

**STATEMENT OF CASE**

**FOR**

**ARGYLL AND BUTE COUNCIL  
LOCAL REVIEW BODY**

**22/0007/LRB**

**REFUSAL OF PLANNING PERMISSION 22/01001/PP**

**USE OF LAND FOR THE SITING OF A GLAMPING POD**

**GARDEN GROUND OF BROOM HILL, ARDCONNELL HILL, OBAN**

**19 September 2023**

## **STATEMENT OF CASE**

The Planning Authority is Argyll and Bute Council ('the Council'). The appellants are Mr and Mrs McLeod ("the appellant").

Planning permission 22/01001/PP for the use of land for the siting of a glamping pod within the garden ground of Broom Hill, Ardconnel Hill, Oban ("the appeal site") was refused by the Planning Service under delegated powers on 18 July 2023.

The planning application has been appealed and is subject of referral to a Local Review Body.

### **DESCRIPTION OF SITE**

The site is within the garden ground of the dwellinghouse, Broom Hill, comprising an area of land situated between the dwellinghouse and the private access track which runs along the western boundary of the dwellinghouse. The site is elevated above the level of the dwellinghouse and private access track and, due to the significant tree and vegetation cover within the extensive garden ground of the dwellinghouse, is not readily visible from any public vantage points.

Whilst it is accepted that the proposed glamping pod could be accommodated within the site without any significant adverse visual impact on the site or the wider landscape within which it is proposed, a suitable access regime to serve the proposed development cannot be achieved.

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, is located outwith the application site boundary and the land in the control of the Applicant as submitted.

Consequently, it was considered likely that the proposed development would have a significant adverse impact upon highway safety and therefore planning permission was refused.

### **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 constitutes a material intensification of the vehicular use of a sub-standard private road with no delineation between pedestrian*

*or vehicular use and whether the upgrade of the private access can be achieved on land within the ownership/control of the Applicant.*

The Report of Handling (Appendix 1) sets out the Council's full assessment of the application in terms of Development Plan policy and other material considerations.

### **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 1. As such it is considered that Members have all the information they need to determine the case. Given the above and that the proposal is small-scale, 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 case from the Planning Service is set out in the Report of Handling appended to this statement.

The Planning Service has no comment to make on the Appellant's submission.

### **CONCLUSION**

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

As set out above, it remains the view of the Planning Service, as set out in the Report of Handling appended to this statement, that 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.

Taking account of the above, it is respectfully requested that the application for review be dismissed.

## APPENDIX 1

### Report of Handling Relative to 22/01001/PP

Argyll and Bute Council  
Development & Economic Growth

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

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**Reference No:** 22/01001/PP  
**Planning Hierarchy:** Local  
**Applicant:** Mr and Mrs M. MacLeod  
**Proposal:** Use of Land for the Siting of a Glamping Pod  
**Site Address:** Garden Ground of Broom Hill, Ardconnel Hill, Oban

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#### DECISION ROUTE

- Delegated - Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997
- Committee - Local Government Scotland Act 1973
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#### (A) THE APPLICATION

##### (i) Development Requiring Express Planning Permission

- Siting of glamping pod

##### (ii) Other specified operations

- Utilisation of existing vehicular access
  - Connection to public water main
  - Connection to public drainage system
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#### (B) RECOMMENDATION:

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

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#### (C) CONSULTATIONS:

##### Roads Authority

Report dated 15/11/22 recommending refusal of the proposed development as it would result in the intensification of use of a sub-standard access regime contrary to the interests of road safety and there is no scope for any commensurate road

improvements sufficient to mitigate the harm caused.

Scottish Water

Letter dated 13/10/22 advising no objection to the proposed development which would be serviced from the Tullich Water Treatment Works and the Oban Waste Water Treatment Works. Scottish Water do however advise that further investigations may be required once applications for formal connection are submitted to them for consideration.

Access Officer

No response at time of report and no request for an extension of time.

Woodland Trust

Letter dated 28 October 2022 objecting to the proposed development due to the direct loss and damage to an area of Ancient Woodland.

**Officer Comment:** *The Woodland Trust is based in Perth with no local or regional base and no knowledge of the application site. Whilst the Ancient Woodland designation covers the garden ground of the dwellinghouse, the proposal does not propose the felling of any trees of merit, with mainly scrub being cleared to provide a view out from the proposed pod.*

The above represents a summary of the issues raised. Full details of the consultation responses are available to view via the [Public Access](#) section of the Council's website.

