

Argyll and Bute Council

Comhairle Earra-Ghàidheal agus Bhòid



Building Standards Guidance on Building Works Without Statutory Consent



Introduction

Argyll and Bute Council is the verifying body for Building Warrant applications submitted within the geographical area of Argyll and Bute. The role of the Verifier is to protect the public interest by providing an independent check and, when satisfied, the approval of an application for Building Warrant, and also issue a Notification of Acceptance of the Completion Certificate submitted by the Applicant if they are satisfied that the work complies with the relevant Building Warrant and Building Regulations.

For building works within Argyll and Bute, permission will normally be required from the Local Authority's Building Standards section.

It is hoped that the information provided in this guidance will assist you to obtain the appropriate approval as quickly and as easily as possible.

Building works without statutory building consent

The Building (Scotland) Act 2003 and its predecessor, the Building (Scotland) Act 1959 both contain a requirement that a Building Warrant is granted prior to any building or demolition work being undertaken. However, Argyll and Bute Council Building Standards section often finds itself being requested to assist owners, who are having difficulty selling their property due to unauthorised works having been carried out, often by previous owners. The process for dealing with such circumstances is commonly known as a "Letter of Comfort".

The consideration of unauthorised building works is categorised by dates and are processed in different ways depending upon which period and legislation they come under.

- Prior to June 1964 – Local Burgh Bye-Laws
- 1964 to 30th April 2005 – Building (Scotland) Act 1959 and Building (Scotland) Act 1970
- 1st May 2005 onwards – Building (Scotland) Act 2003

Works prior to June 1964

All building works and alterations carried out prior to the introduction of the Building (Scotland) Act 1959 in June 1964 were controlled by Local Burgh Bye-Laws. Given the length of time since such works or alterations were carried out and the lack of historical records the Council will not issue any retrospective approvals for works undertaken prior to June 1964.

Works between June 1964 and 1st May 2005

All domestic and commercial building works and alterations carried out during this time frame would have required a Building Warrant, unless falling into the exempt classes outlined below.

Only works completed before 1st May 2005 will be considered for a “Letter of Comfort”. However, an application falling within this category is only accepted at the discretion of the Local Authority.

Anyone with an interest in a property can apply for a “Letter of Comfort”. This includes owners, prospective owners, conveyancing solicitors, etc., provided that the owner has given their permission to allow access for inspection.

It should be noted that the inspection may result in the need for remedial works to be undertaken prior to a further inspection and the “Letter of Comfort” being issued. Failure to do so may result in statutory action being taken by the Local Authority.

The majority of the works carried out that do not have the required statutory consent are minor alterations, however, in certain circumstances where the alterations are extensive, such as loft conversions are done or extension, drawings will be required to be submitted and processed at the applicant’s expense. In addition to the provision of drawings, if the unauthorised works involve extensive structural matters then input from a Structural Engineer may be required.

For further information on the “Letter of Comfort” process please see our [“Letter of Comfort” guidance note](#) available from our website at www.argyll-bute.gov.uk or from any of our [area offices](#).



PLEASE SEND YOUR COMPLETED APPLICATION FORM TO THE AREA OFFICE CLOSEST TO THE LOCATION OF YOUR PROJECT

For Official Use Only:	
Reference No.	
Date of Receipt	
Fee Paid Date of Receipt	

APPLICATION FOR PROPERTY INSPECTION SERVICE

APPLICANT	AGENT (if applicable)
Name:	Name:
Address:	Address:
Postcode:	Postcode:
Telephone:	Telephone:
E-mail*:	E-mail*:

* It is our policy to conduct correspondence by electronic means where possible. If you do provide your Email address we will assume you agree to being contacted electronically.

Owner of Property (if different from applicant):

Address of Property (where works have been carried out):

Contact Name & Telephone No. (Day) to arrange entry:

The above named, hereby apply for an inspection of the following works which, so far as can be ascertained, have not been authorised by any Buildings Authority.

The works were carried out within the following periods (tick as appropriate)

June 1964 - April 1982 April 1982 – April 1991 April 1991 – 1st May 2005

The above property has been inspected previously by a Valuation Surveyor and/or other appropriate professional and noted below is his/her name, address and telephone number. ***!!We*enclose a copy of such inspection report.***

Name:.....
 Address:

Telephone No.:.....

Abnormalities to works exempt from the requirement of a “Letter of Comfort”

During this period the Building Standard (Scotland) Regulations have been revised and amended on numerous occasions and a result of these change have meant that conservatories have been included then exempted from the requirement of needing a Building Warrant. The details of these periods are as follows:

- Conservatories between 8m² and 30m² built between November 1996 and September 2001, with a year’s grace given to those who had proof that the *conservatory* was purchased/ordered prior to their re-introduction, **did not** require a Building Warrant.

