

ARGYLL AND BUTE LOCAL REVIEW BODY



DECISION NOTICE

Details of Review Case: 21/0005/LRB

Address of Appeal Property:	Soroba Lodge, Oban PA34 4SB
Description of Proposal:	Operational development consisting of the erection of two holiday units and the installation of a septic tank
Applicant for Review:	Mr Michael and Mrs Rowan Acey
Agent:	Mr Stephen Fair
Date Review Validated:	7 October 2021
Drawings referred to:	Site and Location Plans No 101; site plan showing aerial image No 102; Proposed holiday pod no 1 Plans, sections and elevations No 103; and Proposed holiday pod no 2 Plans, sections and elevations No 104.
Method by which case determined:	Written submissions

1	The Review Application
1.1	<p>Planning permission – 20/01542/PP for erection of land to form yard for erection of two holiday units and the installation of a septic tank at Garden Ground of Soroba Lodge, Oban, was refused under delegated powers on 7 September 2021 for the following reasons:</p> <ol style="list-style-type: none"> 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). <p>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.</p> <p>Furthermore the requested Safety Audit/Risk Assessment/Traffic</p>

		<p>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.</p> <p>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.</p> <p>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'.</p>
2	Outline Reasons for Review	
	2.1	A Notice of Review submitted by the applicant's agent was received on 7 October 2021 and validated on 7 October 2021.
	2.2	The applicant's agent outlined the reasons for review as contained within the supporting documentation attached at appendix one to this decision notice.
3	Deliberation	
	3.1	A meeting of the Argyll and Bute Local Review Body (which consisted of a panel of three – Councillor David Kinniburgh (Chair), Councillor Audrey Forrest and Councillor Alastair Redman took place virtually on 26 November 2021 by Microsoft Teams.
	3.2	The Chair advised that his first task would be to establish if the Members of the Local Review Body felt that they had sufficient information before them to come to a decision on the Review.
	3.3	At this meeting the Local Review Body agreed that they did not have sufficient information to come to a decision on the Review.
	3.4	<p>The Argyll and Bute Local Review Body –</p> <ol style="list-style-type: none"> 1. Agreed to request the following further written information from the Planning Officer – <ul style="list-style-type: none"> • Clarification on whether there could be a planning condition attached to an approval that required completion of a construction method

		<p>statement and if this could include a weight restriction on vehicles using the bridge during the construction period.</p> <ul style="list-style-type: none"> • A view in relation to the two pods being used instead of the two rooms in the house as B&B; and whether there could be a Condition or Section 75 Agreement put in place to manage that. • Clarification on the reasoning for the view that the development would result in intensification of use of the access; and if this was due to the fact that the bedrooms could still be used by friends and family members even if there was a condition in place that prevented their use as a B&B. <p>2. Agreed to adjourn the meeting and to reconvene once this further information had been received and interested parties had been given the opportunity to comment on it.</p>
	3.5	The Argyll and Bute Local Review Body reconvened on Monday 7 February 2022 to consider the further information that had been requested.
	3.6	At this meeting the Local Review Body agreed that they did not have sufficient information to come to a decision on the review.
	3.7	<p>The Argyll and Bute Local Review Body agreed to -</p> <ol style="list-style-type: none"> 1. Request the following further written information from the Planning Officer – <ul style="list-style-type: none"> • A summary of the legal advice Planning have received in respect of a separate application, around a similar proposal, referred to in their submission. • Appropriate conditions and reasons to attach to any consent should the Members of the LRB be minded to approve this application; and 2. Adjourn the meeting and to reconvene once this further information had been received and interested parties had been given the opportunity to comment on it.
	3.8	The Argyll and Bute Local Review Body reconvened on Wednesday 6 April 2022 to consider the further information that had been requested.
	3.9	At this meeting the Argyll and Bute Local Review Body agreed by a majority to continue consideration of this meeting until Thursday 28 April 2022 to give Councillor Forrest time to seek a competent Motion to approve the Application.
	3.10	The Argyll and Bute Local Review Body reconvened on Thursday 28 April 2022 to resume consideration of this review.

3.11

At this meeting Councillor Kinniburgh referred to the previous meeting which was continued to allow Councillor Forrest time to seek a competent Motion to approve the application, and invited Councillor Forrest to address the LRB at this point.

Motion

I have noted previously that other than the road safety issues that the planners have asked us to consider which in their view means that the application doesn't comply with Policy LDP 11 and SG LDP TRAN 4 of the current LDP and Policy 37 of the proposed LDP2 this application complies with all other relevant policies in the current LDP and the proposed LDP2.

