



Development and Infrastructure Services

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10 May 2010

Your Ref: MS/HK/10/0005/LRB
Our Ref: 09/01308/PP
Contact: David Eaglesham
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Charles Reppke
Head of Governance and Law
Customer Services
Argyll & Bute Council
Kilmory
Lochgilphead
Argyll
PA31 8RT

For the attention of Melissa Stewart

Dear Mr Reppke,

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997;
PLANNING APPLICATION REF. 09/01308/PP
ERECTION OF DWELLINGHOUSE, FORMATION OF CAR PARKING, INSTALLATION OF
SEPTIC TANK AND CREATION OF PRIVATE WATER SUPPLY;
LAND SOUTH WEST OF COTTAGE 3, BALLOCHYLE FARM, SANDBANK, DUNOON,
ARGYLL.**

With reference to your letter to the Development Manager dated 27 April 2010, I enclose the Service's Statement of Case in respect of this review.

Yours sincerely

A handwritten signature in black ink, appearing to read 'David Eaglesham'.

David Eaglesham
Area Team Leader (Development Management)



**STATEMENT OF CASE
FOR
ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

REFUSAL OF PLANNING PERMISSION FOR THE ERECTION OF A DWELLINGHOUSE, FORMATION OF CAR PARKING, INSTALLATION OF SEPTIC TANK AND CREATION OF PRIVATE WATER SUPPLY AT LAND SOUTH WEST OF COTTAGE 3 BALLOCHYLE FARM, SANDBANK, DUNOON, ARGYLL PA23 8RD.

LOCAL REVIEW BODY REF. 10/0005/LRB

**PLANNING PERMISSION APPLICATION
REFERENCE NUMBER 09/01308/PP**

6TH May 2010

STATEMENT OF CASE

The planning authority is Argyll and Bute Council ('the Council'). The appellant is Mrs Ffiona Boyd ('the appellant').

An application for planning permission (ref. 09/01308/PP) for the erection of a dwellinghouse, formation of car parking, installation of septic tank and creation of private water supply at land south-west of Cottage 3 Ballochyle Farm, Sandbank, Dunoon ('the appeal site') was refused under delegated powers on 25th January 2010. The planning application has been appealed and is the subject of referral to a Local Review Body.

DESCRIPTION OF SITE

The appeal site comprises part of a low-lying field situated between the existing converted Ballochyle Farm buildings to the north at a higher level, and the Little Eachaig River to the south. An unsurfaced access track runs from the main Dalinlongart-Ballochyle House access around Ballochyle Farm buildings and another dwellinghouse to the north. The proposed development would be located on lower ground to the south of this track. The principal access to the appeal site is provided by the existing estate road running north where it connects with the Glen Massan road near Inverreck Nursing Home. This road has recently been resurfaced and improved for vehicular traffic.

SITE HISTORY

The historical farmstead of Ballochyle Farm was split into two residential units (i.e. Cottage 2 on the north wing and Cottage 3 on the south wing). Planning permission (ref. 05/02354/COU) was granted on 6th February 2006 for the conversion of a storage building attached to Cottage 3 into a separate dwellinghouse.

Planning permission (ref. 06/00307/COU) was granted on 4th July 2006 to convert the dwellinghouse (cottage 2) on the northern wing of Ballochyle Farm into two separate dwellinghouses.

A detailed application by the appellant (ref. 06/00472/DET) for a 'long house' on the adjacent field to the north and east of Ballochyle Farm was withdrawn on 18th September 2006 following concerns regarding flooding and suitability of that site for residential purposes.

A detailed planning application by the appellant (ref. 06/01964/DET) for the erection of a dwellinghouse, formation of vehicular access, installation of septic tank and erection of detached garage was refused on 6th December 2006 due to design and impact on settlement character, location within the functional flood plain of the Little Eachaig River and poor condition of the private road leading to the Glen Massan Road.

A subsequent application for planning permission (ref. 09/01308/PP) for the erection of dwellinghouse, formation of car parking, installation of septic tank and creation of private water supply was refused on 25th January 2010 due to due to siting and settlement

character, land raising and siting within the functional flood plain of the Little Eachaig River and lack of information on foul drainage and surface water drainage.

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 Acts, regard is to be had to the development plan, 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 location of the proposed development has sufficient regard to the context of its setting within the existing immediate development pattern and the wider Rural Opportunity Area.
- Whether the requirement to land raise and site the dwellinghouse and part of its curtilage within the functional floodplain of the Little Eachaig River would have a significant impact on the floodplain or on the proposed dwellinghouse and its amenity space.
- Whether foul drainage and surface water drainage matters can be addressed.

The Report of Handling (Appendix 1) sets out the Council's assessment of the application in terms of Development Plan policy and other material considerations. The consultation comments submitted by statutory and other consultees (Appendix 2) and third party representation (Appendix 3) are attached for the purpose of clarity.

REQUIREMENT FOR ADDITIONAL INFORMATION AND HEARING

It is considered that no new information has been raised in the appellants' submission which would result in the Planning Department coming to a different determination of this proposal. The issues raised were covered 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 significant body of conflicting representation, then it is considered that a Hearing is not required.

COMMENT ON APPELLANT'S SUBMISSION

Having regard to the detailed reasons for requesting the review set out in part (7) of the appellants' submission the following points are noted:

1. *Appellant's agent suggests that the decision is contrary to pre-planning advice.*

Following refusal of planning permission (ref. 06/01964/DET) for a larger dwellinghouse on stilts within the floodplain on 6th December 2006, the agent submitted a pre-application enquiry on 7th January 2008 for a smaller dwellinghouse that would still require land raising. The response from the department is attached as Appendix 4. Contrary to the agent's suggestion that the department's advice was positive suggesting that the "*proposed location for the dwelling was a site*", the response indicated no support in the then adopted Cowal Local Plan and highlighted flooding issues and a potential similar recommendation primarily if the flooding issue could not be resolved. It was suggested that the agent contact SEPA directly and any application should be accompanied by a detailed Flood Risk Assessment.

The appellant's agent also claims to be shocked by the recommendation for refusal. This would appear to be completely contrary to reasons for refusal in the previous scheme (ref. 06/01964/DET) and to pre-application correspondence noted above. With the exception of the improvements to the private road leading to Glen Massan (which had been undertaken by Ballochyle Estate since that application was refused) the remaining reasons for refusal were still considered to be valid for the revised scheme.

2. *Appellant's agent suggests that decision is contrary to council consultee recommendations.*

The Report of Handling clearly indicates the responses made by statutory consultees and policy implications. In terms of Roads and Public Protection, their concerns could be addressed by planning conditions but not specifically reasons for refusal. In terms of flooding which was the main consultee issue, SEPA eventually removed their initial objections but did raise some concern in their advice to the planning authority. SEPA in their response dated 19th November 2009 commented that the appeal site (or parts thereof) lies within the 1 in 200 year (0.5% annual probability) flood envelope of the Indicative River & Coastal Flood Map (Scotland), and may therefore be at medium to high risk of flooding. It is however noted that the proposed dwellinghouse itself is adjacent to the Flood Map. SEPA comment that the 'Flood Risk Statement' within the applicant's Design Report (August 2009) makes reference to the Flood Map but it appears that a crude approximation has been made on the flood outline on a drawing of the site. This is considered to be inappropriate as the Flood Map by its very nature is indicative, and not designed to quantify the risk to individual locations but supports national planning policy. SEPA consider its use in this form as contrary to the terms of use of the Flood Map. In terms of Regulatory requirements the advice contained in SEPA's letter is intended purely as advice to the Council.

On the basis of this advice, a previous site inspection by the case officer during a period of inclement weather on 29th September 2006 and historical evidence from neighbours, the department chose to adopt a precautionary approach in respect of potential flooding of the application site. Notwithstanding the agent's comments about the removal of the concrete weir and installation of gabion baskets at this point of the river, it is considered that it is the area upstream where the Little Eachaig River bends that could give rise to further flooding events. At the time of the previous inspection in September 2006 a blockage at this part of the river which was in spate at the time, appeared to be spilling over into low-lying fields including the appeal site.

This and the poor drainage within the field incorporating the appeal site resulted in ponding as demonstrated in photographs taken in September 2009 and contained within Appendix 5.

On the basis of the above, the department considers that it was correct to exercise the 'precautionary principle' and refuse the application under the terms of Policy LP SERV 8 of the Argyll and Bute Local Plan (August 2009).

3. *Appellant's agent suggests that no opportunity was given to submit additional technical information later specified in refusal reasons.*

As Members will be aware, the department is under obligation to deal with applications within a given timescale. In the case of this application, no additional information regarding flooding issues or siting would have altered the recommendation. Submission of additional surface water drainage details and further foul drainage arrangements could perhaps have removed reasons for refusal 3. and 4.

4. *Appellant's agent suggests that the proposal is to locate in an area with a presumption in favour of development and untenable reasoning offered to refusal of permission.*

The Report of Handling clearly states the presumption either in favour or against in terms of siting within a Rural Opportunity Area (ROA). Development within an ROA should not be taken as a guarantee for planning permission. Policy LP HOU1 states that housing developments are also subject to consistency with other policies of both the Structure Plan and Local Plan. The department's assessment of the whole ROA was that capacity exists by means of redevelopment sites or even open countryside locations that would be in tune with the character of the ROA.

If Members were minded to grant planning permission, it could establish a precedent for permission for development that requires land raising while undermining the character of a particular part of the ROA. In this instance the cramming of buildings close to the former Ballochyle farm building.

5. *Appellant's agent suggests that planning officer's conclusions regarding siting and clustering are disputed.*

This aspect is covered in section 4. above. The department consider that the cluster of buildings around the former Ballochyle farm building is contained within the unsurfaced track that encircles existing buildings. This track is not just an arbitrary line but one which also denotes higher ground away from areas that are prone to flooding. The character of each 'cluster' or individual buildings within the ROA was considered within the assessment. Over-developing each cluster would result in a significant change to the historical position and grouping of buildings that are features within the landscape that policies within the Structure Plan and Local Plan are trying to safeguard. Redevelopment opportunities and other open countryside locations could offer more suitable locations that would not involve land raising or placing buildings at risk from potential future flood events.

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.