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**(D) HISTORY:**

No relevant planning history.

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**(E) PUBLICITY:**

The proposal has been advertised in terms of Regulation 20 and Neighbour Notification procedures, overall closing date 10/11/22.

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**(F) REPRESENTATIONS:**

**(i) Two representations received from:**

Mr Ronald MacMillan, Larchfield, Ardconnel Hill, Oban, PA34 5DY (26/10/22)  
Oban District Access Panel (ODAP) by e-mail (16/10/22)

Representations are published in full on the planning application file and are available to view via the [Public Access](#) section of the Council's website.

**(ii) Summary of issues raised:**

- Concerns regarding the increase in traffic on the private road and the impact on pedestrian safety.
- The granting of permission will set a precedent for other similar

developments.

**Officer Comment:** *The road safety issues are discussed in more detail in the assessment at Section P below.*

*Each planning application is considered on its own merits against the relevant plan and policies in place at the time taking into account comments from third parties and consultees. The granting of permission for one development in no way infers that further development will be supported.*

- The ODAP outline that their remit is to encourage developers and designers to create accessible buildings and environments that provide disabled people with equal access and facilities and enable them to participate and to thrive.

In this respect the ODAP encourage the Applicant to consult with their Agent with a view to redesigning the pod on *Inclusive Design* principles to enable it to be used and enjoyed by a disabled person. Essentially this would involve extending the size of shower room/toilet, widening its door to 700mm and setting it to open outwards, widening one of the bedroom doors, and replacing the steps onto the balcony with a gentle ramp set at 1:12 grade and widened to at least 1200mm. The surfacing in the parking bay and the pathway linking the parking bay to the pod entrance should be finished in a bound nonslip material.

**Officer Comment:** *The comments by the ODAP are noted and will be passed to the Applicant for information/action should permission be granted.*

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## (G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) Environmental Impact Assessment Report:  Yes  No
- (ii) An Appropriate Assessment under the Conservation (Natural Habitats) Regulations 1994:  Yes  No
- (iii) A Design or Design/Access statement:  Yes  No
- (iv) A report on the impact of the proposed development e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:  Yes  No

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## (H) PLANNING OBLIGATIONS

Is a Section 75 agreement required:  Yes  No

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- (I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:  Yes  No
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- (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.

[National Planning Framework 4 \(Adopted 13<sup>th</sup> February 2023\)](#)

**Part 2 – National Planning Policy**

**Sustainable Places**

NPF4 Policy 1 – Tackling the Climate and Nature Crises

NPF4 Policy 2 – Climate Mitigation and Adaption

NPF4 Policy 3 – Biodiversity

NPF4 Policy 4 – Natural Places

NPF4 Policy 9 – Brownfield, Vacant and Derelict Land and Empty Buildings  
(includes provisions relevant to Greenfield Sites)

NPF4 Policy 12 – Zero Waste

NPF4 Policy 13 – Sustainable Transport

**Liveable Places**

NPF4 Policy 18 – Infrastructure First

NPF4 Policy 22 – Flood Risk and Water Management

**Productive Places**

NPF4 Policy 30 – Tourism

[‘Argyll and Bute Local Development Plan’ Adopted March 2015](#)

LDP STRAT 1 – Sustainable Development

LDP DM 1 – Development within the Development Management Zones

LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment

LDP 5 – Supporting the Sustainable Growth of our Economy

LDP 6 – Supporting the Sustainable Growth of Renewables

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 to the Argyll and Bute Local Plan 2015’ \(Adopted March 2016 & December 2016\)](#)

**Natural Environment**

SG LDP ENV 1 – Impact on Habitats, Species and our Biodiversity

**Landscape and Design**

SG LDP ENV 14 – Landscape

**Support for Business & Industry: Main Potential Growth Sector: Tourism**

SG LDP TOUR 1 – Tourist Facilities and Accommodation, including Static and Touring Caravans

### **Bad Neighbour Development**

SG LDP BAD 1 – Bad Neighbour Development

### **Sustainable Siting and Design**

SG LDP Sustainable – Sustainable Siting and Design Principles

### **Resources and Consumption**

SG LDP SERV 2 – Incorporation of Natural Features / SuDS

SG LDP SERV 5(b) – Provision of Waste Storage & Collection Facilities within New Development