Having had the opportunity of reading the further representations from the planners and the applicants' agent and all other information provided to the LRB, I am of the view that this application can be approved.

I've noted the details of the legal advice received by the Council, albeit in relation to another application and while it is clear that a condition that ensures that only the pods are used for B&B accommodation and not the dwellinghouse could be challenged and may be difficult to enforce, it is a condition that can be applied to an approval of the application.

I am prepared to take the applicant and their agent at their word, where they have said that the whole driver behind the project is to provide self-contained accommodation that will provide B&B guests and the applicants' high levels of privacy and that they will not let the rooms in the house that they currently use for B&B. I would not expect them to renege on that.

Turning to the road safety issues identified by the planners/roads department, ie, in relation to the shared access and potential implications for members of the public due to the fact that the access is situated on a primary school/link path/cycle path.

In my view these are subjective matters and while I understand the concerns of the planners/roads department, the shared access over the bridge is used by vans delivering to Soroba House Hotel and customers of the hotel, post office vans and others delivering to the properties behind the hotel and to the existing guest house along with customers of the guest house and I cannot see how the exchange of 2 rooms within the house to the 2 pods for B&B would mean that there would be a material increase in traffic that would require the commensurate improvements required by the roads department/planners in relation to this shared access or cause any issues for members of the public.

The conditions to be attached to the approval, which in effect restrict the use of the pods for B&B, if at any point the principal house is being used for B&B and the submission by the applicant of a 'construction method statement' that requires to be approved by the planners will in my view be sufficient to manage these concerns.

I would therefore move that the application is approved subject to the conditions provided by the applicants' agent and detailed on pages 12 and 13 of the papers considered by the LRB at the meeting on 6 April with an amendment to condition 3 as follows

Notwithstanding the provisions of Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 as amended, the new letting units are not to be occupied during any period when the principal dwellinghouse is operating as [or being occupied as] a bed and breakfast or guest house.

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

Moved by Councillor Audrey Forrest, seconded by Councillor Alastair Redman.

Councillor Kinniburgh advised that he did not support this Motion and, having moved an Amendment which failed to find a seconder, he asked for his dissent from the following decision to be recorded.

4. Decision

The Argyll and Bute Local Review Body, having considered the merits of the Application de novo, agreed by a majority to grant planning permission subject to the following conditions and reasons:

1. The development shall be implemented in accordance with the details specified on the application form dated **31/08/20**; supporting information and, the approved drawings listed in the table below unless the prior written approval of the Planning Authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Plan Title.	Plan Ref. No.	Versio n	Date Receive d
<i>Site and Location Plans</i>	101		01/09/20
<i>Site Plan Showing Aerial Image</i>	102		01/09/20
<i>Proposed Holiday Pod No. 1 – Plans, Sections & Elevations</i>	103 a		01/09/20
<i>Proposed Holiday Pod No. 2 – Plans, Sections & Elevations</i>	104 a		01/09/20

Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.

Note to Applicant:

- *This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).]*
- *In order to comply with Sections 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start. Failure to comply with this requirement constitutes a breach of planning control under Section 123(1) of the Act.*
- *In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.*

Both the Notification of Initiation and Notification of Completion forms referred to above are available via the following link on the Council's website:

<https://www.argyll-bute.gov.uk/planning-and-environment/make-planning-application>

2. Notwithstanding the provisions of Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 as amended the residential accommodation hereby approved shall be used for short term holiday occupancy only and not as a main residence and shall not be occupied by any family, group or individual for a cumulative period of more than three calendar months in any one year. A register showing dates of arrivals and departures shall be maintained at the premises and shall be available at all reasonable times for inspection by the Planning Authority.

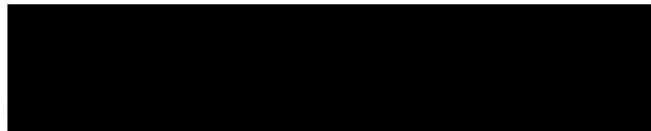
Reason: In order to define the permitted occupancy having regard to the fact that the premises are unsuitable for occupation as a permanent dwelling due to their size and construction, and having regard to the relevant provisions of the Development Plan.

