

**RESPONSE TO SUBMISSION OF FURTHER
INFORMATION**

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

23/0009/LRB

**REFUSAL OF PLANNING PERMISSION IN
PRINCIPLE FOR SITE FOR THE ERECTION OF
DWELLINGHOUSE TO BE USED IN ASSOCIATION
WITH FARMING BUSINESS – PLANNING
APPLICATION REFERENCE 22/02078/PPP**

**LAND NORTH OF BALLYHOUGH OUTDOOR
CENTRE, ISLE OF COLL**

COMMENT ON SUBMISSION OF FURTHER INFORMATION

The appellant has submitted further information in the form of photographs and wind speed data for the application site in an attempt to provide professionally qualified evidence that all other suitable alternative sites for the development proposed within planning application reference 22/02078/PPP have been considered and discounted.

Before commenting on the further information submitted, officers must bring the following matter to the attention of the LRB panel:

The decision to refuse planning permission for the development the subject of this review was made under the provisions of the then extant Local Development Plan, the National Planning Framework 4, and all other material planning considerations.

As Members are aware, since that decision was made a new Local Development Plan, LDP2, has very recently been adopted. Whilst the review panel might be tempted to seek the reassessment of the development against the new adopted LDP2, officers would respectfully advise that the role of the LRB process is fundamentally a review of the original decision. Whilst Members may reasonably seek additional information to clarify the assessment of the original planning application and to assist them in their review of the decision made at that time, they should not seek to reassess and redetermine the development the subject of their review by relying upon material considerations that were not and could not have been available to officers at the time. It is, of course, open to the appellant to seek a reassessment of the development under the new Development Plan by submitting a new planning application.

The national and local planning policy comments below, therefore, relate to the original assessment of the development the subject of this review.

The development proposed by this planning application is on a greenfield site. NPF4 Policy 9 clearly states that development proposals on greenfield sites will not be supported unless the site has been allocated for development or the proposal is explicitly supported by policies in the LDP. The site is located within the 'Countryside Zone' as designated within the LDP, where LDP Policies LDP STRAT 1 and LDP DM 1 give encouragement only to small scale development on appropriate infill, rounding-off, redevelopment, and change of use of existing buildings. In 'exceptional cases', development in the open countryside up to and including large scale may be supported on appropriate sites if this accords with an Area Capacity Evaluation. In this case, the proposed site for a dwellinghouse would not represent an opportunity for infill, rounding-off, redevelopment, or the change of use of an existing building.

With regard to 'exceptional cases', development in the open countryside up to and including large scale may occasionally be supported on appropriate sites, provided that the applicant has demonstrated a clear locational/operational requirement for the development and one which cannot be accommodated within the reasonable local vicinity of the proposed development site on a more suitable site within the settlement zone or in the less-sensitive countryside zone (the 'Rural Opportunity Areas').

The information submitted during the planning application process indicated that the agricultural holding covers an area of approximately 91 hectares. This agricultural holding, under the ownership of the appellant, includes a number of 'Rural Opportunity Areas' (COL003 and COL004). The applicant was, on numerous occasions, advised that there are other potential sites within the wider agricultural holding which would avoid the more sensitive 'Countryside Zone'. This includes the designated 'Rural Opportunity Areas', which are sited approximately 40 metres to the south of the proposed development site and approximately

400 metres to the northeast of the proposed development site. The applicant was invited to appraise these sites, and responded by discounting all of the land within the 'Rural Opportunity Areas' for the reason that the 'area would not be suitable for construction due to its exposure to harsh northerly and easterly winter winds'.

The further information submitted by the appellant includes data on the wind speed, direction and distribution for the application site, covering the time period of the last three years. The submitted information, whilst not supported by any assisting commentary, appears to show that the prevailing winds predominantly come from the south and southwest. It is noted that the site for the proposed development is located approximately 350 metres from the coastline and would therefore be exposed to wind from the south and west as there are no intervening landform features sited between the coastline and the proposed development site. It is further noted that the 'Rural Opportunity Area' (COL003) sited approximately 400 metres to the northeast of the proposed development site, of which approximately 7.4 hectares are sited within the agricultural landholding under the ownership of the appellant, would be sheltered by the intervening rising land which is sited between the 'Rural Opportunity Area' and the coastline. Therefore, the conclusion of officers, having studied the submitted supplementary information, is that the development site the subject of the LRB is actually more exposed to prevailing winds than other sites within the ownership of the appellant and that the evidence submitted, whilst intending to offer strength to the appellant's case, actually supports the refusal of planning permission instead.

The further information submitted by the appellant also includes photographs of the 'area considered for development' in the Local Development Plan and an image of a hole dug for soil sampling. No further supporting information has been provided in terms of soil analysis or geotechnical data. The image provided of the 'area considered for development' in the Local Development Plan is not corroborated with any supporting information showing the location on a map or providing any information on ground conditions. It is noted that this particular 'Rural Opportunity Area' (COL004), within the wider agricultural landholding and under the ownership of the appellant, amounts to approximately 7 hectares. Whilst some areas of the land within the 'Rural Opportunity Area' may well be unfavourable in terms of ground conditions, the submitted information has not assessed all areas within the 'Rural Opportunity Area' and appears only to show those areas which may be unfavourable. This lack of professionally qualified data serves only to support the assessment of the Planning Authority that there has not been a sufficiently robust site options appraisal. It is also apparent that the appellant has failed to appraise the ground conditions of the 'Rural Opportunity Area' which is sited approximately 400 metres to the northeast of the proposed development site.

The information submitted has failed to appraise the selection of viable sites for the proposed development to a sufficient standard. The submitted information does not unambiguously identify key principles and planning policies to inform the site selection process and does not test any such criteria against the land within the wider agricultural holding such that it is not possible to establish areas of viable potential development sites and areas which must be excluded as unsuitable. The appellant has failed to present supporting information, in the form of professionally qualified evidence and quantitative evaluation, to robustly appraise viable sites for the proposed development such that it is not possible to discount other more suitable sites for development which are in close vicinity of the application site and are within the ownership of the appellant.

It is reiterated that whilst the Planning Authority is keen to support local businesses and the reasonable aspirations of individuals, it is concluded that in this case, the case put forward by the appellant does not meet the 'exceptional case' criteria as it has not been demonstrated, to

an appropriate standard, that there is a necessity for the proposed development to be located in this exact location. The information provided does not satisfactorily discount other potential development sites that are within close proximity to the proposed development site and are within the wider agricultural landholding of the appellant. In this regard, the appellant has failed to demonstrate an 'exceptional case' where it must be substantiated that there is a locational requirement for the proposed development to be tied to the exact location.

The Development Management Zones support the Local Development Plan settlement strategy. Permitting development of this type within this safeguarded location without a sufficiently demonstrated 'exceptional case' would compromise the purpose of the 'Countryside Zone' designation which is there to safeguard sensitive and vulnerable areas from inappropriate development, such as that proposed within this application.