### **Addressing Climate Change**

SG LDP Sust Check – Sustainability Checklist

### **Transport (Including Core Paths)**

SG LDP TRAN 2 – Development and Public Transport Accessibility

SG LDP TRAN 4 – New & Existing, Public Roads & Private Access Regimes

SG LDP TRAN 6 – Vehicle Parking Provision

**(ii) 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.**

- [ABC Technical Note – Biodiversity \(Feb 2017\)](#)
- Argyll and Bute Sustainable Design Guidance, 2006
- Consultation Responses
- Third Party Responses

[Argyll and Bute proposed Local Development Plan 2 \(November 2019\)](#) – The Examination by Scottish Government Reporters to the Argyll and Bute Local Development Plan 2 has now concluded and the [Examination Report](#) has been published (13<sup>th</sup> June 2023). The Examination Report is a material consideration of significant weight and may be used as such until the conclusion of the LDP2 Adoption Process. Consequently, the Proposed Local Development Plan 2 as recommended to be modified by the Examination Report and the published Non Notifiable Modifications is a material consideration in the determination of all planning and related applications.

### **Spatial and Settlement Strategy**

Policy 01 – Settlement Areas

Policy 04 – Sustainable Development

### **High Quality Places**

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Policy 05 – Design and Placemaking  
Policy 08 – Sustainable Siting  
Policy 09 – Sustainable Design  
Policy 10 – Design – All Development  
Policy 14 – Bad Neighbour Development

### **Diverse and Sustainable Economy**

Policy 22 – Economic Development  
Policy 23 – Tourism Development, Accommodation, Infrastructure and Facilities

### **Connected Places**

Policy 35 – Design of New and Existing, Public Roads and Private Access Regimes  
Policy 37 – Development Utilising an Existing Private Access or Existing Private Road  
Policy 40 – Vehicle Parking Provision

### **Sustainable Communities**

Policy 59 – Water Quality and the Environment  
Policy 61 – Sustainable Urban Drainage Systems (SUDS)  
Policy 63 – Waste Related Development and Waste Management

### **High Quality Environment**

Policy 73 – Development Impact on Habitats, Species and Biodiversity

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**(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:**  Yes  No

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**(L) Has the application been the subject of statutory pre-application consultation (PAC):**  Yes  No

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**(M) Has a Sustainability Checklist been submitted:**  Yes  No

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**(N) Does the Council have an interest in the site:**  Yes  No

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**(O) Requirement for a pre-determination hearing:**  Yes  No

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**(P)(i) Key Constraints/Designations Affected by the Development:**

- Ancient Woodland Inventory

**(P)(ii) Soils**

[Agricultural Land Classification:](#)

Built Up Area

[Peatland/Carbon Rich Soils Classification:](#)

Class 1

- Class 2
- Class 3
- Not Classified
- N/A

Peat Depth Classification:

- Does the development relate to croft land?  Yes  No
- Would the development restrict access to croft or better quality agricultural land?  Yes  No
- Would the development result in fragmentation of croft / better quality agricultural land?  Yes  No

**(P)(iii) Woodland**

- Will the proposal result in loss of trees/woodland?  Yes  No  
(If yes, detail in summary assessment)
- Does the proposal include any replacement or compensatory planting?  Yes  No details to be secured by condition  Not applicable

**(P)(iv) Land Status / LDP Settlement Strategy**

- Status of Land within the Application  Brownfield  Brownfield Reclaimed  Greenfield  
(tick all relevant boxes)

**ABC LDP 2015 Settlement Strategy**  
LDP DM 1 (tick all relevant boxes)

- Main Town Settlement Area
- Key Rural Settlement Area
- Village/Minor Settlement Area
- Rural Opportunity Area
- Countryside Zone
- Very Sensitive Countryside Zone
- Greenbelt

**ABC pLDP2 Settlement Strategy**  
(tick all relevant boxes)

- Settlement Area
- Countryside Area
- Remote Countryside Area
- Helensburgh & Lomond Greenbelt

**ABC LDP 2015 Allocations/PDAs/AFAs etc:**

N/A

**ABC pLDP2 Allocations/PDAs/AFAs etc:**

N/A

**(P)(v) Summary assessment and summary of determining issues and material considerations**

Planning permission is sought for the siting of a glamping pod within the garden ground of Broom Hill, Ardconnel Hill, Oban.