The application site is located within a large Rural Opportunity Area (ROA) that extends from Glen Lean and Balagowan in the south-west towards Cairdie House at the north, and includes Ballochyle House, Ballochyle Steadings and former Ballochyle farm buildings (now converted into 4 residential units) in the central portion. Policy HOU 1 of the Argyll and Bute Local Plan states a presumption in favour of housing within ROAs where there is a general capacity to successfully absorb small scale housing development that would be in tune with the landscape character and settlement pattern. In the assessment of this proposal the capacity of the wider ROA was also assessed where it was considered that more appropriate development opportunities exist in less sensitive and less problematic locations.

In terms of immediate settlement character, the unsurfaced track is not just an arbitrary line that demarcates an appropriate development zone. Development within the track is sited on higher ground than the lower lying fields that are prone to flooding. However it is not as straightforward as merely adjusting the track to enclose the proposed dwelling, as development within the track may also have an impact on the setting of existing buildings where the former Ballochyle Farm buildings present a strong built feature within the landscape. The importance of the former Ballochyle Farm buildings is crucial in assessing whether this part of the ROA has capacity and the relationship between buildings within this established cluster.

In terms of flooding the department remains unconvinced by the submitted information that part of the appeal site would not be prone to flooding. There is evidence to support that this field has been underwater in recent times and the current vegetation suggests marshy and damp conditions. An element of land raising is therefore required to lift the proposed dwellinghouse out of the floodplain but both the car parking provision and access are located on higher ground. In this regard and on the basis of the evidence submitted, the department have adopted a cautionary approach in respect of potential flooding of the site or impact on the floodplain.

Detailed matters relating to foul drainage arrangements and surface water drainage arrangements were not sufficiently addressed at the time of writing the original report, hence additional reasons for refusal. It is however considered that these matters could be addressed but further information would require to be submitted for consideration.

The department consider that capacity exists within the ROA on alternative sites but granting permission on a site that has a recent history of flooding and one that has an impact on the character and settings of existing buildings would be contrary to Policies STRAT S1 1, STRAT DC1, STRAT DC4, STRAT DC10, STRAT HO1 of the Argyll and Bute Structure Plan, and policies LP ENV1, LP ENV19, LP HOU1, LP SERV1, LP SERV2, LP SERV3, LP SERV8 of the adopted Argyll and Bute Local Plan (August 2009). Taking account of all of the above, it is respectfully requested that the appeal be dismissed.

APPENDICES

Appendix 1 Report of Handling dated 21st January 2010

Appendix 2 Consultation comments submitted by statutory and other consultees

Appendix 3 Third party representation

Appendix 4 Pre-application enquiry response dated 7th January 2008

Appendix 5 Photographs of the appeal site October 2009

APPENDIX 1

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 09/01308/PP

Planning Hierarchy: Local application.

Applicant: Mrs. Ffiona Boyd

Proposal: Erection of dwellinghouse, formation of car parking, installation of septic tank and creation of private water supply.

Site Address: Land south-west of Cottage 3, Ballochyle Farm, Sandbank, Dunoon

DECISION ROUTE

(i) Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of dwellinghouse (white render and natural slates);
- Land engineering works comprising infilling and regrading of site to accommodate dwellinghouse;
- Installation of new septic tank with soakaway (no details submitted) ;
- Formation of car parking area (three spaces);
- Associated landscaping and boundary treatments (including tree planting and fencing);

(ii) Other specified operations

- Provision of private water supply;
 - Formation of SuDS soakaways (no details submitted);
 - Draining and removal of field cover to create lawn area.
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(B) RECOMMENDATION:

It is recommended that planning permission be **refused** for the reason(s) set out overleaf.

(C) HISTORY:

The historical farmstead of Ballochyle Farm was split into two residential units (i.e. Cottage 2 on the north wing and Cottage 3 on the south wing). Planning permission (ref. 05/02354/COU) was granted on 6th February 2006 for the conversion of a storage building attached to Cottage 3 into a separate dwellinghouse. Planning permission (ref. 06/00307/COU) was granted on 4th July 2006 to convert the dwellinghouse (cottage 2) on the northern wing of Ballochyle Farm into two separate dwellinghouses.

A detailed application by the current applicant (ref. 06/00472/DET) for a 'long house' on the adjacent field to the north and east of Ballochyle Farm was withdrawn on 18th September 2006 following concerns regarding flooding and suitability of that site for residential purposes.

A detailed planning application (ref. 06/01964/DET) for the erection of a dwellinghouse, formation of vehicular access, installation of septic tank and erection of detached garage was refused on 6th December 2006 due to design and impact on settlement character, location within the functional flood plain of the Little Eachaig River and poor condition of the private road leading to the Glen Massan Road.

(D) **CONSULTATIONS:**

Scottish Environment Protection Agency (responses dated 5th October and 19th November 2009): No objections in principle to the proposal in terms of flood risk. Comments on applicant's interpretation of Flood Risk Map. Additional advice given on flood risk.

Flood Alleviation Manager (response dated 15th October 2009): No objections provided a finished floor level of 13.60metres A.O.D. is established.

Area Roads Manager (response dated 12th October 2009): No objections subject to conditions regarding sightlines at the access to the B836, parking for 2 vehicles and a turning area provided within the development. Roads comment that at present, private access road is not available from the A815 due to the condition of an existing bridge which has now been closed to vehicles. Access to the site will be from a private access road from the U15 Glen Massan Road (*which has 7.5t weight 7'6" width and 30' length restrictions in place*).

Public Protection (response dated 12th November 2009): Note the comments contained in the submitted report by Transtech and recommend a condition in respect of the installation of a private water supply.

(E) **PUBLICITY:**

The application was advertised under Regulation 20(1) Advert Statement (expiry date 16th October 2009).

(F) **REPRESENTATIONS:**

Two letters of objection have been received from Mrs. Kirsteen Manuel, *Ballochyle* (letter received 16th October 2009) and Tom Pierson, *1 Ballochyle Estate*, Sandbank (letter dated 27th October 2009). The points raised can be summarised as follows:

- *Planning and Flooding – SEPA flood risk maps indicate the area has a high risk of flooding. Queries regarding the actual flood area. Photos and previous correspondence attached indicate recent flood events.*
- *Use of Bore Hole as private water supply – No evidence to support that bore hole will not be polluted in times of flood. Risk of water seepage from the river into bore hole needs to be assessed. The Little Eachaig and its catchment area are known to be polluted from the Dalinlongart Coup.*
- *Working farm buildings in close proximity – proposed dwelling is in the midst of working farm buildings. Not noted on the plans are sheep pens and dipping facilities in addition to farm sheds and a midden that sits on the boundary of the proposed dwellinghouse.*
- *Ballochyle Farm Cluster – applicant denotes proposed dwelling to be part of the Ballochyle Farm Cluster. The applicant was sold the property as a courtyard, not a farm. The location noted is too small for a government crofter's grant so should not be known as a 'Farm' or 'Farm Cluster'.*
- *Boundaries / Access – Other residents on the estate have servitude rights to use the roads within Ballochyle Estate. Applicant indicates that part of this estate road will be surfaced, which will not be in keeping with the rest of the farm tracks. Applicant does not own private connecting road from the Ballochyle Estate to the U15 Glen Massan Road. This road has recently been resurfaced at a personal expense to the current road users. The new house would have to be given servitude rights by the owners.*
- *Site History – three previous applications made for this site with one refusal and two being withdrawn due to water supply issues, and flooding and design issues.*

A response has been received from the applicant in response to Mrs. Manuel's letter dated 15th October 2009. *SEPA's flooding map clearly shows that the proposed dwelling is outside the area marked at risk from flooding. Finished floor level will be above level of flood risk as noted by highest recorded level at Dalinlongart gauging station. Mrs. Manuel is not a full-time resident at Ballochyle and therefore 'eye-witness' accounts must be viewed with a degree of suspicion. Assertion that the barns adjacent are working farm buildings is false. In the four years that the applicant has lived in Ballochyle, the dipping area or the barns have not been used for anything other than storage.*

Comment: Refer to Assessment below.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) Environmental Statement: N**
- (ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: N**
- (iii) A design or design/access statement: Y**

In the Design Statement (August 2009), the applicant's agent comments that *the proposal is for a four-bedroom traditionally influenced yet contemporarily styled family dwellinghouse based on a traditional 'long house' form. The current submission is based on a previously refused scheme where all of the reasons for refusal have been considered. The proposed dwellinghouse is accessed by local estate roads that have recently been upgraded and resurfaced. The applicant has full access and servitude rights to the proposed site. The estate is served by a private water supply that is in need of upgrading and therefore it is proposed to create a new private water supply to provide potable water to the proposed dwelling by drawing water from the Little Eachaig River. There are also recent works by SEPA to replace the weir and gauging station on the Little Eachaig River and ongoing works by Scottish Hydro to route all of the local electricity supply cables underground.*

The applicant's agent comments that the proposed dwelling is located within an existing rural cluster and is consistent with the existing settlement pattern. Siting the dwelling within this cluster allows it to benefit from the existing services and accesses as well as restricting any possibility of ribbon development or inappropriately isolated development within this sensitive landscape. The design references for the proposed dwelling originate from surrounding agricultural outbuildings in their simple form and materials. The proposed dwelling is based on a traditional narrow and long plan form. The principle rooms all face the river and all secondary and circulation spaces face the road giving the dwelling high levels of privacy and to maximise views.

- (iv) A report on the impact of the proposed development e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc: Y**

In terms of flooding, the Design Statement states that the proposed dwelling and all of its access and curtilage is outside the functional floodplain of the Little Eachaig River. The proposed FFL of the proposed dwelling is 13.50M OSD and is 1.14m above the highest flood level and 3.5m above the normal river level. Therefore the likelihood of flooding from the Little Eachaig River is nil. The agent mentions that SEPA have recently completed the full upgrading of the weir and riverbank reinforcement adjacent to the site and this will further mitigate any possible flooding to the surrounding fields.

The applicant has commissioned engineering consultants to produce a Water Quality Assessment for the proposed development. The report stresses that supplies like this are likely to be highly variable and will be strongly influenced by recent rainfall patterns and temperature. The results presented represent a 'snapshot' only and actual water quality will be both better and worse at different times. The water analysis results are consistent with those expected for a source of this nature, with a failure being recorded for iron and colour only, when compared with the requirements of the Private Water Supply (Scotland) Regulations 2006.