Works started on or since 1st May 2005

All domestic and commercial building works and alterations started since the 1st May 2005 would have required a Building Warrant, unless falling into the exempt classes outlined below. The process under the Building (Scotland) Act 2003 for dealing with such circumstances is known as “Completion Certificate Where No Building Warrant Obtained – Submission”.

This submission once verified as complying with the Building Regulations in force at the time of submission, and not when the works were carried out, if found to be to the satisfaction of the Local Authority then an Acceptance Notice can be issued.

The submission is not only the completed form and relevant fee but also includes plans and specification details equivalent to those for a Building Warrant application and also relevant Certificates of Construction. This provision of detailed plans and specification will allow a Building Standard Surveyor to check them for compliance with the current Building Regulations prior to carrying out a site inspection of the works.

It should be noted that if the plans and specifications fail to comply it may result in the need for remedial works to be undertaken prior to an inspection. Likewise the inspection may result in the need for remedial works to be undertaken prior to a further inspection and the issuing of the Notice of Acceptance of the Completion Certificate submission. Failure to do the remedial works may result in statutory action being taken by the Local Authority.

	PLEASE SEND YOUR COMPLETED APPLICATION FORM TO THE	For Official Use Only:	
	AREA OFFICE CLOSEST TO THE LOCATION OF YOUR PROJECT.	Reference No. _____	Date of Receipt _____
		Fee Paid _____	Date of Receipt _____
COMPLETION CERTIFICATE WHERE NO BUILDING WARRANT OBTAINED - SUBMISSION <small>Building (Scotland) Act 2003. Submission under Section 17(4) of a completion certificate where no building warrant was obtained for work which required a building warrant.</small>			
1. Relevant Person (see below)		2. Duly authorised Agent (if any)	
Name		Name	
Address		Address	
Post Code Tel. No.		Post Code Tel. No.	
Email		Email	
Relevant Person The completion certificate must be submitted by the relevant person as defined by the Building (Scotland) Act 2003, that is – (a) Where the work was carried out, or the conversion made, otherwise than on behalf of another person, the person who carried out the work or made the conversion. (b) Where the work was carried out, or the conversion made, by a person on behalf of another person, that other person. (c) If the owner of the building does not fall within paragraph (a) or (b) and the person required by these paragraphs to submit the completion certificate has failed to do so, the owner.			
3. Owner (see note 1)			
Name			
Address			
Postcode Tel. No.			
E-mail			
4. Do you wish to be contacted electronically throughout the process? YES <input type="checkbox"/> NO <input type="checkbox"/> (Please ensure you have provided your email address)			
5. Location of building			
Address of building to which this Completion Certificate applies – (Include postcode if known)			
.....			
.....			
.....			

The majority of works carried out that do not have the required statutory consent are minor alterations, however, in certain circumstances where alterations are structural or affecting the *building* insulated envelope, certification from a relevant professional individual or body may be required to be submitted.

Exempt classes of works

(Please contact your local Building Standards [area office](#) for guidance as this is not a comprehensive list)

- A wall not exceeding 1.2 metres in height.
- A fence not exceeding 2 metres in height.
- A detached single-storey *building* ancillary to and within the curtilage of a *house*, unless exceeds 8m² in area; within 1 metre of the *house* unless it is at least 1 metre from any *boundary*; a *building* containing sleeping accommodation; contains a flue, combustible appliance or *sanitary facility*; a swimming pool deeper than 1.2 metres.
- A single-storey *building* attached to an existing *house*, which is ancillary to the *house* and consists of a *conservatory* or *porch* which insofar as it is glazed, unless exceeds 8m² in area; contains a flue, combustible appliance or *sanitary facility*; or within 1 metre of a *boundary*.
- A single-storey *building* which is detached, or is attached to an existing *house* and which is ancillary to the *house* and consists of a *greenhouse*, *carport* or covered are, unless exceeds 30m² in area; contains a flue, combustible appliance or *sanitary facility*; a swimming pool deeper than 1.2 metres.
- A detached single-storey *building* ancillary to and within the curtilage of a *flat* or *maisonette*, unless exceeds 8m² in area; within 1 metre of the *flat* or *maisonette* or within 3 metres of any other part of the *building* containing the *flat* or *maisonette*; within 1 metre of a *boundary*; contains a flue, combustion appliance or *sanitary facility*; a swimming pool deeper than 1.2 metres.
- Any work to or in a *house*, unless which increases the floor area of the *house*; demolition or alteration of the roof, external walls, or elements of structure; involves underpinning; adversely affecting a separating wall; or involves changing the method of wastewater discharge (i.e. Septic tank to mains sewer connection). Only where the *house* does not have a *storey* or is creating a *storey*, at a height of more than 4.5 metres.
- Any work associated with open raised external decking, unless at any point the deck is at a height more than 1.2 metres; forms part of any access provided to comply with accessible entrances to *buildings*; or forms any escape route other than from a *flat* or *maisonette*.