Note to Applicant:

	<p>For the avoidance of doubt this permission only provides for the occupation of the premises on a short term basis on the grounds that the development is unsuited to full time residential occupation. Specifically the occupation of the premises as a dwellinghouse or dwellinghouses shall require the benefit of a separate planning permission.</p> <p>3. Notwithstanding the provisions of Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 as amended, the new letting units are not to be occupied during any period when the principal dwellinghouse is operating as [or being occupied as] a bed and breakfast or guest house. <i>Reason – in the interests of road safety to ensure that vehicle numbers do not increase from their existing levels.</i></p> <p>4. Notwithstanding the provisions of Condition 1, 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. <i>Reason: To ensure the provision of an adequate surface water drainage system and to prevent flooding.</i></p> <p>5. 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. <i>Reason: In the interests of road and pedestrian safety.</i></p>
5.	Reason for Decision
5.1	Having reviewed all the information received, the Argyll and Bute Local Review Body noted that the Planning Officer had considered the application was contrary to 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', and concluded that other than the road safety issues, this application complied will all other relevant policies in the current LDP and the proposed LDP2.
5.2	It was the view of the LRB that the roads issues identified by the planners/roads department ie, in relation to the shared access and potential implications for members of the public due to the fact that the access was situated on a primary school/link path/cycle path, were subjective, and they did not agree that the exchange of two rooms within the house to the 2 pods for bed and breakfast

	accommodation, would mean there would be a material increase in traffic that would require the commensurate improvements to the shared access.
5.3	It was the view of the LRB that the conditions attached to the approval, restricting the use of the pods for bed and breakfast and requiring the submission of construction method statement would be sufficient to manage the concerns relating to potential implications for members of the public due to the fact that the access was situated on a primary school/link path/cycle path.

This decision notice is issued by the Head of Legal and Regulatory Support by authorisation of the Argyll and Bute Local Review Body on 12th May 2022



David Logan
Head of Legal and Regulatory Support

**NOTICE TO ACCOMPANY REFUSAL ETC.
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8)

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.



fair planning & design

chartered planning and architectural services

**Written statement for Notice of Review to
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



Introduction

Planning application 20/01542/PP, submitted by Fair Planning & Design on behalf of Michael and Rowan Acey, sought planning permission for the erection of two holiday pods and a shared septic tank within the grounds of Soroba Lodge. The application was refused under delegated powers on 7 September 2021 for a single reason:

"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'."

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 access. The proposal is confirmed as appropriate in other planning respects. This Notice of Review therefore focusses solely on the single issue of concern as reflected in the reason for refusal.

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

Background

Planning application 20/01542/PP was registered valid on 10 September 2020.

The original supporting statement and submissions made to planning officers during application 20/01542/PP are not repeated here but remain relevant to the case. LRB members are invited to read the appendices to this statement within their deliberations.

Fence lines around Soroba Lodge had been realigned to correctly reflect the boundaries of the title plan following a change in ownership but prior to planning application 20/01542/PP being advanced. Planning officers highlighted that changing the curtilage required planning permission. The pods application was placed on hold in December 2020 whilst a second planning application was submitted to regularise the adjusted garden fence positions. Planning permission 20/02185/PP (garden) was granted on 16 April 2021, and assessment of planning application 21/01542/PP (pods) recommenced shortly thereafter.

Concurrently with our applications, a nearby proposal for two house plots (advanced by a separate landowner/applicant) served by the same shared access, was being handled by the Planning Authority. Planning application 19/02562/PPP was refused in August 2020 for reasons relating to site access. 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.

Following the adjacent appeal decision, planning officers indicated that application 20/01542/PP would also be granted planning permission subject to the same conditions, but a refusal was instead issued on 7 September 2021.

Prior to a decision being issued, two letters of objection from four signatories were submitted against application 20/01542/PP, expressing concerns over site access - identical in nature to concerns that had been raised by 18 parties against application 19/02562/PPP.

The single reason for refusal on planning application 20/01542/PP relates to concerns regarding the shared site access.

Discussion

The report of handling and reason for refusal on 20/01542/PP are virtually identical to that which applied to the refusal of planning application 19/02562/PPP for two house plots served by the same access, but with planning officers taking a view that suspensive conditions would not be appropriate in this case despite them being applied by the DPEA in that successful appeal. (Although we assert that suspensive conditions could legally have been applied in this case, for the reasons set out below we do not consider conditions relating to site access to be necessary.)

It appears that the assessment of Mr & Mrs Acey's application was influenced by its timing and proximity to the application for two house plots using the same private access spur. In both the Roads Authority consultation response and subsequent Planning Officer assessment of vehicular activities arising from the development, Mr & Mrs Acey's proposal has been considered on an identical basis as that which applied to 19/02562/PPP.