(H) PLANNING OBLIGATIONS

- (i) Is a Section 75 agreement required: N**

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- (i) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: N**

(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.**

- a) Argyll and Bute Structure Plan 2002: The following policies are applicable:**

STRAT SI 1 – Sustainable Development
STRAT DC 4 Development in Rural Opportunity Areas (ROA)
STRAT DC 10 – Flooding and Land Erosion
STRAT HO 1 – Housing – Development Control Policy

b) Argyll and Bute Local Plan (August 2009)

The application site is located within a Rural Opportunity Area (ROA) outwith the settlement of Sandbank where the following policies are applicable:

LP ENV1 Development Impact on the General Environment;
LP ENV19 Development Setting, Layout and Design (*including Appendix A Sustainable Siting and Design Principles*);
LP HOU1 General Housing Development;
LP SERV 1 Private Sewage Treatment Plants
LP SERV2 Incorporation of Natural Features/Sustainable Drainage Systems (SuDS);
LP SERV3 Drainage Impact Assessment (DIA);
LP SERV 4 Water Supply
LP SERV8 Flooding and Land Erosion;
LP TRAN4 New and Existing, Public Roads and Private Access Regimes;
LP TRAN6 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 4/2009.

- a) Scottish Planning Policy SPP3 – ‘Planning for Housing’;
- b) Scottish Planning Policy SPP7 – ‘Planning and Flooding’;
- c) Scottish Planning Policy SPP 15: Planning for Rural Development;
- d) Planning Advice Note PAN 44 : Fitting New Housing Development into the Landscape;
- e) Planning Advice Note PAN 69 : Planning and Building Standards Advice on Flooding;
- f) Planning Advice Note PAN 72: Housing in the Countryside.

(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: N

(L) Has the application been the subject of statutory pre-application consultation (PAC): N

(M) Has a sustainability check list been submitted: N

(N) Does the Council have an interest in the site: N

(O) Requirement for a hearing (PAN41 or other): N

(P) Assessment and summary of determining issues and material considerations

The design and layout of the proposed dwellinghouse is based on a previously refused scheme in 2006 (ref. 06/01964/DET). The agent has submitted supporting information in respect of finished floor levels and feels that the proposed dwelling would be harmonious with the existing cluster of buildings around Ballochyle Farmsteadings.

While one of the reasons for refusal has been addressed (i.e. condition of access road), there are outstanding concerns regarding the impact on the development pattern and building within the functional flood plain.

The department maintains that in terms of the development pattern, any potential development should take place within the existing perimeter track that demarcates the built area on higher ground from lower lying ground where the proposed dwellinghouse and its curtilage would be sited.

Despite suggested floor levels, the department has adopted a precautionary approach regarding potential flooding and the need to develop within the floodplain when there are more suitable development sites contained within the Rural Opportunity Area. The proposed development would also require land raising to keep it clear of the functional flood plain in which it is located.

Two letters of objections have been received that include flooding matters and surrounding land uses. Whilst none of the statutory consultees has objected to the proposal, SEPA question the applicant's agent interpretation of flood information and advice and considers this assessment inappropriate. While SEPA have not objected outright on flood risk grounds and proposed floor level, it is noted that parts of the application site lie within the 1 in 200 year flood envelope of the Indicative River & Coastal Flood Map and may therefore be at medium to high risk of flooding. SEPA also note the requirement for land raising to provide a development platform and potential for surface water ponding.

(Q) Is the proposal consistent with the Development Plan: N

(R) Reasons why planning permission or a Planning Permission in Principle should be refused

1. Having regard to the siting and layout of the proposed dwellinghouse, in isolation to existing surrounding buildings, the development would not complement but be at variance with the existing settlement character with its particular layout and juxtaposed siting. The siting of the dwellinghouse on lower ground on the opposite side of the unsurfaced track (that contains existing buildings) would result in development that would be out of context and visually detrimental within surrounding farmland. Accordingly, such a dwellinghouse with its particular siting and requirements for land raising to avoid the functional floodplain of the Little Eachaig River would be contrary to the principles of sustainable development and of protecting and enhancing the quality of the environment within the Rural Opportunity Area, where there are more appropriate development opportunities. The proposal is considered to be contrary to, SPP 3: Planning for Housing; SPP 15: Planning for Rural Development; Policies STRAT SI 1, STRAT DC 4, STRAT HO 1 of the Argyll and Bute Structure Plan 2002; and to Policies LP ENV1, LP ENV19 and LP HOU1 of the Argyll and Bute Local Plan (August 2009) all of which presume against the nature of the development proposed.
2. The proposed development involves an element of land raising in order to avoid the functional flood plain of the Little Eachaig River in which the proposed development and a large proportion of its amenity space would be located. The applicant has failed to demonstrate that the proposed dwellinghouse and its curtilage by reason of its siting and design within the functional floodplain of the Little Eachaig River would not be at significant risk from flooding. The lack of a detailed Flood Risk Assessment and submitted information and history of the site from flooding is contrary to Scottish Planning Policy SPP7 – Planning and Flooding; PAN 69: Planning and Building Standards Advice on Flooding; Policy STRAT SI 1 (Sustainable Development); Policy STRAT DC10 (Flooding and Land Erosion) of the Argyll and Bute Structure Plan 2002; and policies LP ENV1, LP ENV19 and LP SERV 8 of the Argyll and Bute Local Plan all of which presume against the nature of the development proposed.
3. The applicant has failed to provide accurate information in respect of foul drainage proposals for the application site. The lack of precise foul drainage arrangements is contrary to: policy LP SERV 1 – Private Sewage Treatment Plants and Wastewater Systems of the Argyll and Bute Local Plan (August 2009), which presume against the nature of the development proposed.
4. The applicant has failed to provide accurate information in respect of surface water drainage proposals (SuDS) for the application site. The lack of precise drainage arrangements incorporating a SuDS scheme to alleviate potential flooding of the site and adjacent properties and their land is contrary to: Scottish Planning Policy SPP7 – *'Planning and Flooding'* and PAN 69 *'Planning and Building Standards Advice on Flooding'*; Policies STRAT SI 1 *'Sustainable Development'* and STRAT DC10 *'Flooding and Land Erosion'* of the Argyll and Bute Structure Plan 2002; and policies LP SERV 2 – *Sustainable Drainage Systems (SuDS)*, LP SERV 3 *'Drainage Impact Assessment'* and LP SERV 8 *'Flooding and Land Erosion'* of the Argyll and Bute Local Plan (August 2009), all of which presume against the nature of the development proposed.

(S) Reasoned justification for a departure from the provisions of the Development Plan
n/a

(T) Need for notification to Scottish Ministers or Historic Scotland: N

Author of Report: Brian Close Date: 19th January 2010

Reviewing Officer: David Eaglesham Date: 21 January 2010

Angus Gilmour
Head of Planning

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PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

Within the Argyll and Bute Local Plan, the application site is located within a Rural Opportunity Area (ROA). This large ROA runs from Glen Lean and Balagowan in the south-west towards Cairdie House at the north and includes Ballochyle House, Ballochyle Steadings and former Ballochyle farm buildings (now converted into 4 residential units) in the central portion.

The majority of the land surrounding the application site is in the ownership of Ballochyle Estate and used primarily for sheep grazing purposes. The immediate area is characterised by the traditional Ballochyle farm buildings, and scattered farm outbuildings of timber and corrugated iron construction. The recent sub-division of the former Ballochyle Farm into four separate dwellinghouses was considered to have no significant adverse visual impact as it was an existing building.

Ballochyle Farm is located on higher ground than the application site. The Ballochyle Farm buildings and dwellinghouse to the north and other storage buildings are contained within the access track that defines the higher ground which these buildings are sited upon. Other agricultural storage buildings are located in the south-west on the opposite side of the track immediately adjacent to the proposed dwellinghouse.

STRAT DC 4 of the Argyll and Bute Structure Plan gives encouragement to small scale developments in ROAs on suitable sites which in terms of siting and design, will visually integrate with the landscape and settlement pattern; this may include small scale development in open countryside as well as small scale infill, rounding-off, redevelopment and change of use of building development.

Policy HOU 1 of the Argyll and Bute Local Plan states a presumption in favour of housing within ROAs where there is a general capacity to successfully absorb small scale housing development that would be in tune with the landscape character and settlement pattern.

The proposed development does not sit comfortably within the immediate settlement pattern where the particular siting and layout do not complement existing established traditional buildings. Development on this application site could not be considered as in tune with the landscape character and development pattern that extends the existing group of buildings and requires land raising to do so. The proposed development is therefore inconsistent with policies contained in the adopted Argyll and Bute Local Plan and Argyll and Bute Structure Plan.

The development is not in tune with the landscape character and does not respect the surrounding development pattern. The proposal would result in an unnatural expansion of the existing group of buildings on higher ground onto lower ground beyond the unsurfaced track. The proposal is considered to be inconsistent with policies STRAT DC 4 and HO 1 of the Argyll and Bute Structure Plan and Policies LP ENV 19 and LP HOU 1 of the Argyll and Bute Local Plan.

B. Location, Nature and Design of Proposed Development

(i) Development Setting

The application site comprises part of a low-lying field situated between the existing Ballochyle Farm buildings to the north at a higher level, and the Little Eachaig River to the south. An unsurfaced access track runs from the main Dalinlongart-Ballochyle House access around Ballochyle Farm and another dwellinghouse to the north. The proposed development would be located on lower ground to the south of this track. The former main vehicular access over the bridge past Dalinlongart Farm has now been formally closed due to storm/flood damage when the buttresses of the bridge were washed away. The principal access to the site is now provided by the existing estate road running north where it connects with the Glen Massan road near Inverreck Nursing Home. This road has recently been resurfaced and improved for vehicular traffic. While there is also a longer private track running west to connect with the B836 Colintrave Road, this is poorly surfaced, has steep gradients and is not suitable for standard vehicles.

(ii) Development Layout

The dwellinghouse has been designed on the theme of a traditional long cottage. The building itself would be long (25 metres) and slim (5.5 metres) with a slated pitched roof with oversized chimney and white rendered walls. The main entrance porch would be finished in blond sandstone. The dwelling would be sited with its main front elevation alongside the existing access track where a parking area for three cars would be located on the northern side of the track.

The dwellinghouse would provide two levels of accommodation. On the ground floor, the main entrance would be located on the main (north) elevation into a long hall where a lounge, kitchen/dining three bedrooms and bathroom would be located. On the upper level, a master bedroom, office/study would be located with roof voids over the downstairs lounge, kitchen and hall.

