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Argyll and Bute Council
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17 May 2024*

NOTICE OF MEETING

A meeting of the **ARGYLL AND BUTE LOCAL REVIEW BODY** will be held in **THE STUDIO THEATRE, CORRAN HALLS, OBAN** on **FRIDAY, 24 MAY 2024** at **1:00 PM**, which you are requested to attend.

Douglas Hendry
Executive Director

BUSINESS

- 1. APOLOGIES FOR ABSENCE**
- 2. DECLARATIONS OF INTEREST**
- 3. CONSIDER NOTICE OF REVIEW REQUEST: ROWANBRAE, GLENCRUITTEN, OBAN (REF: 24/0002/LRB)**
 - (a) Further written submissions from Planning Authority (Pages 3 - 10)
 - (b) Comments from Applicant (Pages 11 - 18)

Argyll and Bute Local Review Body

Councillor John Armour
Councillor Kieron Green (Chair)

Councillor Jan Brown

Contact: Hazel MacInnes Tel: 01546 604269

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FURTHER INFORMATION

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

24/0002/LRB

REFUSAL OF PLANNING PERMISSION 23/00825/PPP

SITE FOR THE ERECTION OF A DWELLINGHOUSE

LAND NORTH OF ROWAN BRAE, GLENCRUITTEN, OBAN

25 MARCH 2024

a) **An assessment of the impact, if any, on the application and the Report of Handling by LDP 2**

In terms of the adopted LDP2 the site is defined as 'Outwith Settlement Areas' within an area identified as 'Countryside Area' (CA) where Policy 02 of LDP2 gives a presumption in favour of sustainable development but only where it is of an appropriate scale, design, siting and use for its countryside location, as set out in the relevant sustainable siting and design policies contained within LDP2.

Policy 02 further states that certain development will be supported, generally without the need for detailed environmental assessments, with these comprising, infill, redevelopment opportunities of clusters; or previously developed sites.

It is not considered that the development the subject of the review would accord with any reasonable interpretation of 'infill' or 'redevelopment of clusters' (the word 'cluster' is not specifically defined in the LDP2 written statement – this will be discussed in (b) below but the LRB are advised that the proposal does not constitute a 'redevelopment' in any case).

The proposed development, contrary to the assertions made by the appellant, is clearly on a 'greenfield' site which has not been 'previously developed'.

This general support for development is caveated with the requirement to demonstrate that there will be no unacceptable adverse effects (either individually or cumulatively) on natural heritage resources, built and/or cultural heritage resources, and landscape and visual amenity.

This policy further states that, where there is preliminary evidence that there may be such adverse effects (and where a formal environmental impact assessment is not required), a landscape and visual impact assessment may be required.

The key planning issues here are whether or not the proposed development accords with the established settlement pattern and, irrespective of this, whether the proposed development would cause material harm to the immediate and/or wider landscape.

The sustainable siting and design policies within LDP2, namely, Policy 04, Sustainable Development, Policy 05, Design and Placemaking, and Policy 08, Sustainable Siting collectively seek that new development is considered holistically giving full consideration to the surrounding environment including infrastructure and land uses with proposed development taking into account the character of the area in terms of its settlement pattern, layout and density.

In light of the above, due to the concerns that the Planning Authority has with the site, as set out in the Report of Handling, should the proposal have come forward and considered under LDP2, the Planning Authority would have sought the completion of the Sustainability Checklist and may have required the submission of a Visual Impact Illustration demonstrating the impact that the proposed development would have on the landscape.

It is noted, however, that the appellant has now submitted a substantial amount of detail seeking to justify the development in terms of its landscape impact, such that officers do not consider that any further submission is necessary.

Officers have carefully examined the new information submitted but remain of the opinion that the development the subject of this review would conflict with NPF4 Policies

9, 14 and 17, and Policies LDP STRAT 1, LDP DM 1, LDP 3, LDP 9, SG LDP ENV 14 and SG LDP HOU 1 of the Local Development Plan in force at the time of the original decision. Having carried out a reassessment of the proposals under LDP2, officers consider that the development is now contrary to LDP2 Policies 2, 4, 5 and 8 and remains contrary to NPF4 Policies 9, 14 and 17.

It is accepted that the appellant takes a different view.

- b) **Clarification on the definition of clusters; how many houses constitute one cluster; and if the proposed development is part of one cluster; or part of one cluster amongst other clusters.**

Both the former LDP and the current LDP2 do not provide a definition of 'clusters'.