Whilst consistency in decision making is of course important, there is a major flaw in the assessment that occurred in this case. Two different projects, with different traffic impacts have been evaluated in an identical manner. More appropriate consistency of approach would have been evidenced by comparing precedent decisions on similar development types, or in similar situations, rather than taking different development types in proximity to each other and treating them as identical in road safety terms.

Considering the two applications on the same basis is unfortunately a fundamental misdirection. The circumstances, nature of usage, and total traffic generated between the proposals is not the same. On the one hand, you have two ancillary holiday pods within the grounds of an existing house. On the other hand, two new house plots were proposed in principle, each reasonably with the capacity to accommodate a 3 or 4-bedroom house with one or two bedrooms suitable for B&B under Class 9 residential occupation*. Further, the existing house within the appeal site already operates two double bedrooms for B&B purposes and the applicants wish to switch that holiday letting allowance over to detached pods within their garden ground rather than having guests within the main house. The two planning applications do not bear direct comparison and the proposals should never have been considered on an equivalent basis.

The premise underpinning the entire road safety assessment of application 20/01542/PP is that it would generate a material increase in vehicular traffic. That simply is not the case.

* 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 activity

The shared existing private access joins the A816 Oban to Lochgilphead public road near the southern edge of Oban, opposite the entrance to the Oban Primary Campus.

An access spur leads immediately north-west to serve four houses before a bridge crossing the Soroba Burn then serves Soroba House (restaurant) plus eleven houses and four flats via its main southern spur, and Elderslie (8-bedroom guest house plus owners flat) two approved house plots and Soroba Lodge via its western spur.

Total current usage of the access crossing the bridge is: 1 x guest house, 1 x restaurant, 16 residences, and 2 x approved house plots yet to be constructed.

Within the application site itself, Soroba Lodge comprises a detached five-bedroom house, two of which provide B&B accommodation.

Planning application 20/01542/PP would see two B&B double bedrooms within Soroba Lodge switched to two dedicated one bedroom holiday pods within the curtilage of the house.

Traffic levels generated at the site would be unchanged.

Precedent decisions

Although we understand why comparisons were drawn between our application and two nearby house plots proposed by a different applicant, that does not alter the fact that officers have departed from their normal assessment process for holiday pods in this case.

In evidence of the council's normal assessment process for holiday pods, we have identified the following comparative decisions:

21/00709/PP – two holiday pods within the grounds of a house at Crossapol, Isle of Tiree. Planning permission granted 28 May 2021. Single parking space per pod required. No Roads concerns over intensification of use of access, nor Planning concerns over total vehicle numbers accessing the site.

21/00429/PP – one holiday pod within the grounds of a 3-bedroom house at Taynuilt. Planning permission granted 28 May 2021. Single parking space required. No Roads concerns over intensification of use of access, nor Planning concerns over total vehicle numbers accessing the site.

21/00206/PP – five holiday pods on land adjacent to a house at Pennyghael, Isle of Mull. Planning permission granted 29 September 2021. Six parking spaces and an access spur provided from the existing access serving the house.

20/02312/PP – venison processing building and one holiday pod in countryside zone, Keils, Isle of Jura. Planning permission granted 9 June 2020. Site accessed via a shared private road serving multiple properties. No Roads concerns regarding intensification of use.

20/02189/PP – two holiday pods on croft land alongside a house at Taynuilt. Planning permission granted 18 March 2021. Site accessed via shared private road serving multiple properties. No Roads concerns regarding intensification of use of access.

20/01740/PP – two holiday pods alongside existing house at Dunoon. Although withdrawn to allow water and drainage details to be formulated, the Roads Engineer had already commented that an adoptive standard road would not be required because the application was for recreational/leisure use holiday pods.

20/01468/PP – ten holiday lodges and five holiday pods alongside existing house at Benderloch. Planning permission granted 30 April 2021. Site served by a shared access. No Roads concerns about intensification of use of access.

20/01263/PP – two holiday pods in a countryside setting, but near to and sharing a private access regime with several houses at Craighouse, Isle of Jura. Planning permission granted 17 November 2020. No Roads concerns about intensification of use of access.

20/01218/PP – six holiday pods at Portavadie Marina. Although withdrawn prior to determination, the Roads Engineer had already confirmed having no objections, despite a 26T weight limit on the approach road.