- The construction of a ramp not exceeding 5 metres in length.
- Any work to a door, window or roof light which is a replacement including frames and also not a complete replacement; provided it still provides an open area of not less than 1/30th of the room floor area it serves, and trickle ventilation of 12,000mm² (or 8,000mm² for *kitchen*, utility room, and *sanitary accommodation*); in an upper *storey* of a *dwelling* at a height not more than 4.5m an emergency escape window, or door (French window) having an unobstructed openable area that is at least 0.33m² and at least 450mm high and 450mm wide, with the bottom of the opening not more than 1.1 metres the floor; and where any window or part of a window is more than 4 metres above adjacent ground its external and internal glazed surface must be safely cleaned from inside the *building* or form a load-bearing surface.

Planning permission

Submission of an application for Building Warrant does not exempt an applicant from obtaining any other permission which may be required, for example Planning Permission.

For advice on this please contact [Development Management](#)

Useful definitions of terms used

- Agriculture - has the same meaning as in the Agriculture (Scotland) Act 1948 (a), and Agricultural shall be construed accordingly.
- Apartment - means a *room* in a *dwelling* not used solely as a *kitchen*, store or utility room.
- Boundary - means a *boundary* between land on which the *building* is situated and *land in different occupation*, so however that -
- a. in relation to any external side of a *building* it shall exclude any part of the *boundary* which makes an angle with that side of more than 80°;
 - b. in relation to any road, whether public or private, public access way or public right of way, river, stream, canal, loch, pond, common land or *public open space* it shall be taken to mean the centre line thereof; and
 - c. the sea and its foreshore shall not be regarded as *land in different occupation*.
- (May 2005) - means a *boundary* between land on which the *building* is situated and *land in different occupation*, so however that -
- a) in relation to any road, whether public or private, public access way or public right of way, river, stream, canal, loch, pond, common land or *public open space* it shall be taken to mean the centre line thereof; and
 - b) the sea and its foreshore shall not be regarded as *land in different occupation*.
- Building - means any structure or erection of what kind or nature so ever, whether temporary or permanent, and every part thereof, including any fixture affixed thereto, not being a structure or erection or part thereof consisting of, or ancillary to -
- a. any road, whether public or private, including in the case of a *public road* (but not in the case of a private road) any bridge on which the road is carried;
 - b. any sewer or water main which is, or is to be, vested in a public authority;
 - c. any aerodrome runway;
 - d. any railway line;
 - e. any large raised reservoir within the meaning of the Reservoirs Act 1975(b); or
 - f. wires and cables, their supports above ground and other apparatus used for telephonic or telegraphic communication;
- and includes any prospective *building*; and in relation to the extension, alteration or change of use of a *building* any reference to the *building* shall be construed as a reference only to so much of the *building* as is comprised in the extension or is subject to alteration or change of use as the case may be.
- (May 2005) - means any structure or erection, whether temporary or permanent, other than a structure or erection consisting of, or ancillary to:
- a) any *public road* (including any bridge on which the *road* is carried),
 - b) any *private road*,
 - c) any sewer or water main which is, or is to be, vested in Scottish Water,
 - d) any aerodrome runway,

- e) any railway line,
- f) any large raised reservoir within the meaning of the Reservoirs Act 1975 (c.23)
- g) any wires and cables, their supports above ground and other apparatus used for telephonic or telegraphic communication.

Any references to a *building* include references to a prospective *building*. Any references to a *building*, structure or erection include references to a part of the *building*, structure or erection. In relation to the extension, alteration or *conversion* of a *building*, references to a *building* are to so much of the *building* as is comprised in the extension or the subject of the alteration or *conversion*.