However, the Oxford English Dictionary defines a 'cluster' as: *A number of persons, animals or things gathered or situated close together.*

The assessment that the development pattern along the Connel Back Road, as set out in the Report of Handling, comprises small clusters of development, some set alongside the public road and others set back, broken up with area of open ground, is an officer based assessment of the settlement pattern undertaken during the processing of the application.

The assessment that the site formed part of a 'cluster' was not based on any specific number, but a landscape assessment by the officer who was of the opinion that the site formed part of the existing cluster of development centred around the public road junction to the south.

In hindsight, it may perhaps have been clearer to simply rely upon the term 'settlement pattern' in this regard.

- c) **Model conditions and reasons that could accompany an approval of the application should the Local Review Body be so minded.**

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 23/00825/PPP

Standard Time Limit Condition (as defined by Regulation)

Standard Condition on Soil Management During Construction

Additional Conditions

1. PPP – Matters Requiring AMSC Submission

Plans and particulars of the matters specified in conditions 3, 4, 5, 6, 7 and 9 below shall be submitted by way of application(s) for Approval of Matters Specified in Conditions in accordance with the timescales and other limitations in Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended. Thereafter the development shall be completed wholly in accordance with the approved details.

Reason: To accord with Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended.

Note to Applicant

Regard should be had to Scottish Waters consultation comments in relation to the proposed development which are available to view via the [Public Access](#) section of the Council's website.

2. PPP – Approved Details

The development shall be implemented in accordance with the details specified on the application form dated 24/04/23 and the approved drawings listed in the table below.

Plan Title.	Plan Ref. No.	Version	Date Received
Location and Site Plan	001	B	27/06/23

Reason: To accord with Regulation 28 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008.

3. PPP – Timescale to be Agreed for Completion

Pursuant to Condition 1 - no development shall commence until details of the proposed timescale for completion of the approved development have been submitted to and approved by the Planning Authority. Thereafter, the development shall be implemented in accordance with the duly approved timescale for completion unless an alternative timescale for completion is otherwise agreed in writing with the Planning Authority.

Reason: In order to comply with the requirements of NPF4 Policy 16F.

4. PPP - Design and Finishes

Pursuant to Condition 1 – no development shall commence until plans and particulars of the site layout, design and external finishes of the development has been submitted to and approved by the Planning Authority. These details shall incorporate:

- i) A statement addressing the Action Checklist for developing design contained within the Argyll and Bute Sustainable Design Guide 2006;
- ii) A statement addressing how the proposed development has been designed to be consistent with the six qualities of successful places, as defined within Policy 14 of NPF4;
- iii) Local vernacular design taking consideration of the guidance set out in the approved Argyll and Bute Sustainable Design Guidance, 2006;
- iv) Maximum of one and a half storeys;
- v) Windows with a vertical emphasis;
- vi) Have a roof pitch between 37 and 42 degrees finished in natural slate or a good quality artificial slate;
- vii) Details of finished ground floor levels relative to an identifiable fixed datum located outwith the application site along with details of the existing and proposed site levels shown in the form of sectional drawings/contour plans/site level survey, or a combination of these;
- viii) Details of an area within the application site for the placement of refuse/recycling bins.
- ix) Details of the potential for the installation of a 7kw Electrical Vehicle Charging Point within the site.

Reason: To accord with Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended, and in order to integrate the proposed dwellinghouse with its surroundings.

5. PPP – Roads, Access and Parking

Pursuant to Condition 1 – no development shall commence until plans and particulars of the means of vehicular access and parking/turning arrangements to serve the development have been submitted to and approved by the Planning Authority. Such details shall incorporate:

- i) Upgrade of the junction serving the development site in accordance with the Council's Roads Standard Detail Drawing SD 08/004a with visibility splays measuring 2.4 metres to point X by 53 metres to point Y from the centre line of the junction ;
- ii) The provision of a parking and turning area in accordance with the requirements set out in the Car Parking Standards and Policy 40 of the adopted 'Argyll and Bute Local Development Plan 2' 2024.

Prior to work starting on site, the approved scheme of works in respect of junction layout shall be formed to at least base course standard and the visibility splays shall be cleared of all obstructions such that nothing shall disrupt visibility from a point 1.05 metres above the junction at point X to a point 0.6 metres above the public road carriageway at point Y. The final wearing surface on the access shall be completed prior to the development first being brought into use and the visibility splays shall be maintained clear of all obstructions thereafter.

The approved parking and turning layout shall be implemented in full prior to the development first being occupied and shall thereafter be maintained clear of obstruction for the parking and manoeuvring of vehicles.

Reason: In the interests of road safety.