20/00759/PP – one holiday pod within grounds of an existing 3-bedroom house at Glencruitten, Oban. Planning permission granted 10 July 2020. No Roads concerns over intensification of use of access, nor Planning concerns over total vehicle numbers accessing the site.

20/00652/PP – two holiday pods within grounds of an existing 3-bedroom house at North Connel. Planning permission granted 17 July 2020. No Roads concerns over intensification of use of access, nor Planning concerns over total vehicle numbers accessing the site.

20/00091/PP – two holiday pods at Davaar Island, Campbeltown. Planning permission granted 17 September 2020. No Roads concerns about the project, despite remote parking being proposed due to lack of direct vehicular access.

19/02513/PP – one holiday pod in grounds of 2-bedroom house, Kilmichael Glassary, Lochgilphead. Planning permission granted 26 February 2020. No Roads concerns over intensification of use of access, nor Planning concerns over total vehicle numbers accessing the site.

18/01664/PP – one holiday pod within grounds of existing house, Port Ellen, Isle of Islay. Planning permission granted 2 October 2018, despite Roads request for deferral to allow details on access and parking to be provided. No Planning concerns over total vehicle numbers accessing the site.

17/03309/PP – three holiday pods in grounds of an existing house (of unknown size) plus 2-bedroom cottage, Barcaldine. Planning permission granted 7 March 2018. No Roads concerns over intensification of use of access, nor Planning concerns over total vehicle numbers accessing the site.

16/02825/PP – two holiday pods within garden ground of 2-bedroom house, Bridge of Orchy. Planning permission granted 7 March 2017. No Roads concerns regarding increased use of shared access, despite parking being on-street close to the railway station, nor any Planning concerns regarding vehicular traffic generated by proposal.

16/02762/PP – proposal for a detached house plus two ancillary bedroom pods, Isle of Coll. Planning permission granted 3 March 2017. No Roads or Planning concerns regarding total vehicular use of access to site with previous approval for a single house only.

Whether an existing private access has a known constraint does not alter the way in which vehicular demand should be assessed for any particular development type. An existing house proposing two holiday pods within its grounds in one location will generate the same vehicular demand as the same proposal would in an alternative location (unless there is a specific geographical limitation such as an island location with no road network for example). The acceptability of any increase in traffic does of course differ depending on specific access regimes, but the level of demand does not vary between locations.

It is commonplace within Argyll and Bute Council (indeed the same is true for other Planning Authorities in Scotland), that a dedicated parking bay is sought for each proposed holiday pod, but that total traffic generation arising from holiday pods ancillary to houses is accepted as broadly similar to that which arises from the pre-existing house. Holiday pods ancillary to houses are generally accepted as not generating a material increase or intensification of use of the existing access regime – as evidenced by the pattern of approvals listed in the previous section of this statement of case.

Nonetheless, being aware of concerns about the bridge crossing at the access serving Soroba Lodge, we have highlighted from the outset that Class 9 rights to operate two bedrooms within the house for B&B were to be sacrificed concurrently with achieving two holiday pods within the grounds of the house.

It is regrettable that the Roads Authority consultation input and subsequent planning assessment focussed on concerns relating to the specific access in this case (that issue having been highlighted during consideration of adjacent application 19/02562/PPP), rather than considering traffic generated by the specific development type compared against existing traffic levels in line with how such proposals are generally assessed across the council area.

Planning concerns centre around a belief that if the pods were approved, Soroba Lodge would contain a five-bedroom house plus two holiday pods, and that the main house would be capable of accommodating a family with adult dependents. (The house currently contains a married couple and one child, though we accept that individual details are not directly relevant to the assessment.)

In the presumed worst-case scenario: a maximum of seven bedrooms would exist each with capacity for vehicular demand on a day to day basis - based on an owner/couple in a master bedroom, adult dependents in each of the four other bedrooms, plus two sets of guests in the pods - all with a car each. However unlikely that scenario is, it is worthwhile comparing it to what would have been the case had we proposed a two-bedroom extension to the existing house. In that scenario, with Class 9 B&B usage continuing within the main house, we could still end up with an owner/couple in a master bedroom, adult dependents in four other bedrooms and two sets of guests – all with a car each. 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. It therefore follows that their position on the proposed pods vis-à-vis total vehicular demand arising from ongoing use of the house in addition to two pods does not stand up to scrutiny.