It is proposed to surface the section of existing compacted stone chipping track within the application site with asphalt. The large field to the rear (south) of the dwellinghouse is to be used as amenity space together with small lawn areas on either side of the house.

It is proposed to create a new water supply with a borehole shown within the field to the south and a new septic tank system (no details submitted) on land across the track to the north, adjacent to the proposed car parking area.

(i) Assessment

The proposal must be assessed against the provisions of Policy LP ENV 19 - Development Setting, Layout and Design of the Argyll and Bute Local Plan (August 2009) where a high standard of appropriate design is expected in accordance with the Council's design principles. Development shall be sited and positioned to pay regard to the context within which it is located. Development layout and density shall effectively integrate with its countryside setting of the development. This is further explored in Appendix A Sustainable Siting and Design Principles where in terms of 'Design of New Housing in Countryside Development Zones', 'the landscape could be easily spoiled by careless development and new houses within this landscape must respect local identity and the environment and should be designed taking the following advice into account:

- *Location – houses must be carefully located within the landscape to complement their surroundings and should make the minimum possible physical impact;*

The development of the long isolated dwellinghouse has the capacity to extend the existing cluster of buildings contained within the existing track onto farmland that serves as the functional floodplain of the Little Eachaig River and adjacent to existing agricultural structures. While other development opportunities may exist within this group of existing buildings on higher ground, the proposed development would be regarded as an unnatural expansion across the track onto lower ground and into the floodplain.

- *Siting – must respect existing landforms and development patterns and the amenity of other dwellings;*

The proposed development requires an element of land raising to ensure that it sits higher than the field to the south which lies within the functional floodplain of the Little Eachaig River where flooding events have occurred frequently and recently. The proposed dwellinghouse would be sited at a lower level than the adjacent dwellings.

While the proposed dwellinghouse has been designed to artificially sit on a platform site higher than the low-lying field that forms part the functional floodplain, the remainder of the site would be unprotected from flood events. Proposals to turn the existing reeded field within the floodplain area into a mown lawn to provide external amenity space for the dwellinghouse could prove futile given the history of flooding on the site. In terms of location, there would be no issues of loss of privacy, daylighting or overlooking from any adjoining buildings that are located some 40 metres distant.

- *Principles of Design – High standards of design are expected where scale form, proportions, materials, detailing, colour must all work together to enhance the existing built form and landscape;*
- *Materials and Detailing – materials and detailing should be compatible with the traditions of the area and be sympathetic to the landscape;*
- *Outbuildings – should relate to the main building in form and design and be carefully positioned on the site, relating to the house;*

In general terms the design of the proposed dwellinghouse is traditional in appearance with appropriate materials. However, whilst the scale and design of the dwelling is generally acceptable, it is the siting of the dwelling that requires land raising out of the floodplain and isolated location on the river side of the track that is considered to be unacceptable.

- *Landscaping and Boundaries – where privacy and amenity is important, built form should be screened from viewpoints using appropriate native planting. Hard-landscaping should be kept to a minimum. Boundaries will either integrate a site or alienate it;*

Shrub and tree screen planting is proposed around the site with post and wire fencing. Whilst no precise details have been submitted in respect of proposed boundary treatments and planting, it is considered that specific conditions could control landscaping and screening of the site within its rural context.

- *Parking – car parking areas should not be dominant features which are highly visible from access ways or dominate views from within buildings.*

The dwellinghouse would be served by the existing unbound access track that would be surfaced in asphalt for the stretch within the application site boundary. Parking for three vehicles is proposed facing the main

entrance to the dwelling but on land on the opposite (north) side of the track. Screening by trees and shrubs is proposed.

Having due regard to the above, the proposal is considered to be inconsistent with Policy STRAT SI 1 STRAT DC 4 and STRAT HO 1 of the Argyll and Bute Structure Plan 2002 and Policies LP ENV 19, HOU 1 and Appendix A of the Argyll and Bute Local Plan.

C. Flooding

A material consideration in an assessment of this application is the risk of flooding and recognition that the greater part of the site forms part of the functional floodplain for the Little Eachaig River whose large catchment area includes many watercourses draining east from Glen Kin, Glen Lean and Gleann Ban.

In terms of SPP7: Planning and Flooding, flood risk is a material consideration for a wide range of sites including those with a history of flooding, in a flood plain, adjacent to a watercourse, drained by a culvert, with drainage constraints or otherwise poorly drained.

While SEPA have not objected on flood risk grounds, the application site (or parts thereof) lies within the 1 in 200 year (0.5% annual probability) flood envelope of the Indicative River & Coastal Flood Map (Scotland), and may therefore be at medium to high risk of flooding. It is however noted that the proposed dwellinghouse itself is adjacent to the Flood Map.

SEPA comment that the 'Flood Risk Statement' within the applicant's Design Report (August 2009) makes reference to the Flood Map but it appears that a crude approximation has been made on the flood outline on a drawing of the site. This is considered to be inappropriate as the Flood Map by its very nature is indicative, and not designed to quantify the risk to individual locations but supports national planning policy. SEPA consider its use in this form as contrary to the terms of use of the Flood Map.

Notwithstanding the general flood risk comments, SEPA find the proposed finished floor level of 13.5m AOD acceptable when taken against the maximum water level of 12.36m AOD recorded at the former Dalinlongart Gauging Station during the November 1979 flood event. It is noted that the development will require land raising to provide a development platform and it is suggested that the volume of land raising should be minimised so as not to encroach on the floodplain and impact its ability to convey and store water at this location. Advice given on water resistant materials and also suggest that frequent surface water ponding in the field should be investigated to ensure that this does not have an adverse impact on the proposed development.

SPP7, including the Risk Framework, and advice from SEPA on flood risk are important material considerations, and accordingly, given SEPA's comments, the proposed development is contrary to the advice given in this document in addition to policies in the adopted Argyll and Bute Local Plan.

While the applicant suggests that, "*the likelihood of flooding from the Little Eachaig River is nil*", there is evidence to demonstrate that the site has flooded in the past and could still be prone to flooding (in an area identified as medium to high risk of flooding) where this trend is not just likely to continue but may increase due to climatic changes. With this in mind, and the capacity of the larger ROA to more appropriate development opportunities, a proposal to build within a floodplain (taking account of the amount of infilling/backfilling required) is considered contrary to sustainable development policies. The department must therefore adopt a precautionary approach consistent with National Planning Guidance and recommend refusal as the proposal stands.

Given the above, the Council have adopted a precautionary approach in terms of potential flooding and the requirement to land raise within the floodplain and the proposal is therefore considered to be inconsistent with the provisions of Policies STRAT SI 1 and STRAT DC 10 of the Argyll & Bute Structure Plan 2002 and Policies LP ENV 1 and LP SEV3 and LP SERV 8 of the Argyll and Bute Local Plan.

D. Road Network, Parking and Associated Transport Matters

Since the previous application (ref. (ref. 06/01964/DET) was refused in December 2006, the private estate road leading from Ballochyle Farm to the junction with the Glen Massan Road has been resurfaced. Roads have no objections in principle to the proposed scheme subject to conditions regarding visibility splays and parking standards. It is noted that the access is not available direct to the A815 where the existing access to the site from the U15 Glen Massan Road has 7.5t weight 7'6" wide and 30' length restrictions.

Car parking provision is considered to be acceptable.

Having due regard to the above the proposal is considered to be consistent with Policies LP TRAN 4 and TRAN 6 of the Argyll and Bute Local Plan.

E. Water Supply

The applicant proposes to sink a borehole south of the proposed development to establish a new private water supply. While not strictly a planning consideration, Public Protection comment that should planning permission be granted, it would be a requirement via suspensive condition that the existing private water supply be maintained and safeguarded and that any proposed development can be served by its own supply with no impact on existing supply. This is also a matter which would be dealt with under a Building Warrant.

Having due regard to the above the proposal is considered to be consistent with Policy SERV 4 of the Argyll and Bute Local Plan.

F. Foul Drainage

It is proposed to install a bio-disc septic tank with soakaway but no details have been provided.

On the basis of a lack of information on proposed foul drainage arrangements, the proposal is considered to be inconsistent with Policy SERV 1 of the Argyll and Bute Local Plan (August 2009).

G. Surface Water Drainage

It is proposed to install SuDS soakaways into the low-lying field that forms part of the functional flood plain. This field is also prone to ponding. No details have been provided.

On the basis of a lack of information on proposed surface water drainage arrangements, the proposal is considered to be inconsistent with Policies SERV 2 and SERV 3 of the Argyll and Bute Local Plan (August 2009).

CONCLUSION

The determining issue in an assessment of this proposal is whether the siting and design of this contemporary rural dwellinghouse together with its amenity spaces in and adjacent to the functional flood plain of the Little Eachaig River, would complement the character of the existing surrounding dwellings within a Rural Opportunity Area.

The proposal would result in an unnatural and unacceptable extension of the existing cluster of buildings at Ballochyle Farmsteadings that are contained within the existing private track. Development outwith this track could lead to an expansion of the existing group of buildings into surrounding low-lying land that is prone to flooding and within the functional floodplain of the Little Eachaig River.

While the Sustainable Design Guidance contained in the Argyll and Bute Local Plan promotes innovative and energy conscious design, it is important that dwellings within Rural Opportunity Areas are attractively sited and appropriate. One of the main aims of Design Guidance 1 is to ensure that future development is in sympathy with its landscape and its surroundings where there is a need to consider both the relationship of new dwellings to their landscape setting and their relationship to other buildings within their immediate area. Although the proposed long, narrow building displays traditional design features, it would require infilling to ensure that the building could be built out of the floodplain of the Little Eachaig River. Whilst the infilled ground could be regraded and landscaped to look natural, it is the location of this dwellinghouse on the opposite side of the access track from existing buildings that result in the building being isolated and out of context in the immediate vicinity.

Furthermore the location of this dwellinghouse does not sit well within its rural surroundings where it does not contribute to the character of the Ballochyle estate and at variance with the existing built form. Siting a dwelling on lower ground across the track from existing dwellings that are located on higher ground would result in a building that could have a detrimental visual impact on the character of the surrounding rural area, and establish a dangerous precedent where there may be potential to build new houses in more suitable development or redevelopment sites.