Note to Applicant:

- A Road Opening Permit under the Roads (Scotland) Act 1984 must be obtained from the Council's Roads Engineers prior to the formation/alteration of a junction with the public road.
- No walls, fences, hedges etc. greater than 1 metre in height will be permitted within 2 metres from the channel line of the public road.
- The access shall be constructed and drained to ensure that no surface water is discharged onto the public road.

6. PPP – Details of New Private Foul Drainage System

Pursuant to Condition 1 – no development shall commence until details of the proposed means of private foul drainage to serve the development have been submitted to and approved by the Planning Authority.

The duly approved scheme shall be implemented in full concurrently with the development that it is intended to serve and shall be operational prior to the occupation of the development.

Reason: To ensure that an adequate means of foul drainage is available to serve the development.

Note to Applicant:

Private drainage arrangements are also subject to separate regulation by Building Standards and SEPA.

7. PPP – Private Water Supply

Pursuant to Condition 1, no development shall commence until an appraisal of the wholesomeness and sufficiency of the intended private water supply and the system required to serve the development has been submitted to and approved by the Planning Authority.

The appraisal shall be carried out by a qualified hydrologist/hydrogeologist or other suitably competent person and shall include a risk assessment having regard to the requirements of Schedule 4 of the Private Water Supplies (Scotland) Regulations 2006 or Part 3 of the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (as appropriate) which shall inform the design of the system by which a wholesome and sufficient water supply shall be provided and maintained.

The appraisal shall also demonstrate that the wholesomeness and sufficiency of any other supply in the vicinity of the development, or any other person utilising the same source or supply, shall not be compromised by the proposed development.

The development shall not be brought into use or occupied until the required water supply system has been installed in accordance with the agreed specification and is operational.

Reason: In the interests of public health and in order to ensure that an adequate private water supply in terms of both wholesomeness and sufficiency can be provided to meet the requirements of the proposed development and without compromising the interests of other users of the same or nearby private water supplies.

Notes to Applicant

1. Regulatory requirements for private water supplies should be discussed with the Council's Environmental Health Service in the first instance.
2. If the development is likely to use 10m³ water per day then the applicant will need to apply for a registration or licence for water abstraction from SEPA <https://www.sepa.org.uk/regulations/authorisations-and-permits/application-forms/#Water>.
3. If the proposed development is a commercial undertaking including but not limited to; use as a holiday or long term private let, workplace, food business, campsite etc. then the applicant must apply to the Environmental Health service 8 weeks before the intended use date for the private water supply to be registered and certified as fit for use. Email: pws@argyll-bute.gov.uk
4. It is recommended that should planning permission be granted, that the applicant contact this Service to discuss further the measures needed to comply with the

requirements of Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 or the Private Water Supplies (Scotland) Regulations 2006, as is applicable.

8. PPP - Sustainable Drainage System

Notwithstanding the provisions of Condition 1, the development shall incorporate a surface water drainage system which is consistent with the principles of Sustainable urban Drainage Systems (SuDS) compliant with the guidance set out in CIRIA's SuDS Manual C753 and Sewers for Scotland 4th Edition. The requisite surface water drainage shall be operational prior to the development being brought into use and shall be maintained as such thereafter.

Reason: To ensure the provision of an adequate surface water drainage system and to prevent flooding.

9. PPP - Landscaping and Biodiversity Enhancement

Pursuant to Condition 1 – no development shall commence until a scheme of boundary treatment, surface treatment and landscaping has been submitted to and approved by the Planning Authority. The scheme shall comprise a planting plan and schedule which shall include details of:

- i) Existing and proposed ground levels in relation to an identified fixed datum;
- ii) Existing landscaping features and vegetation to be retained;
- iii) Location design and materials of proposed walls, fences and gates;
- iv) Proposed soft and hard landscaping works including the location, species and size of every tree/shrub to be planted;
- v) A biodiversity statement demonstrating how the proposal will contribute to conservation/restoration/enhancement of biodiversity, and how these benefits will be maintained for the lifetime of the development;
- vi) A programme for the timing, method of implementation, completion and subsequent on-going maintenance.

All of the hard and soft landscaping works shall be carried out in accordance with the approved scheme unless otherwise approved in writing by the Planning Authority.

Any trees/shrubs which within a period of five years from the completion of the approved landscaping scheme fail to become established, die, become seriously diseased, or are removed or damaged shall be replaced in the following planting season with equivalent numbers, sizes and species as those originally required to be planted unless otherwise approved in writing by the Planning Authority.