- Carport - means a roofed *building* for vehicle storage which is open on at least two sides except for roof supports.
- Conservatory - means a *building* attached to and having an entrance from a *dwelling* and having not less than three-quarters of the area of its roof and not less than one-half of the area of its *external walls* made of translucent material.
- (Sept 2001) - means a building attached to a *dwelling* and having a door separating it from that *dwelling* and having not less than three-quarters of the area of its roof and not less than one-half of the area of its *external walls* made of translucent material.
- (May 2007) - means a *building* attached to a *dwelling* with a door and any other *building* elements dividing it thermally from that *dwelling* and having translucent *glazing* (including frames) forming not less than either:
- a) 75% of its roof area and 50% of its *external wall* area; or
 - b) 95% of its roof area and 35% of its *external wall* area.
- Covered area - means a roofed *building* which is open on at least two sides except for roof supports.
- Dwelling - means a unit of residential accommodation occupied (whether or not as a sole or main residence)-
- a. by a single person or by people living together as a family; or
 - b. by not more than six residents living together as a single household (including a household where care is provided for residents).
- (May 2005) - means a unit of residential accommodation occupied (whether or not as a sole or main residence):
- a) by an individual or by individuals living together as a family; or
 - b) by not more than six individuals living together as a single household (including a household where care is provided for residents)
- and includes any surgeries, consulting rooms, *offices* or other accommodation, of a floor area not exceeding in the aggregate 50 square metres, forming part of a *dwelling* and used by an occupant of the *dwelling* in a professional or business capacity.

- Flat - means a *dwelling* on one *storey*, forming part of a *building* from some other part of which it is divided horizontally, and includes a *dwelling* of which the main entrance door and associated hall are on a different *storey* from the remainder of the *dwelling*.
- Greenhouse - except in the expression *agricultural greenhouse*, means a *building* ancillary to a *dwelling* used mainly for growing plants which is either
- a. detached from the *dwelling*; or
 - b. attached to, but not entered from, the *dwelling*.
- House - means a *dwelling* on one or more *storeys*, either detached or forming part of a *building* from all other parts of which it is divided only vertically.
- Kitchen - means any *room* or part of a *room* used primarily for the preparation or cooking of food.
- Maisonette - means a *dwelling* on more than one *storey*, forming part of a *building* from some other part of which it is divided horizontally.
- Porch - means a *building* attached to and providing a covered entrance to a *dwelling*.
- Room - means any enclosed part of a *storey* intended for human occupation or, where no part of any such *storey* is so enclosed, the whole of that *storey*, but excepting in either case any part used solely as a bathroom, shower room, washroom, *watercloset compartment*, stair or circulation area.
- (Sept 2001) - means any enclosed part of a *storey* intended for human occupation or, where no part of any such *storey* is so enclosed, the whole of that *storey*, but excepting in either case any part used solely as a bathroom, shower room, washroom, *toilet*, stair or circulation area.
- Sanitary Accommodation - includes bathrooms, shower rooms, washrooms and *watercloset compartments*.
- (Sept 2001) - includes bathrooms, shower rooms, washrooms and *toilets*.
- Sanitary facilities - includes washbasins, baths, showers, sinks, urinals and waterclosets.
- (Sept 2001) - includes washbasins, baths, showers, sinks, urinals and waterclosets and (waterless closets in *dwelling*s only).
- (May 2005) - includes washbasin, sink, bath, shower, urinal, or watercloset, and in *dwelling*s only, includes a waterless closet.
- Storey - means that part of a *building* which is situated between the top of any floor being the lowest floor level within the *storey* and the top of the floor next above it being the highest floor level within the *storey* or, if there is no floor above it, between the top of the floor and the ceiling above it or, if there is no ceiling above it, the internal surface of the roof; and for this purpose a *gallery* or catwalk, or an openwork floor or storage racking, shall be considered to be part of the *storey* in which it is situated.

BUTE AND COWAL

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HELENSBURGH AND LOMOND

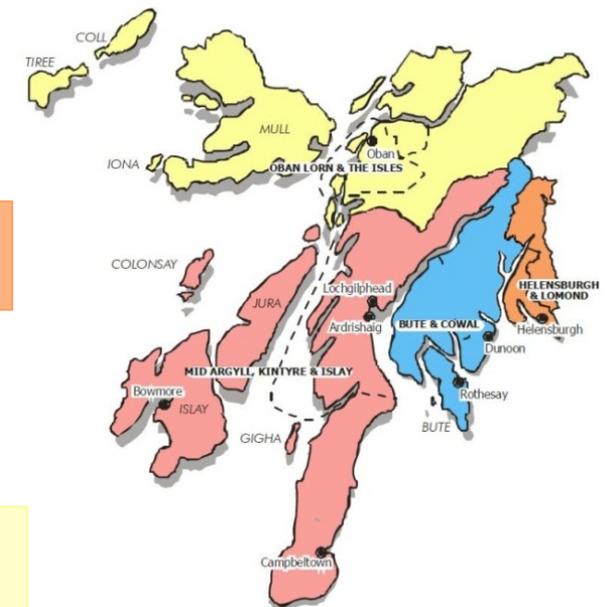
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