While recent Design Guidance suggests that modern and sustainable design should be encouraged, it is considered that this is only acceptable on appropriate sites. The application site has a recent history of flooding from the Little Eachaig River which carries a significant amount of water from its large catchment. Despite recent improvements to the river downstream with the installation of gabions, flooding has taken place further upstream where the river has the potential to flood part of the application site. Whilst the applicant has attempted to address issues that caused a similar previous application to be refused, the department remains unconvinced that parts of the site will not be susceptible to flooding and has adopted a precautionary approach. Notwithstanding SEPA's non-objection on flood risk, it is

suggested that the applicant's interpretation of SEPA's Flood Map is inappropriate in this case. Despite the innovative and site constraint influenced 'long-house' design, the applicant has not amply demonstrated that the site and its curtilage are free from flooding therefore contrary to National Policy Guidance and advice from SEPA.

Given the topography, location and background to the application site, the proposed dwellinghouse with its particular siting and layout, does not conform to the layout and pattern of surrounding existing buildings which would be at odds with the existing settlement character, sited within a floodplain and lacking sufficient details on foul drainage and surface water drainage and therefore contrary to Policies STRAT S1 1, STRAT DC1, STRAT DC4, STRAT DC10, STRAT HO1 of the Argyll and Bute Structure Plan, and policies LP ENV1, LP ENV19, LP HOU1, LP SERV1, LP SERV2, LP SERV3, LP SERV8 of the Argyll and Bute Local Plan and accordingly does not justify the grant of planning permission.

REASONS FOR REFUSAL RELATIVE TO APPLICATION REF. NO. 09/01308/PP

1. Having regard to the siting and layout of the proposed dwellinghouse, in isolation to existing surrounding buildings, the development would not complement but be at variance with the existing settlement character with its particular layout and juxtaposed siting. The siting of the dwellinghouse on lower ground on the opposite side of the unsurfaced track (that contains existing buildings) would result in development that would be out of context and visually detrimental within surrounding farmland. Accordingly, such a dwellinghouse with its particular siting and requirements for land raising to avoid the functional floodplain of the Little Eachaig River would be contrary to the principles of sustainable development and of protecting and enhancing the quality of the environment within the Rural Opportunity Area, where there are more appropriate development opportunities. The proposal is considered to be contrary to, SPP 3: Planning for Housing; SPP 15: Planning for Rural Development; Policies STRAT SI 1, STRAT DC 4, STRAT HO 1 of the Argyll and Bute Structure Plan 2002; and to Policies LP ENV1, LP ENV19 and LP HOU1 of the Argyll and Bute Local Plan (August 2009) all of which presume against the nature of the development proposed.
5. The proposed development involves an element of land raising in order to avoid the functional flood plain of the Little Eachaig River in which the proposed development and a large proportion of its amenity space would be located. The applicant has failed to demonstrate that the proposed dwellinghouse and its curtilage by reason of its siting and design within the functional floodplain of the Little Eachaig River would not be at significant risk from flooding. The lack of a detailed Flood Risk Assessment and submitted information and history of the site from flooding is contrary to Scottish Planning Policy SPP7 – Planning and Flooding; PAN 69: Planning and Building Standards Advice on Flooding; Policy STRAT SI 1 (Sustainable Development); Policy STRAT DC10 (Flooding and Land Erosion) of the Argyll and Bute Structure Plan 2002; and policies LP ENV1, LP ENV19 and LP SERV 8 of the Argyll and Bute Local Plan all of which presume against the nature of the development proposed.
6. The applicant has failed to provide accurate information in respect of foul drainage proposals for the application site. The lack of precise foul drainage arrangements is contrary to: policy LP SERV 1 – Private Sewage Treatment Plants and Wastewater Systems of the Argyll and Bute Local Plan (August 2009), which presume against the nature of the development proposed.
7. The applicant has failed to provide accurate information in respect of surface water drainage proposals (SuDS) for the application site. The lack of precise drainage arrangements incorporating a SuDS scheme to alleviate potential flooding of the site and adjacent properties and their land is contrary to: Scottish Planning Policy SPP7 – *‘Planning and Flooding’* and PAN 69 *‘Planning and Building Standards Advice on Flooding’*; Policies STRAT SI 1 *‘Sustainable Development’* and STRAT DC10 *‘Flooding and Land Erosion’* of the Argyll and Bute Structure Plan 2002; and policies LP SERV 2 – *Sustainable Drainage Systems (SuDS)*, LP SERV 3 *‘Drainage Impact Assessment’* and LP SERV 8 *‘Flooding and Land Erosion’* of the Argyll and Bute Local Plan (August 2009), all of which presume against the nature of the development proposed.

APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **09/01308/PP**

(A) Submitted Drawings

For the purpose of clarity it is advised that this decision notice relates to the following refused drawings:

0704/DPP/01 Rev A, 0704/DPP/004 Rev A, 0704/DPP/005/200 Rev B, 0704/DPP/006 Rev A, 0704/DPP/008 Rev A, 0704/DPP/008-R1 Rev A, 0704/DPP/009 Rev A, 0704/DPP/010 Rev A, 0704/DPP/012 Rev A, 0704/DPP/014 Rev A

(B) 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.

No

App:

(A)

(B)

App:

(A)

(B)

App:

(A)

APPENDIX 2

**OPERATIONAL SERVICES
BUTE & COWAL AREA
OBSERVATIONS ON PLANNING APPLICATION**

Planning No: 09/01308/PP
Contact: FARRELL PR
Tel: 01369708600

Grid Reference: NS 1482

Applicant: Mrs F Boyd
Proposed Development: Erection of dwelling
Location Ballochyle Farm
Type of Consent: Detailed
Ref No(s) of Drg(s) submitted: Location & Site plans and details (11 + report)

Dated: 08/08/09

Received: 21/09/09

RECEIVED
12 OCT 2009

RECOMMENDATION		No objections subject to conditions	
Proposals Acceptable Y or N		Proposals Acceptable Y or N	
1. General		3. New Roads N/A	
(a) General impact of development	Y	(a) Widths	
(b) Safety Audit Required	N	(b) Pedestrian Provision	
(c) Traffic Impact Analysis	N	(c) Layout (Horizontal/ Vertical alignment)	
(d) Flooding Assessment	N	(d) Turning Facilities (Circles/Hammerheads)	
2. Existing Roads		(e) Junction Details (Locations/Radii/Sightlines)	
(a) Type of Connection (Road Junct/Footway Crossing)	Y	(f) Provision for PU	
(b) Location(s) of Connection(s)	Y		
(c) Sightlines 120 x2.5 m	Y		
(d) Pedestrian Provision	Y		
			4. Servicing & Car Parking
			(a) Drainage
			Y
			(b) Car Parking Provision
			Y
			(c) Layout of Parking Bays/ Garages
			Y
			(d) Servicing Arrangements/ Driveways
			Y
			5. Signing N/A
			(a) Location
			(b) Illumination

Item Ref	COMMENTS
1, 2 4	This development is accessed from A815 Sandbank via a private road. The available sightlines at the existing access on to the A815 meet the requirements. There should be parking available for 2 vehicles and a turning area within the development. At present access is not available from the A815 due to the condition of an existing bridge. Access to the site will be from U15 Glenmasson Road which has 7.5t weight 7'6" wide and 30' length restrictions in place or B836 from an existing access west of the Rumbling Bridge. The sightlines at this access to be a minimum of 120 x2.5m in both directions. Any hedge, wall or fence within the visibility splays must be maintained at a height not exceeding 1m above the carriageway.

Item Ref	CONDITIONS
2, 4	The available sightlines at the existing access on to the A815 meet the requirements. There should be parking available for 2 vehicles and a turning area within the development. The sightlines at the access to B836 to be a minimum of 120 x2.5m in both directions. Any hedge, wall or fence within the visibility splays must be maintained at a height not exceeding 1m above the carriageway.

Notes for Intimation to Applicant

(i)	Construction Consent (S21)*	Not Required
(ii)	Road Bond (S17)*	Not Required
(iii)	Road Opening Permit (S56)*	Not Required

*Relevant Section of the Roads (Scotland) Act 1984

Signed: Paul R Farrell

Date: 12/10/09

Copies to: Planning Maint SOID File

Argyll and Bute Council
Comhairle Earra Ghàidheal agus Bhòid

Memo



Operational Services

RECEIVED

Date: 15th October 2009

To: Planning Section
Milton House
Milton Avenue
Dunoon
PA23 7DU

Your Ref: 09/01308/PP

From: Ian Gilfillan
Blairvadach

Our Ref: R05005/C
Telephone: 01436 658878

PROPOSED HOUSE, 3 BALLOCHYLE FARM, SANDBANK, DUNOON

I refer to your letter of 18th September 2009.

In relation to flooding there are no objections if a finished floor level of 13.600m A.O.D is established.

A handwritten signature in black ink, appearing to read 'Ian Gilfillan', written in a cursive style.

Ian Gilfillan
Flood Alleviation Manager

ARGYLL AND BUTE COUNCIL

LEGAL AND PROTECTIVE SERVICES
Head of Service: SUSAN MAIR



Area Office, 22 Hill Street, Dunoon, PA23 7AP

Telephone: 01369 707120

Extension: 7120

Fax: 01369 705948

e-mail address: jo.rains@argyll-bute.gov.uk

INTERNAL MEMORANDUM

Date: 12th November 2009

To: Director of Development Services
F.A.O. Brian Close

Your Ref: 09/01308/DET

From: Mrs Jo Rains, Area Environmental Health Manager
Bute and Cowal

Our Ref: JHR/DS

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

PROPOSAL: Erection of dwellinghouse, formation of car parking area and installation of septic tank

ADDRESS: Land to the south west of Cottage 3, Ballochyle Farm, Sandbank

Grid Reference: 214184 682158

I refer to the above application for outline consent to effect the erection of a dwelling house at the above site.

It is the intention of the applicant to effect a water supply to the proposed development by way of connection to a new private borehole supply at the locality. With regard to the adequacy of the supply in question, water quality must meet the requirements of the Private Water Supply (Scotland) Regulations 2006, but this is not a matter for consideration by the planning process. However, the adequacy of the supply with regard to the issue of the **quantity** of water capable of supporting an existing usage and the proposed usage without affecting any surrounding private water supplies requires to be addressed at the planning stage.

To satisfy this requirement a report by Transtech Ltd has been submitted to support the application.

It is further the intention of the applicant to effect a drainage system at the proposed development by way of provision of connection to an individual septic tank with a soakaway outfall. The system of drainage to be provided will require to be in accordance with the requirements of the relevant Building (Scotland) Acts and will be a matter for consideration by the Building Standards office.