The truth of course, is that larger houses rarely function that way. They rarely operate at full

capacity, with four sets of adult dependents. So rarely in fact, that SG LDP TRAN 6 does not require additional parking once a house goes above four bedrooms in total. Neither the Planning Authority nor Roads Authority are expected to control every eventuality, as verified by the relevant policy provisions.

Further, in looking for additional context at this specific access regime, it is also noteworthy that when Elderslie was proposed to change to a nine bedroom guest house plus owner's accommodation (planning permission 07/01798/COU), the planning officer's report states:

"...it is not considered that the change to a guest house will have a significant impact with regard to intensification of use and the dwellinghouse has sufficient ground to accommodate the required parking."

Going from a ten bedroom house requiring parking for three cars, to a guest house with nine bedrooms plus an owners flat requiring eleven car parking spaces, was considered by the Planning Authority and is clearly stated within the report of handling as not having a significant impact on the intensity of use of the existing access. This point alone demonstrates beyond doubt that adding a small element of holiday accommodation ancillary to an existing house does not comprise an intensification of use of the existing access. That the example relates to the very same shared access is especially poignant.

The first principle when looking at road safety considerations is to identify whether a project generates a material increase in traffic - and only then to identify what commensurate improvements might be required as a result. In the case of our proposed development, increased traffic generation has been assumed when a detailed evaluation of the facts demonstrates that there simply is no material increase in vehicular demand. Accordingly, there is absolutely no justification to require any investigation of, or enhancement to, the existing shared private access regime.

Finally, turning to construction traffic:

We acknowledge that there is the potential for individual heavy vehicle loads to be involved in construction projects. However, has never been the intention in this case. The appellants have sole use of a long section of the existing access. Avoiding heavy vehicle loads would both preserve the existing bridge and avoid expensive repairs to the long track for which they are solely responsible. The project will be built without the use of heavy vehicles or machinery crossing the bridge or using the existing shared access. Both proposed holiday pods can be formed as stick built timber frame structures constructed on site, or as individual wall panels off-site within the applicant's yard or another premises nearby, before being delivered using a comparatively lightweight van and trailer. A planning condition requiring the completion of a Construction Method Statement before development commences is an entirely normal and satisfactory way to control the impacts arising from construction traffic and/or set specific limits on construction vehicles and material deliveries. Although normally applied to larger scale projects, we would be willing to accept such a condition in this case if one is deemed necessary.

Summary

Mr & Mrs Acey wish to provide two detached one-bedroom holiday pods within the garden ground of their existing home, Soroba Lodge. The 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.

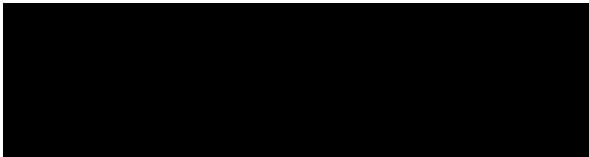
The decision to refuse overstates the anticipated vehicular demands associated with the development and pays insufficient regard to existing traffic levels at the site. That process runs contrary to that which is evidenced in numerous precedent cases for holiday pods on shared accesses, or within the garden ground of existing houses, detailed above.

Application 20/01542/PP seeks two small one-bedroom holiday pods within the garden ground of an existing house. This is the type of development that is commonly approved by the Planning Authority without any concerns over increase in vehicular demand. To allay fears specific to the shared access serving this site, we confirm that the pods will substitute for existing Class 9 B&B letting provisions within the main house - forming a quid pro quo. Control could be exerted over this aspect via planning conditions or by Section 75 Agreement/Obligation if that is deemed necessary – but we note that no such controls were applied in any of the precedent cases cited above.

The proposal does not generate any increase in traffic, much less a material increase in traffic that would require commensurate improvements, in the circumstances at this shared access.

In policy terms, the proposal represents a small-scale development on an appropriate site, in accordance with relevant local development plan policy and supplementary planning guidance. As there is no material increase in traffic generated by the proposal, there is by default no conflict with LDP11, SG LDP TRAN 4 of the adopted LDP or with Policy 37 of the Proposed LDP2.

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

6 October 2021

List of appendices

- 1) Application form
- 2) Original supporting statement
- 3) Roads Authority consultation response
- 4) Email to planning officers regarding access
- 5) Planning officer email confirming acceptability of proposal (other than access)
- 6) Report of Handling
- 7) Decision Notice
- 8) Refused site and location plan 101
- 9) Refused site plan showing aerial image 102
- 10) Refused POD 1 drawing 103 REV A
- 11) Refused POD 2 drawing 104 REV A