All physical biodiversity enhancement measures (bird nesting boxes, 'swift bricks', wildlife ponds, bat and insect boxes, hedgehog homes etc.) shall be implemented in full before the development hereby approved is first brought into use.

All biodiversity enhancement measures consisting of new or enhanced planting shall be undertaken either in accordance with the approved scheme of implementation or within the next available planting season following the development first being brought into use.

The biodiversity statement should refer to [Developing with Nature guidance | NatureScot](#) as appropriate.

Reason: To assist with the integration of the proposal with its surroundings in the interests of amenity.

FURTHER INFORMATION**FOR****ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY****24/0002/LRB****REFUSAL OF PLANNING PERMISSION 23/00825/PPP****SITE FOR THE ERECTION OF A DWELLINGHOUSE****LAND NORTH OF ROWAN BRAE, GLENCRUITTEN, OBAN****Applicant's Further Submission 8th April 2024****ARGYLL AND BUTE****A HOUSING EMERGENCY AND MORE FLEXIBILITY REQUIRED**

Statement by Pippa Milne, Chief Executive of Argyll and Bute Council, in March 2024 in reply to Mike Mackenzie following concerns raised over depopulation and lack of flexibility in the existing planning process.

“The Council remains focussed on reversing the population decline and sees housing as a key factor in tackling this. This has been demonstrated by it being the first local authority in Scotland to declare a housing emergency and its recent housing summit.

These are complex issues which require a partnership approach to tackle them.

The Council's LDP2 has also now been formally adopted and is now the first LDP in Scotland to be adopted since NPF4. It brings with it more flexibility for development across Argyll and Bute.”

The following policy failures are a consequence of the planning authority's assessment that “general support for development is caveated with the requirement to demonstrate that there will be no unacceptable adverse effects (either individually or cumulatively) on natural heritage resources, built and/or cultural heritage resources, and landscape and visual amenity.”

The planning Authority have considered that the proposed development would cause material harm to the immediate and/or wider landscape based on the review of material submitted in application for planning permission rather than the using an evidence based technical matrix for assessing landscape impacts, where the importance of the viewpoint is judged against the magnitude of the impact of the proposed development in relation to the landscape condition.

Those conditions are characterised as:-

HIGH

MODERATE

LOW.

The detail can be seen by clicking this link.

[METHODOLOGY FOR LANDSCAPE AND VISUAL ASSESSMENT](#)

In this application the sensitivity of the viewpoint, the magnitude of the impact of the proposal and the condition of the landscape generally could only be described as LOW.

Using a much simpler “glass half full/glass half empty” analogy, and where a landscape assessment matrix reflects low scores, and even assuming that this application is borderline, in terms of whether or not the “development would cause material harm to the immediate and/or wider landscape” which we do not agree is the case, but even if we did, there is scope to adopt a “GLASS HALF FULL” approach as suggested by the Pippa Milne above.

That would be the start of a much more flexible approach to development across Argyll and Bute reflecting a much more a more positive ethos of interpretation of the new Planning Framework NPF4. Scottish Government introduced this framework to do that very thing, to make the planning process more flexible, not more rigid and inflexible as the Glass half empty approach would suggest.

According to the handling report of this application it fails on NPF4, Policy 9, 14 and 17, which I have noted below and commented on for ease of reference.

Incidentally, a house was recently approved at a position 800m away from this application site and was approved.

NPF4 POLICY 9

**BROWNFIELD, DERELICT AND VACANT LAND &
EMPTY BUILDINGS**

Local Development Plans:

LDPs should set out opportunities for the sustainable reuse of brownfield land including vacant and derelict land and empty buildings.

Policy 9

- a) Development proposals that will result in the sustainable reuse of brownfield land including vacant and derelict land and buildings, whether permanent or temporary, will be supported. In determining whether the reuse is sustainable, the biodiversity value of brownfield land which has naturalised should be taken into account.
- b) Proposals on greenfield sites will not be supported unless the site has been allocated for development or the proposal is explicitly supported by policies in the LDP.
 - c) Where land is known or suspected to be unstable or contaminated, development proposals will demonstrate that the land is, or can be made, safe and suitable for the proposed new use.
- d) Development proposals for the reuse of existing buildings will be supported, taking into account their suitability for conversion to other uses. Given the need to conserve embodied energy, demolition will be regarded as the least preferred option.

The Land is of little agricultural merit, and the biodiversity value limited. Although not a brownfield site the development proposals for the re-use of derelict land should be supported as the proposals are consistent with NPF9 in that regard.