In order to ensure public health should this development proceed, should the application be approved I would ask that the following condition be placed on any consented development.



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- The development shall not be brought into use or occupied until the private water supply has been installed in accordance with the accompanying report and tested to ensure compliance with the Private Water Supply.

J H Rains
Area Environmental Health Manager
Bute and Cowal

JH
AR
BU



Our ref: 09/01308/PP/CC/BL
Your ref: PCS/104096

If telephoning ask for:
Carole Chapman

19 November 2009

Brian Close
Development Services
Argyll and Bute Council
Milton House
Milton Avenue
Dunoon
PA23 7DU

By email only to: planning.maki@argyll-bute.gov.uk

Dear Mr Close

Town and Country Planning (Scotland) Acts

Planning application: 09/01308/PP

**Erection of dwellinghouse, formation of car parking , installation of septic tank and
creation of private water supply (flood risk)**

Land south west of Cottage, 3 Ballochyle Farm, Sandbank, Dunoon

Thank you for your consultation letter of 26 October 2009 which SEPA received on 27 October 2009.

The new application for the above site (submitted to SEPA on 25 September 2009 PCS/103676) fell below our threshold level and therefore we sent a standard response back. I can now confirm that this application has now been considered by our flood risk specialists.

We have **no objection** to the proposed planning application on flood risk grounds. Notwithstanding this we would expect Argyll & Bute Council to undertake their responsibilities as the Flood Prevention Authority. Please note the advice provided below.

Advice for the planning authority

Flood Risk

We have reviewed the information provided in this consultation and it is noted that the application site (or parts thereof) lies within the 1 in 200 year (0.5% annual probability) flood envelope of the Indicative River & Coastal Flood Map (Scotland), and may therefore be at medium to high risk of flooding. It is noted however that the dwelling house itself is adjacent to the Flood Map.

The 'Flood Risk Statement' within the Design Report by Line Architecture makes reference to the Indicative River & Coastal Flood Map (Scotland) and it appears that a crude approximation has been made of the flood outline on a planning drawing of the site. This is inappropriate as the map is by its very nature is indicative, and not designed to quantify the risk to individual locations but supports national planning policy. Notwithstanding this its use in this form is contrary to the Terms of Use of the Flood Map as outlined on the SEPA web site.

1.3 The maximum water level of 12.36mAOD recorded at our former Dalinlongart Gauging Station during the November 1979 flood event has been considered when determining a Finished Floor Level of 13.5mAOD within the proposed development. We would generally find this proposed Finished Floor Level acceptable given our historic records and the topographic level difference above normal water levels in the Little Eachig burn.

1.4 It appears from Planning Drawings by Line Architecture that land raising is proposed to provide a development platform. Given the location of the site, the volume of landraising should be minimised so as to not encroach on the floodplain and impact its ability to convey and store water at this location.

1.5 The applicant may wish to consider the use of water resistant materials as outlined in Planning Advice Note 69: Planning and Building Standards Advice on Flooding in the construction of the property.

1.6 We acknowledge receipt of a letter of representation from Kirsteen Manuel dated 14 October 2009 raising concerns regarding the potential flood risk to this proposed development. Whilst we acknowledge the proximity of the proposed development to the floodplain of the Little Eachig, we are of the opinion that the risk has been considered and appropriate management strategies employed as outlined above.

1.7 It would appear from the photographs supplied by Mrs Manuel that there is a potential issue with surface water ponding in proximity to the development in the event of heavy rain. We recommend that the Flood Prevention Authority comment on any requirements for surface management strategies to ensure that this does not have an adverse impact on the proposed development.

This advice is given without prejudice to any decision made on elements of the proposal regulated by us, which may take into account factors not considered at the planning stage.

Detailed advice for the applicant

Flood Risk

1.8 The Indicative River & Coastal Flood Map (Scotland) has been produced following a consistent, nationally-applied methodology for catchment areas equal to or greater than 3km² using a Digital Terrain Model (DTM) to define river cross-sections and low-lying coastal land. The outlines do not account for flooding arising from sources such as surface water runoff, surcharged culverts or drainage systems. The methodology was not designed to quantify the impacts of factors such as flood alleviation measures, buildings and transport infrastructure on flood conveyance & storage. The Indicative River & Coastal Flood Map (Scotland) is designed to be used as a national strategic assessment of flood risk to support planning policy in Scotland. For further information please visit www.sepa.org.uk/flooding/flood_map.aspx.

1.9 We refer the applicant to the document entitled: "*Technical Flood Risk Guidance for Stakeholders*". This document provides generic requirements for undertaking Flood Risk Assessments and can be downloaded from www.sepa.org.uk/flooding/flood_risk/planning_flooding.aspx. Please note that this document should be read in conjunction with Annex B in SEPA Policy 41: "*Development at Risk of Flooding, Advice and Consultation – a SEPA Planning Authority Protocol*", available from www.sepa.org.uk/flooding/flood_risk.aspx.

2.3 Our Flood Risk Assessment checklist should be completed and attached within the front cover of any flood risk assessments issued in support of a development proposal which may be at risk of flooding. The document will take only a few minutes to complete and will assist our review process. It can be downloaded from www.sepa.org.uk/flooding/flood_risk/planning_flooding/fra_checklist.aspx

2.4 Please note that we are reliant on the accuracy and completeness of any information supplied by the applicant in undertaking our review, and can take no responsibility for incorrect data or interpretation made by the authors.

Regulatory advice

Regulatory requirements

2.1 The advice contained in this letter is supplied to you by SEPA in terms of Section 25 (2) of the Environment Act 1995 on the basis of information held by SEPA as at the date hereof. It is intended as advice solely to Argyll & Bute Council as Planning Authority in terms of the said Section 25 (2).

2.2 Details of regulatory requirements and good practice advice for the applicant can be found on our website at www.sepa.org.uk/planning. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the Environmental Protection and Improvement Team in your local SEPA office at:

Lochgilphead office
2 Smithy Lane
LOCHGILPHEAD
PA31 8TA
Tel: 01546 602876
Fax: 01546 602337

If you have any queries relating to this letter, please contact me by telephone on 01349 860305 or e-mail at planning.dingwall@sepa.org.uk.

Yours sincerely

Carole Chapman
Senior Planning Officer
Planning Service

Copy to: Linearchitecture (Agent)
1-1 37 Kersland Street
Glasgow
G12 8BP

APPENDIX 3

Ballochyle
By Dunoon
Argyll PA23 8RD

Brian Close
Planning officer
Argyll & Bute Council
4 Milton Avenue
Dunoon, PA23 7DU
15th Dec 2009

RECEIVED

16 OCT 2009

Dear Mr Close,

Mrs Fiona Boyd; Erection of dwelling house, planning application # 09/01308/PP

I would like to make an objection to this planning application on the following grounds.

- Planning & Flooding – SPP7
- Private Water Supply – use of Bore Hole
- Working farm buildings in close proximity
- Ballochyle Farm Cluster
- Access/Parking/Boundaries

Planning & Flooding: SEPA hold indicative flood risk maps which indicate the area is in high risk of flooding. They also note that they would likely object to any planning application proposal. Please see correspondence attached dated 27th April 2006. I would also like to draw your attention to the applicants flood map which indicates it as a SEPA rivers and coastal flood map. Knowing the area and where the river last broke its banks this is not a natural flow of excess water, I would ask that SEPA's official map is requested. On that note I have myself contacted Dr Marc Becker asking them to clarify the flood pattern that the applicant has submitted, please see attached.

The application states that the highest ever recorded flood level in this area is 12.36m, 1.14m below the finished floor level of the proposed dwelling and therefore the likelihood of flooding from the Little Eachaig is nil. I feel this is a little ambiguous, with climate change and river erosion who can say what will happen in years to come. Our summers have been the wettest on record with heavy flooding of the said area in recent years.

On a previous application in May it was detailed that the property is 13.40m at its entrance, 13.15m external ground level to the left and 12.65m external ground level to the right (as you look at the plan) points from front to back of the proposed dwelling range from 0.68m and 0.29m above the noted highest recorded flood level. Are there further proposals to raise the site in order for it to clear the flood risk by the 1.14m noted? On the current proposal I can not see the sight being 1.14m clear of recorded floods.

Enclosed are pictures taken during the summer that show recent flooding in the field which would be the curtilage to the applicants' dwelling house. The flooding I believe is mainly due to heavy rain collected as ground water, the pictures clearly show how wet the ground is with heavy growth of reeds. Please see planning advice note 69.

Use of Bore Hole as a private water supply: The applicant proposes to sink a borehole where there is no evidence, in times of flood, that this will not become polluted. The risk of water seepage from the river into the bore hole would need to be assessed. The little Eachaig, and its catchment area, is known to be polluted from the old Dalilongart Coup, this can't be overlooked.

Working farm buildings in close proximity: The proposed dwelling is in the midst of working farm buildings. Not noted on the map are sheep pens and dipping facilities. There are also farm sheds and a midden that sits on the boundary of the proposed dwelling house.

Ballochyle Farm Cluster: The applicant denotes the proposed dwelling to be part of the Ballochyle Farm Cluster. The applicant was sold the property as a courtyard, not a farm. The location noted is too small for a government crofter's grant so technically should not be known as 'Farm' or 'Farm Cluster'

Boundaries/Access: The point of the proposed dwelling highlights 3 car parking spaces, again I would like to note the close proximity of working farm buildings and use of machinery, the area is already often blocked due to additional cars from the split of cottages 1 & 2.

The applicant does own the road & access rights for the proposed dwelling house, however everyone on the estate has a servitude right to use the road, the applicants plan shows that the area of road in question will be resurfaced, this will not be in keeping with the rest of the farm tracks, there look on the map to be 2 lines where there may be intentions to close this area to other road users.

Access to the dwelling house & the applicants' private road would be on my private road to the Ballochyle estate; this connects with the U15 Glen Massan Road and in turn with the A815. I have not been notified of 3 more cars wishing to have constant use/access of this road. The private road has recently been resurfaced, at a personal expense to the current road users. The new house would have to be given a servitude right by the owners of the main access road; I do not believe this has been accounted for in application.

