional traffic nor any intensification of use of the existing access arising from the development as proposed. The pod would be let to a couple or family arriving in a single vehicle. Accordingly, the existing access does not require any improvements that may otherwise be necessary to enable the development of a holiday pod.

Planning officers' resistance to this logic focusses on a perceived inability to retain control over B&B activity within the main house, and therefore that an additional glamping pod must involve some intensification of use of the existing access.

A recent Local Review Body decision considered a near identical scenario in another location within Oban last year. The LRB's decision in that case is of critical importance as it provides a direct precedent to the current appeal case.

Planning application 20/01542/PP proposed two holiday pods within the garden ground of Soroba Lodge, which is served via a shared private access. Soroba Lodge had the ability to operate two bedrooms for B&B purposes within the main house. The Planning Service and Roads Engineer were concerned about traffic levels on the shared private access and ultimately the application was refused under delegated powers. An appeal against the refusal was however successful. When issuing planning permission in May 2022 under ref 21/0005/LRB, the Local Review Body attached planning condition 3 to prohibit occupation of the two approved pods at any time when B&B activity was occurring within the house.

The planning condition attached to the Soroba Lodge decision is an effective way of guaranteeing that there can be no increase above existing traffic levels, whilst maintaining flexibility to the householder in terms of B&B activity. That balanced and tailored approach to the circumstances allowed the Planning Authority to support an otherwise acceptable development whilst retaining ongoing control in an entirely legitimate and enforceable way. The specific wording in the planning condition avoids the apparent pitfall of seeking

to restrict the applicant's right to operate B&B within the house (as had been of concern to planning officers in that case) by controlling the use of the holiday pods instead.

It is unfortunate that the OLI Area Team Leader/individual planning officers have difficulty in accepting Members' decision in the Soroba Lodge case (20/01542/PP), as evidenced in the following paragraph from the report of handling for Broom Hill (22/01001/PP):

“Whilst officers have to accept the previous decision by the LRB on planning permission 20/01542/PP, they maintain their professional opinion that the approach adopted by the LRB at that time was wrong. Officers cannot, therefore, accept that a substantial precedent has been set.”

In cases where any individual officer of the council disagrees with, or has difficulty accepting, a decision of elected Members, or indeed any decision taken by a higher authority, it is professionally appropriate for that officer to stand aside and request that another officer issues future decisions that are consistent with earlier council decisions. Continuing to adjudicate on a new application whilst clearly refusing to accept the validity of a contemporaneous precedent decision by Members of the Local Review Body, creates conflicting and inconsistent decision making.

The report of handling for 22/01001/PP also seeks to distinguish between the Soroba Lodge example and the Broom Hill application on the basis that Soroba Lodge was actively in use for B&B and Broom Hill was previously used for B&B. It is however of no consequence whether B&B activity is active or latent. Limited B&B activity is a prescribed right for householders with properties of certain sizes up to certain thresholds without needing planning permission.* Indeed, it is this very ability to exercise that right without needing planning permission that led to planning officer concerns about the inability to prevent B&B usage in the future in both the Soroba Lodge and Broom Hill examples. As discussed above, this difficulty is neatly overcome by the wording of the planning condition imposed by the Local Review Body when they granted planning permission for the two Soroba Lodge pods (20/01542/PP & 21/0005/LRB).

The Short-Term Letting Licence requirements have also taken effect within the last year, and these make it more straightforward for the Planning Authority to monitor B&B activity within houses going forward.

The outcome of the Notice of Review at Soroba Lodge under 21/0005/LRB provides a direct precedent example which can be readily compared to the planning application at Broom Hill. That the two matters were before the Planning Authority in such close succession merely serves to strengthen the connection between the two decisions.

* NOTE: the use of one bedroom for B&B within a house containing three bedrooms, or two bedrooms for B&B within houses containing four or more bedrooms, is explicitly provided for within Class 9 (houses) of the Use Classes Order - and has been so since 1999.

Assessment of access usage and proposed vehicular/pedestrian activity

The existing private access serving Ardconnel Hill joins Longsdale Road (public road) north of the application site, near its junction with Laurel Road.

The shared access travels up Ardconnel Hill serving 12 residential properties at present. Broom Hill is the 3rd last property to be reached, with just two houses further along the private access.

Broom Hill comprises a detached four-bedroom house, two of which have the ability to provide B&B accommodation without comprising a change of use of the house. Planning application 22/01001/PP would see a single glamping pod provided within the extensive garden grounds (partially outlined black in the image below) of Broom Hill in lieu of one B&B bedroom inside the house.

Traffic levels generated at the site would be unchanged.



There are two existing footpath connections immediately north of the application site (shown highlighted red in the image above), providing safe pedestrian linkages to Polvinister Road to the east and Rockfield Road/Ardconnel Road to the west. Proximity to these existing footpath routes enhances the ability of the development to be walkable to different parts of the town, including the nearest bus routes.

Considering the context of Oban, where large sections of the town utilise shared surface spaces for pedestrians and vehicles, it is considered that the proposed single glamping pod would be safely accessed and suitably served in terms of transport connections.

Summary

Mr & Mrs McLeod wish to provide a single glamping pod within the garden ground of their existing home, Broom Hill. The design, siting and layout proposed has been confirmed as acceptable in all respects by planning officers, except for concerns over the existing shared access regime serving the site. Those concerns are reflected in the single reason for refusal detailed above.

The decision to refuse overstates the anticipated vehicular demands associated with the development, pays insufficient regard to existing traffic levels at the site, and ignores a precedent case of direct relevance.

Application 22/01001/PP proposes a small glamping pod within the garden ground of an existing house which would attract a single vehicle when being accessed by car. This is the type of development that is commonly approved by the Planning Authority without any concerns over increase in vehicular demand.

The proposed pod would not generate a material intensification in traffic at this shared access. Traffic generation can be controlled by a similar planning condition to that which was imposed by the Local Review Body in granting planning permission for two pods at Soroba Lodge. Such an approach allows a positive decision to be taken consistently with the LRB decision in 2022. Planning condition wording could potentially read:

Condition - Notwithstanding the provisions of Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 as amended, the new glamping pod hereby approved must not be occupied during any period when two bedrooms within the principal dwellinghouse are operating as [or being occupied as] bed and breakfast or guest house accommodation.

Reason - In the interests of road safety, to ensure that vehicle numbers using the private access do not increase beyond current levels.

In policy terms, the proposal represents a small-scale development on an appropriate site, in accordance with relevant national and local policy and supplementary planning guidance. As there is no material increase in traffic generated by the proposal, there is by default no conflict with NPF4, LDP11, SG LDP TRAN 4 of the adopted LDP or with Policy 37 of the Proposed LDP2. Ongoing monitoring of B&B activity within the Broom Hill can readily be achieved by cross referencing to Short Term Letting Licence applications.

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.



.....
Stephen Fair MRTPI MURP

fair planning & design

11 September 2023

List of appendices

- 1) Application form
- 2) Roads Authority consultation response
- 3) Planning officer email confirming acceptability of proposal (other than access)
- 4) Report of Handling
- 5) Decision Notice
- 6) Refused application plans
- 7) Local Review Body decision at Soroba Lodge
(Planning Authority application ref 20/01542/PP)
(Local Review Body Notice of Review ref 21/0005/LRB)