The site is within the garden ground of the dwellinghouse, Broom Hill, comprising an area of land situated between the dwellinghouse and the private access track which runs along the western boundary of the dwellinghouse. The site is elevated above the level of the dwellinghouse and private access track and, due to the

significant tree and vegetation cover within the extensive garden ground of the dwellinghouse, is not readily visible from any public vantage points.

The application proposes to site a modest, single storey, mono-pitched glamping pod on the site with finishing materials comprising horizontal timber cladding with a corrugated metal roofing. The proposed pod is accessed via a set of stairs leading from a newly formed parking area sited adjacent to the existing driveway serving the dwellinghouse. The stairs are existing but overgrown and will require to be cleared to serve the proposed pod. Whilst of no particular architectural merit, the proposed pod is similar in scale and design to other garden structures which could be constructed on the site under permitted development rights where the Planning Authority would have no control over their design or finishes. Furthermore, the natural finishing materials proposed, together with the proposed pod being well contained within the garden ground of the dwellinghouse, would ensure that it would not result in an incongruous feature within the site or wider landscape and, due to the distance from neighbouring properties, would not give rise to any adverse privacy or amenity issues should permission be granted.

**NPF4 Policy 1** seeks to prioritise the climate and nature crises in all decisions; it requires to be applied together with other policies in NPF4. Guidance from the Scottish Government advises that it is for the decision maker to determine whether the significant weight to be applied tips the balance in favour for, or against a proposal on the basis of its positive or negative contribution to climate and nature crises. In this case, given the small scale nature of the development proposed and its alignment with all other relevant policies in NPF4 and those supporting policies in the adopted LDP, it is considered that the development proposed would be in accordance with the broad aims of NPF4 Policy 1 as underpinned by LDP Policies STRAT 1, LDP DM 1 and the adopted Sustainability Checklist and Policies 01 and 04 of pLDP2.

**NPF4 Policy 2** seeks to ensure that new development proposals will be sited to minimise lifecycle greenhouse gas emissions as far as possible, and that proposals will be sited and designed to adapt to current and future risks from climate change. Guidance from the Scottish Government confirms that at present there is no single accepted methodology for calculating and / or minimising emissions. The emphasis is on minimising emissions as far as possible, rather than eliminating emissions. It is noted that the provisions of the Settlement Strategy set out within Policy LDP DM 1 of the LDP promotes sustainable levels of growth by steering significant development to our Main Towns and Settlements, rural growth is supported through identification of Key Rural Settlements and safeguards more sensitive and vulnerable areas within its various countryside designations. It is considered that the proposed development would be consistent with Policy 2 of NPF4 having had due regard to the specifics of the development proposed and to the overarching planning policy strategy outlined within the adopted LDP, notably policies STRAT 1, LDP DM 1, LDP DM 10 and the adopted Sustainability Checklist and Policies 01 and 04 of pLDP2.

**NPF4 Policy 3** seeks to protect biodiversity, reverse biodiversity loss and deliver positive effects from development and strengthen nature networks.

In the case of the development proposed by this application, it is considered that there are no issues of compliance with Policy 3. No material biodiversity impacts have been identified in the assessment of this application by the Planning Authority and whilst no specific proposals for biodiversity improvements have been submitted

it is considered that in the event that planning permission were to be granted, adequate and proportionate measures for biodiversity enhancement and protection could be delivered by planning condition. Such measures would be in compliance with NPF4 Policy 3 as underpinned by LDP Policy LDP 3 and SG LDP ENV 1 and Policy 73 of pLDP2.

**NPF4 Policy 4** seeks to protect, restore and enhance natural assets making best use of nature-based solutions.

The development proposed by the current planning application is considered appropriate in terms of its type, location and scale such that it will have no unacceptable impact on the natural environment. The proposed development is not within any designated European site of natural environment conservation or protection, it is not located within a National Park, a National Scenic Area a SSSI or RAMSAR site, or a National Nature Reserve nor is it within an area identified as Wild Land. The proposal is considered to be in accordance with NPF4 Policy 4 as underpinned by LDP Policies LDP 3 and SG LDP ENV 1 and Policy 73 of pLDP2.

**NPF4 Policy 9** seeks to encourage, promote and facilitate the reuse of brownfield, vacant and derelict land and empty buildings, and to help reduce the need for greenfield development.

The development proposed by this application is considered to be on a brownfield site by virtue of the fact that it is within the established residential curtilage of the property representing the sustainable reuse of brownfield land supported by NPF4 Policy 9(a) and underpinned by LDP policies STRAT 1, LDP DM 1 and SG LDP TOUR 1 and Policies 22 and 23 of pLDP2.