Site History: A previous 3 applications have been made by the same applicant on both the mentioned site and surrounding area, 06/00472/DET withdrawn on the 18th September 2006 following concerns regarding flooding & suitability of the site for residential purposes. 06/01964/DET; Refusal of planning application on the 24th November 2006. 09/00612/DET; withdrawn in May 2009 following concerns of all neighbours due to additional strain of private water supply. When is this going to end?

I look forward to hearing from you,

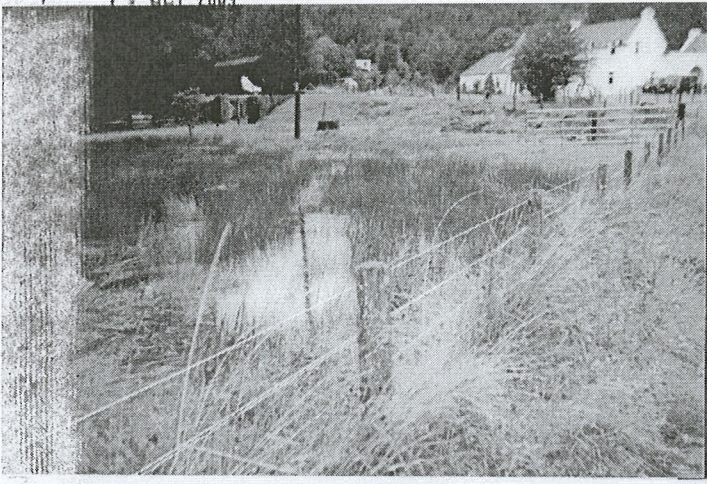
Yours Sincerely,



Kirsteen Manuel

19 OCT 2009

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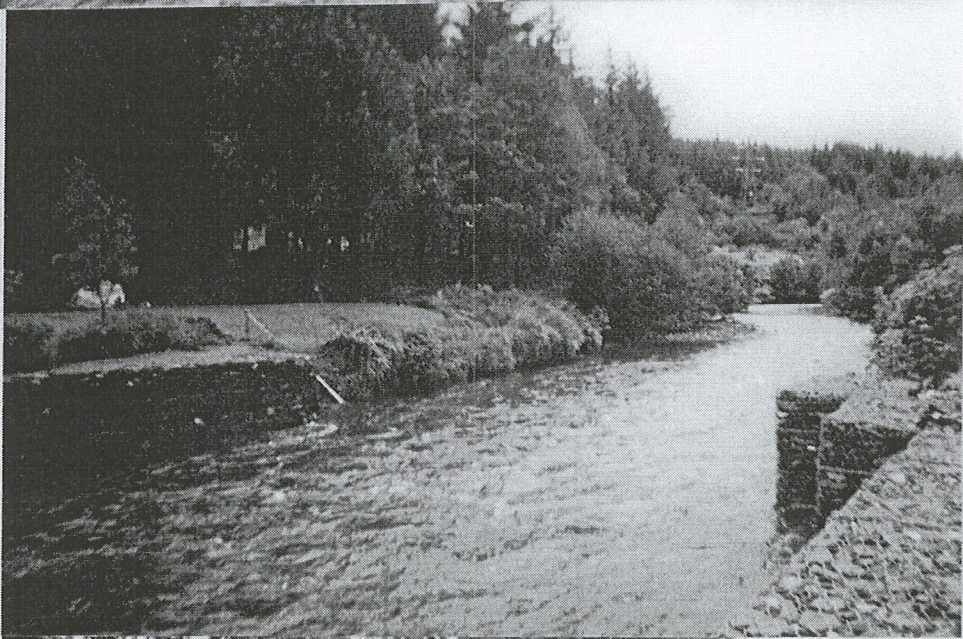
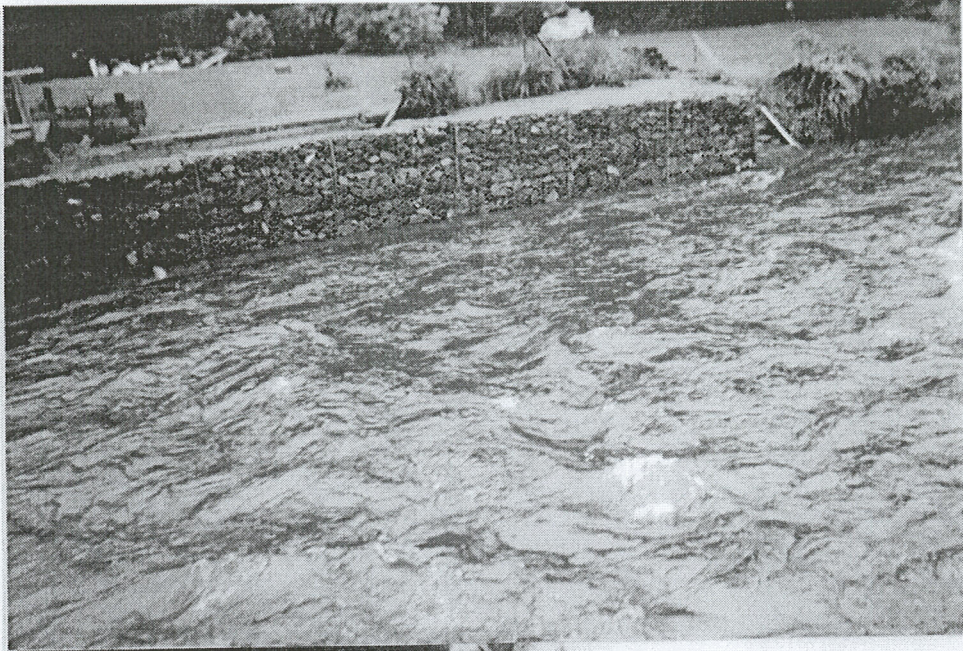


Ballochyle

Photographs taken 8.9.09

Explanation of Enclosed Photographs Page 1

- 1 The effect of August rain on already saturated ground without any flooding. Site of proposed house is in front of existing dwellings, on the bank.
- 2 View of 1 from site of proposed house.
- 3 Rain water lying in channel of River Eachaig's previous course on top side of proposed housing site which could easily become a channel again in times of flood. The existing river course is just in front of Keith Tate's house – see 3. on page 2.
- 4 Close up of rain water lying in old river course on top side of proposed house site.



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Ballochyle

15 OCT 2008

Photographs Taken 8.9.09

Explanation of Enclosed Photographs Page 2

- 1 River Eachaig showing gabions on Keith Tate's side above his house.
- 2 Gabions jutting out and narrowing the river flow which in flood will exacerbate the situation of the flood plain which by this time is in full spate up river.
- 3 Keith Tate's house showing its position against the River. In the major flood (1997) Mr Tom Pearson went by road to rescue the Tate family with the river still rising and lapping at his door.

15 OCT 2009

**Ballochyle
By Dunoon
Argyll PA23 8RD
Tel/Fax 01369 70 4412**

Dr Marc Becker
Senior Hydrologist
SEPA
Redwood Crescent
Peel Park
East Kilbride G74 5PP

14th October 2009

Dear Dr Becker,

Once again I would like to call on your expert advice in reference to planning application on/next to a flood plain. I enclose various pieces of previous correspondence which are still relevant.

Mrs Boyd has applied for planning, yet again, on the flood plain next to my ground, which as recently as a month ago was flooded from my fields on to the area where she intends to build. The worrying thing was that the flooding was not from the river Eachaig this time but coming up from the ground, the culmination of a very wet summer.

I am sending photographs, taken at that time, to the planners. Mrs Boyd goes into great detail about the recently constructed gabions on the river bank which has narrowed this area of the river.


When the major flood occurred, in the past ten years, the river rose to the height of the steps to the house on the opposite bank to where the Boyd's would like to build. I am also including a detailed map, which the Boyd's submitted with their planning application, showing the flood risk area which I do not believe is correct. Mr Tom Pearson, of Till Hill EFG, states the bottom of the road at Ballochyle and the field leading to the then EFG offices were all flooded, extremely seriously, to the height of the office windows.

The river has flooded twice in the last 10 years. What the Boyd's don't realise is that the river doesn't flood from the area of the gabions but further upstream, from the top end of my field which was probably the track of the river many years ago.

What concerns me greatly is that as the owner of this field, I don't want to be held responsible for any future flooding or damage. It seems that weather patterns are changing and our climate in Argyll is getting wetter & wetter, with ever increasing risks of flooding. I am also including a detailed map with the plans showing the flood risk area which I do not believe is correct

I would greatly appreciate your advice on this matter,

Yours sincerely,


Kirsteen Manuel

Our Ref: MBB/DS
Your Ref: Letter 24.04.06

Mrs Kirsteen Manuel
Ballochyle
By Dunnon
ARGYLL
PA23 8RD

If telephoning ask for:
Marc Becker

27 April 2006

Dear Mrs Manuel

FLOOD RISK – FIELD ADJACENT TO LITTLE EACHAIG RIVER

I refer to your letter dated the 24 April 2006 regarding flood risk at the above location (214369 682163).

I can confirm SEPA hold indicative flood risk maps which indicate that the area is at risk of flooding from the '100 year' flood (the event with a 1% risk of occurrence in any one year). However, I understand you have evidence that the site has flooded in recent years, and SEPA also hold records of flooding of the area during the late 90's. This information, in conjunction with data from our gauging station (just upstream of the field), would lead me to suggest that the field is likely to flood as frequently as perhaps once every five years on average.

In relation to your query as to the possibility of the site being used for development purposes, SEPA would advise that the field is in an area at very high flood risk, and development at this location (other than for the few exceptions provided for in Scottish Planning Policy Guidelines 7 (SPP7) – Planning and Flooding) would likely be contrary to SPP7. Therefore, if SEPA were consulted on residential development at this location, we would likely object to any such proposal.

The advice contained in this letter is supplied to you by SEPA under the Environmental Information Regulations 1992 in response to your request of information under these regulations. This information is the information relating to your request held by SEPA as at the date hereof under section 25(1) of the Environment act 1995.

I trust this information is of use, and should you require any further advice or clarification please get back in touch with me.

Yours sincerely



Marc Becker
Senior Hydrologist (Flood Risk)



Chairman
Sir Ken Collins

Chief Executive
Dr Campbell Gemmell

East Kilbride Office
Redwood Crescent, Peel Park, East Kilbride G74 5PP
tel 01355 574200 fax 01355 574688
www.sepa.org.uk

**Ballochyle
By Dunoon
Argyll PA23 8RD
Phone/Fax 01369 70 4412**

24th April 2006

Dear Dr Becker,

Please find enclosed a copy letter to Mr Jim Frame dated 15th March 2006, providing a map which he wished to send on to you.