NPF4 POLICY 14

LIVEABLE PLACES

Local Development Plans:

LDPs should be place-based and created in line with the Place Principle. The spatial strategy should be underpinned by the [six qualities of successful places](#). LDPs should provide clear expectations for design, quality and place taking account of the local context, characteristics and connectivity of the area. They should also identify where more detailed design guidance is expected, for example, by way of design frameworks, briefs, masterplans and design codes.

Planning authorities should use the Place Standard tool in the preparation of LDPs and design guidance to engage with communities and other stakeholders. They should also where relevant promote its use in early design discussions on planning applications.

Policy 14

- a) Development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale.
- b) Development proposals will be supported where they are consistent with the six qualities of successful places:
 - Healthy:** Supporting the prioritisation of women’s safety and improving physical and mental health.
 - Pleasant:** Supporting attractive natural and built spaces.
 - Connected:** Supporting well connected networks that make moving around easy and reduce car dependency
 - Distinctive:** Supporting attention to detail of local architectural styles and natural landscapes to be interpreted, literally or creatively, into designs to reinforce identity.
 - Sustainable:** Supporting the efficient use of resources that will allow people to live, play, work and stay in their area, ensuring climate resilience, and integrating nature positive, biodiversity solutions.
 - Adaptable:** Supporting commitment to investing in the long-term value of buildings, streets and spaces by allowing for flexibility so that they can be changed quickly to accommodate different uses as well as maintained over time.

Further details on delivering the [six qualities of successful places](#) are set out in Annex D.

- c) Development proposals that are poorly designed, detrimental to the amenity of the surrounding area or inconsistent with the six qualities of successful places, will not be supported.

The proposal fits the “THE 6 QUALITIES OF SUCCESSFUL PLACE” which underpins the essence of Policy 14, therefore must be compliant.

NPF4 POLICY 17

RURAL HOMES

Local Development Plans:

LDPs should be informed by an understanding of population change over time, locally specific needs and market circumstances in rural and island areas.

LDPs should set out tailored approaches to rural housing and where relevant include proposals for future population growth - including provision for small-scale housing such as crofts and woodland crofts and the appropriate resettlement of previously inhabited areas. The Scottish Government's 6 fold Urban Rural Classification 2020 should be used to identify remote rural areas. Plans should reflect locally appropriate delivery approaches. Previously inhabited areas that are suitable for resettlement should be identified in the spatial strategy.

Policy 17

a) Development proposals for new homes in rural areas will be supported where the development is suitably scaled, sited and designed to be in keeping with the character of the area and the development:

- i. is on a site allocated for housing within the LDP;
- ii. reuses brownfield land where a return to a natural state has not or will not happen without intervention;
- iii. reuses a redundant or unused building;
- iv. is an appropriate use of a historic environment asset or is appropriate enabling development to secure the future of historic environment assets;
- v. is demonstrated to be necessary to support the sustainable management of a viable rural business or croft, and there is an essential need for a worker (including those taking majority control of a farm business) to live permanently at or near their place of work;
- vi. is for a single home for the retirement succession of a viable farm holding;
- vii. is for the subdivision of an existing residential dwelling; the scale of which is in keeping with the character and infrastructure provision in the area; or
- viii. reinstates a former dwelling house or is a one-for-one replacement of an existing permanent house.

b) Development proposals for new homes in rural areas will consider how the development will contribute towards local living and take into account identified local housing needs (including affordable housing), economic considerations and the transport needs of the development as appropriate for the rural location.

c) Development proposals for new homes in remote rural areas will be supported where the proposal:

- i. supports and sustains existing fragile communities;
- ii. supports identified local housing outcomes; and

Part 2 - National Planning Policy

National Planning Framework 4

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- iii. is suitable in terms of location, access, and environmental impact.
- d) Development proposals for new homes that support the resettlement of previously inhabited areas will be supported where the proposal:
 - i. is in an area identified in the LDP as suitable for resettlement;
 - ii. is designed to a high standard;
 - iii. responds to its rural location; and
 - iv. is designed to minimize greenhouse gas emissions as far as possible.

Applicable policies from above.

a) i, ii, v, vi,

b)

c) i, ii,

NPF4 66

ii, iii, and iv.

And to underpin those policies the LDP 2 extract from above

“LDPs should set out tailored approaches to rural housing and where relevant include proposals for future population growth - including provision for small-scale housing such as crofts and woodland crofts and the appropriate resettlement of previously inhabited areas. The Scottish Government’s 6 fold Urban Rural Classification 2020 should be used to identify remote rural areas. Plans should reflect locally appropriate delivery approaches. Previously inhabited areas that are suitable for resettlement should be identified in the spatial strategy.”

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9th April 2024

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