**NPF4 Policy 12** seeks to encourage, promote and facilitate development that is consistent with the waste hierarchy as defined within the policy document.

The development the subject of this planning application seeks to establish the principle of a new holiday letting unit. Whilst this is a development likely to generate waste when operational, it would benefit from regular waste uplifts by the Council and would be expected to comply with our adopted and enforced recycling and reuse strategy. Policy 12(b) of NPF4 aligns with LDP Policies LDP 10 and SG LDP SERV 5 and 5(b) and Policy 63 of pLDP2 and the current development proposal would raise no issue of conflict should permission be granted.

**NPF4 Policy 13** seeks to encourage, promote and facilitate developments that prioritise walking, wheeling, cycling and public transport for everyday travel and reduce the need to travel unsustainably.

The application proposes to utilise Ardconnel Hill, a private road, which spurs from the public Longsdale Road to serve the proposed glamping pod.

Part (b) of Policy 13 sets out that development proposals will be supported where it can be demonstrated that the transport requirements generated have been considered in line with the sustainable travel and investment hierarchies and where appropriate they:

- i. Provide direct, easy, segregated and safe links to local facilities via walking, wheeling and cycling networks before occupation;
- ii. Will be accessible by public transport, ideally supporting the use of existing services;

- iii. Integrate transport modes;
- iv. Provide low or zero-emission vehicle and cycle charging points in safe and convenient locations, in alignment with building standards;
- v. Supply safe, secure and convenient cycle parking to meet the needs of users and which is more conveniently located than car parking;
- vi. Are designed to incorporate safety measures including safe crossings for walking and wheeling and reducing the number and speed of vehicles;
- vii. Have taken into account, at the earliest stage of design, the transport needs of diverse groups including users with protected characteristics to ensure the safety, ease and needs of all users; and
- viii. Adequately mitigate any impact on local public access routes.

NPF4 Policy 13 is underpinned by LDP Policy LDP 11 which sets out a requirement that an appropriate standard of access is delivered to serve new developments, including off-site highway improvements where appropriate. This requirement is specified in more detail within LDP Policy SG LDP TRAN 4 (2) and Policy 37 of pLDP2 which sets out that further development that utilises an existing private access or private road will only be accepted if:

- i) The access is capable of commensurate improvements considered by the Roads Authority to be appropriate to the scale and nature of the proposed new development and that takes into account the current access issues (informed by an assessment of useage); AND the applicant can;
- ii) Secure ownership of the private road or access to allow for commensurate improvements to be made to the satisfaction of the Planning Authority; OR,
- iii) Demonstrate that an appropriate agreement has been concluded with the existing owner to allow for commensurate improvements to be made to the satisfaction of the Planning Authority.

The current application has been subject to objection from the Roads Authority who advised that the existing private road (Ardconnel Hill) has poor forward visibility; serves numerous properties; has limited passing places; has a steep gradient; has limited level step off verges for pedestrian refuge; and has generally poor geometry. The Road Authority concluded by stating that Ardconnel Hill is unsuitable for further development or intensification of use.

In response to the consultation response from the Roads Authority the Agent advised that the property has previously been used as bed and breakfast accommodation (under permitted development rights) with two large en-suite letting bedrooms and it is the intention of the Applicant to install the glamping pod to replace the bed and breakfast use to provide the dwellinghouse and occupiers of the pod with greater privacy thereby resulting in a reduction of potential traffic using the road.

However, the Planning Authority advised the Agent that the use of a planning condition to curtail something that is not considered to be 'development' in the first place i.e. the use of two bedrooms within the dwellinghouse for bed and breakfast purposes would not work and would result in a condition being imposed on a planning permission which would be unenforceable and would fail the six tests set out in Circular 4/1998.

The Agent then referenced planning permission 20/01542/PP which proposed two holiday pods within its garden ground which was refused by the Planning Authority due to an unsuitable access regime. However, the refusal was subject of an appeal to the Local Review Body (LRB) using the same argument set out by the

Agent above which was accepted by Members of the LRB and permission granted.

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.

Notwithstanding this, at the time when the LRB upheld the Review, and granted planning permission, the property in question was actively being advertised and used for bed and breakfast purposes.