He said you were the authority on Flood Risk Assessment and could provide information on the flood pattern on the Little Echaig which SEEPA is monitoring.

I am particularly interested because I was wishing to purchase a field next to the river, purely for agricultural use, which ajoins my land.

I would be very grateful if you give me some guidance about the flood risk. How is my enquiry progressing ?

Yours sincerely,

Mrs Kirsteen Manuel

Ballochyle
By Dunoon
Argyll PA23 8RD
Phone/Fax 01369 70 4412

Dr M Becker
SEPA
5 Redwood Crescent
Peel Park
East Kilbride G74 5PP

17th September 2006

Dear Dr Becker,

I am enclosing my original letter to refresh you with the situation about which you sent me an excellent reply. I promised to send you further information, if it came to hand. Steven Thom has supplied me with this.

I have not managed to buy the field and the owner now plans to build on this ground a house on stilts. I will be sending my objections to the planners and no doubt SEPA will be called in for advice. The owner of the ground has not see it in flood. !!

Thank you for your help.

Yours sincerely

Kirsteen Manuel

RECEIVED

Planning Services
Milton House
Milton Avenue
Dunoon
PA23 7DU
FAO Mr Brian Close

1 Ballochyle Estate
Sandbank
Dunoon
Argyll
PA23 8RD

Tel/Fax: 01369 701 173
Mob: 07831 386 601
Date: 27th October 2009-10-27

Dear Sir

**Neighbour Notification – 09/01308/PP
Land South East of Cottage 3 Ballochyle Farm
Mrs Fiona Boyd**

I refer to the above Neighbour Notification concerning the proposed erection of a dwelling house to the South East of Cottage 3 Ballochyle Farm. There are three issues concerning the application that I would like to bring to the attention of the Planning Department.

1. The application states that drinking water for the proposed house would be taken from a bore hole to be located to the south east of the proposed house site. I would like to be assured that tests to determine the quality and quantity of the supply would be carried out before any building works took place. My reason for raising this is so that the estate's private water supply could not be used as a fall back if the bore hole proved fruitless.
2. The application shows that vehicle access to the proposed house site is to be taken via the applicants owned track leading at present to Cottage 3. I would like to be assured that, in the event of planning permission being granted, this condition of access is maintained in the new house title.
3. The estate track running through the proposed house site which would separate the house and the proposed parking area is an estate track over which all Ballochyle residents have rights of access in title. I would like to be assured that, in the event of planning permission being granted, the track would remain unrestricted for pedestrian and vehicular use.

Yours Sincerely



Tom Pierson

Cottage 3
Ballochyle Farm
Sandbank
PA23 8RD

23rd October 2009

Dear Mr Close

Please find enclosed responses to objections raised by Mrs Kirsteen Manuel regarding planning application no 09/01308/PP

Planning and Flooding

I read with interest Mrs Manuel's grounds for objection. The SEPA Rivers and coastal flooding map clearly shows that the proposed house plot is outside the area marked at risk of flooding. The finished floor level of the proposed dwelling will be above the level of flood risk as noted by the highest recorded level at the Dalinlongart gauging station. The photographs supplied by Mrs Manuel appear to show a puddle in the field due to the collapsed field drains which are made of clay pipe. These have not been maintained over the years and were probably installed during the time that Mrs Manuel and her late husband owned the property. I was pleased to see a photo of the river in full spate included. This gives a very good picture of how well the new gabions have dealt with the river flow during a period of record rainfall. Previously to this the weir had fallen into a poor state of repair and caused flood water to back up. The new channel very successfully deals with increased water flow.

Dr Becker's letter in 2006 states what SEPA's position may be if consulted however without having seen the plans for the proposed dwelling or visited the site then Dr Becker only has Mrs Manuel's letter and a flood map for reference. Any information supplied by Mrs Manuel to SEPA must be viewed with a degree of suspicion. She states she is requesting the information because she was attempting to purchase the field. I have no knowledge of any offer for my property from Mrs Manuel nor does my solicitor. However we do have knowledge of Mrs Manuel attempting to purchase the field to the NW of the application site from a MR Brian McDonald and it is this field, not our proposed development site to which she appears to be referring.

Anecdotal evidence of flooding from Mrs Manuel must also be viewed with a degree of suspicion. She is not a full time resident at Ballochyle, indeed her main residence seems to be in London. Seeing as she is only an occasional visitor I am not sure how much credence can be given to her "eyewitness" reports of flooding. I have been permanently resident in Ballochyle Farm since 2004, through two of the wettest winters since records began and this field was never flooded. I have no desire to build a home for me and my children in an active flood plain.

Working Farm Buildings in Close Proximity

Mrs Manuel's assertion that the dilapidated barns adjacent the proposed dwellings are working farm buildings is wholly false. Indeed if they are working farm buildings my solicitor

would be interested to know what access rights I have granted to Mrs Manuel regarding farm vehicles on the lane that I own leading to these barns. Mrs Manuel I believe has let the grazing rights to some nearby fields to a farmer from Glendaruel. Very occasionally this farmer visits to move the sheep from one place to another. In the four years I have lived here I have not yet seen the dipping area be used nor the barns themselves be used for anything other than occasional storage of gardening equipment. The "midden" that Mrs Manuel refers to must mean the area where grass clippings are occasionally dumped.

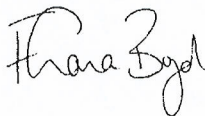
Boundaries and Access

There have been no issues brought to my attention regarding any lane being blocked by vehicles anywhere close to the proposed development site. Mrs Manuel seems to be making a rather large assumption regarding the lane being closed to other users if the proposed development goes ahead. I am aware that the local authority is composing a core path system nearby and as a keen walker I would welcome the fact that people use the estate roads for recreational purposes. I have two young children who enjoy the fact they can walk or cycle the quiet lanes beside the house therefore I have no desire to deprive others of this enjoyment. Mrs Manuel however feels very differently about this and indeed from my observations over the years, when she is in residence she is 'robust' in dealing with walkers or cyclists on roads leading to her property within the estate and in no way embraces the very good piece of legislation that is the Land Reform (Scotland) Act 2003 giving people the right to roam.

Any legal issues that Mrs. Manuel feels are relevant regarding the servitude rights of the access road are not of any relevance to the planning application of the proposed dwelling. They are separate legal matters to be dealt with between solicitors and the Land Registry.

To conclude I would like to add that Mrs. Manuel is a consistent objector to any proposed development in the area of the old Ballochyle Estate. Mrs. Manuel neither lives full time in the local area nor works in the local community. I have two children who attend local schools in the area and I work in the Dunoon area. This proposed dwelling is for my family and I to hopefully build and occupy for many years to come. The local Benmore and Kilmun community action plan identifies that the local area has some 55% percent of the population economically active. This compares to a national average of 65% and a national park average of 68% indicating that the area has "a very high rate of retired people" (Community Action Plan 2009). The number of working families in the area is falling and the fact that they are unable to build affordable housing in the area is a key factor in this. With objections such as those raised by Mrs. Manuel, is this any surprise?

Regards



Fiona Boyd

APPENDIX 4

Milton House, Milton Avenue, Dunoon, PA23 7DU
Tel: (01369) 708606 or 708607; Fax: (01369) 708609

17th January 2008
Our Ref: Devcon08/ DC15/BC1701
Contact: Brian Close; Direct Line: (01369) 708604

Mr. Darran Crawford
Cottage 3
Ballochyle Estate
Sandbank
Argyll PA23 8RD

Dear Sir

RE: PROPOSED RESIDENTIAL DEVELOPMENT AT BALLOCHYLE FARM, ARGYLL.

With reference to your letter and submissions of 7th January 2008 the department would offer the following comments without prejudice.

In the adopted Cowal Local Plan 1995, the site that you refer to is shown outwith the existing settlement of Sandbank where it would require to be assessed against *inter alia* Policy RUR 1: Landscape Quality and Policy HO10 Housing in the Countryside. The existing policies contained within the adopted Cowal Local Plan, do not offer support for development of this site for residential purposes. However, while the Cowal Plan constitutes the Development Plan, this plan is being updated by the Argyll and Bute Modified Finalised Draft Local Plan June 2006, which should be given significant weight in an assessment of this proposal.

In the Argyll and Bute Modified Finalised Draft Local Plan June 2006, the site is contained within a Rural Opportunity Area (ROA) within which open countryside locations are only considered appropriate where small scale housing developments will be in tune with landscape character and settlement pattern.

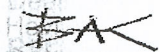
Previous applications included a scheme (ref.06/00472/DET) that was withdrawn on 18th September 2006 and a subsequent application (ref.06/01964/DET) refused on 6th December 2006 on grounds of design, siting, materials and development within the functional floodplain of the Little Eachaig River.

Having regard to the currently submitted scheme, the re-orientation, slight reduction in scale and proposed materials do not detract from the fact that part of the curtilage of the property lies within the floodplain of the Little Eachaig River. In terms of SPP7: Planning and flooding, "*new development should not take place if it would be at significant risk of flooding from any source or would materially increase the probability of flooding elsewhere. The storage capacity of functional floodplains should be safeguarded, and works to elevate the level of a site by landraising should not lead to a loss of flood water storage capacity.*" It is considered that a property at risk from flooding comprises not just the building itself but its access and garden/amenity areas with particular reference to foundations and underbuild. PAN69: Planning and Building Standards Advice on Flooding offers design guidance when building within a floodplain or landraising.

It is therefore suggested that you contact SEPA directly for their formal response prior to contacting the department again for a further detailed response. If an application is lodged without prior initial consultation with SEPA and a detailed Flood Risk Assessment there is a possibility that a similar recommendation will be made to the previously refused scheme. These comments form a policy-based response and do not include specific comments from Roads or SEPA in respect of access and drainage/flooding issues.

I trust these informal comments, given without prejudice, will be of some assistance. Your attention is drawn to the footnote.

Yours faithfully



Area Planning Officer
Development Management, Bute and Cowal

The preliminary assessment is based on current information. In the event of a formal application being submitted, the Council must take into account views of consultees and representations as appropriate. Any report to Committee must reflect this and may therefore differ from the initial assessment. Finally, the above informal views may not necessarily be those of the Committee.

APPENDIX 5