As a comparison, as confirmed by the Agent, the donor dwellinghouse involved in the current application has not been used for bed and breakfast purposes since the Applicant purchased the property in 2010, some 13 years ago. Accordingly, the current proposal is considered to be very different in that it is proposing a purpose built glamping pod utilising a sub-standard access regime which is not currently servicing any existing bed and breakfast development. Therefore there is nothing to reasonably 'offset' even if such an approach were to be considered appropriate.

In summary, the Applicant's Agent is seeking to relinquish a currently non-existing and limited incidental bed and breakfast accommodation which does not constitute '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, there is no effective legal method to constrain the use or the occupancy of the donor dwellinghouse in the way suggested by the applicant's Agent (or, indeed, by any other way). Even if the use of two of the bedrooms within the donor dwellinghouse 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 is not being offered.

The proposed development of an additional building 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.

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 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, is located outwith the application site boundary and outwith the land in the control of the Applicant. The proposed development is consequently, in view of the above, considered likely to have a significant adverse impact upon highway safety. The proposal is considered to be contrary to the NPF4 Policy 13(g) as underpinned by LDP Policies LDP 11 and SG LDP TRAN 4(2) and Policy 37 of pLDP2.

Officers have tried to negotiate a solution with the area roads engineers but they

are maintaining their objection. The Development Manager has, in accordance with the Council's agreed protocol, reviewed the roads advice offered and has determined, in this instance, that the stated position of the roads engineers is the correct one given the specific circumstances of the case.

**NPF4 Policy 18** seeks to encourage, promote and facilitate an infrastructure first approach to land use planning, which puts infrastructure considerations at the heart of placemaking.

The development the subject of this planning application proposes connection to the public water supply and drainage infrastructure in the control of Scottish Water. In their response to the application Scottish Water raised no objection to the proposed development which would be serviced by the Tullich Water Treatment Works and Oban Waste Water Treatment Works. Policy 18 aligns with LDP Policy LDP DM 11 and Policies 05 and 08 of pLDP2 which seek to ensure suitable infrastructure is available to serve proposed developments and the current proposal would raise no issue of conflict should permission be granted.

**NPF4 Policy 22** seeks to strengthen resilience to flood risk and to ensure that water resources are used efficiently and sustainably.

As detailed above the development proposes connection to the public water supply to which Scottish Water has not objected to. With regards to the management of rain and surface water at the site, this could be controlled through a condition to secure a suitable sustainable drainage system for the site should permission be granted.

The proposal is considered to be consistent with NPF4 Policy 22 as underpinned by LDP Policies LDP 10 and SG LDP SERV 2 and Policy 61 of pLDP2.

**NPF4 Policy 30** seeks to encourage, promote and facilitate sustainable tourism development which benefits local people, is consistent with our net zero and nature commitments, and inspires people to visit Scotland.

Policy 30(a) supports tourism development in locations identified in the LDP with a requirement in Part (b) of this policy for developments to take into account various criteria. However, in this instance, as appropriate infrastructure cannot be demonstrated to serve the proposed development, a statement addressing the provisions of NPF4 Policy 30 was not sought by the Planning Authority.

Accordingly, notwithstanding the above assessment that the proposed glamping pod could be accommodated within the site without any significant adverse visual impact on the site or the wider landscape within which it is proposed, a suitable access regime to serve the proposed development cannot be achieved. 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, is located outwith the application site boundary and the land in the control of the Applicant as submitted and the proposed development is consequently, in view of the above, considered likely to have a significant adverse impact upon highway safety contrary to the provisions of

NPF4 Policy 13(f) as underpinned by LDP Policies LDP 11 as underpinned by SG LDP TRAN 4(2) and Policy 37 of pLDP2 and it is recommended that planning

permission is refused.

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

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**(R) Reasons why Planning Permission Should be Refused:**

See reasons for refusal below.

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**(S) Reasoned justification for a departure to the provisions of the Development Plan**

N/A

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**(T) Need for notification to Scottish Ministers or Historic Environment Scotland:**  
 Yes  No

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**Author of Report:** Fiona Scott

**Date:** 17/07/23

**Reviewing Officer:** Tim Williams

**Date:** 18/07/23

**Fergus Murray**  
**Head of Development & Economic Growth**



## **REASONS FOR REFUSAL RELATIVE TO APPLICATION REF. NO. 22/01001/PP**

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.

## APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **22/01001/PP**

(A) Has the application been the subject of any “non-material” amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing.  Yes  No

(B) The reason why planning permission has been refused:

**See reasons for refusal set out above.**