

# Public Document Pack

**Argyll and Bute Council**  
Comhairle Earra-Ghàidheal Agus Bhòid

*Executive Director: Douglas Hendry*



*Kilmory, Lochgilphead, PA31 8RT  
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DX 599700 LOCHGILPHEAD*

13 May 2024

## NOTICE OF MEETING

A meeting of the **ARGYLL AND BUTE LOCAL REVIEW BODY** will be held **BY MICROSOFT TEAMS** on **MONDAY, 20 MAY 2024** at **10:00 AM**, 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: GARDEN GROUND OF FERNLEA, POLVINISTER ROAD, OBAN, PA34 5TN (REF: 24/0007/LRB)**
  - (a) Notice of Review and Supporting Documentation (Pages 3 - 110)
  - (b) Comments from Interested Parties (Pages 111 - 130)

## Argyll and Bute Local Review Body

Councillor Gordon Blair (Chair)  
Councillor Peter Wallace

Councillor Fiona Howard

Contact: Fiona McCallum Tel: 01546 604392

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Central Validation Team at Argyll and Bute Council 1A Manse Brae Lochgilphead PA31 8RD Tel: 01546 605518 Email: [planning.hq@argyll-bute.gov.uk](mailto:planning.hq@argyll-bute.gov.uk)

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100665890-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant  Agent

## Agent Details

Please enter Agent details

Company/Organisation:	<input type="text" value="Wilson Designs"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="Robert"/>	Building Name:	<input type="text" value="Old Crofters"/>
Last Name: *	<input type="text" value="Wilson"/>	Building Number:	<input type="text"/>
Telephone Number: *	<input type="text" value="██████████"/>	Address 1 (Street): *	<input type="text" value="Soroba Road"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="Oban"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="Argyll"/>
		Postcode: *	<input type="text" value="PA34 4HU"/>
Email Address: *	<input type="text" value="██"/>		

Is the applicant an individual or an organisation/corporate entity? \*

Individual  Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="Fernlea"/>
First Name: *	<input type="text" value="Graham"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text" value="Fielden"/>	Address 1 (Street): *	<input type="text" value="Polvinister Road"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Oban"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="PA34 5TN"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="robert@wilsondesigns.co.uk"/>		

## Site Address Details

Planning Authority:

Full postal address of the site (including postcode where available):

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Northing	<input type="text" value="730110"/>	Easting	<input type="text" value="186461"/>
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## Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: \*  
(Max 500 characters)

Proposed sitting of accommodation pod for short-term letting use in grounds of existing dwelling house

## Type of Application

What type of application did you submit to the planning authority? \*

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? \*

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

## Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: \* (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

See attached Statement of Case and appendices

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? \*

Yes  No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: \* (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: \* (Max 500 characters)

Appendix 1 - Reasons for requesting Review Appendix 2 - Planning application form Appendix 3 - Decision Notice: Refusal of planning application ref: 23/01067/PP Appendix 4 - Roads Comments (16.07.23) Appendix 5 - Supporting Information on Roads Consultation Appendix 6 - Risk Assessment Appendix 7 - Local Review Body decision letter on planning application 22\_01001\_PP (23\_0007\_LRB) Appendix 8 - Local Review Body decision letter on planning application 20\_01542\_PP (21\_0005\_LRB)

## Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

23/01067/PP

What date was the application submitted to the planning authority? \*

30/05/2023

What date was the decision issued by the planning authority? \*

24/01/2024

## Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. \*

Yes  No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? \*

Yes  No

Is it possible for the site to be accessed safely and without barriers to entry? \*

Yes  No

If there are reasons why you think the local Review Body would be unable to undertake an unaccompanied site inspection, please explain here. (Max 500 characters)

The site is within the applicant's garden ground and can not be seen from outside the property. Any site visit that may occur would be best and most suitably undertaken as an accompanied site visit.

### Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. \*

Yes  No

Have you provided the date and reference number of the application which is the subject of this review? \*

Yes  No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? \*

Yes  No  N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? \*

Yes  No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review \*

Yes  No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

### Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Robert Wilson

Declaration Date: 05/04/2024

## Appendix 1: Request for Review for Refusal of Planning Permission ref: 23/01067/PP

### Introduction:

A planning application was submitted on the 30<sup>th</sup> May 2023 by Iain Robertson of West Highland Architects on behalf of Graham and Oonagh Fielden which was validated on the 29<sup>th</sup> of June ref: 23/01067/PP. The application was to seek permission for the siting of a single glamping pod to be used for short-term seasonal holiday use within the garden grounds of the applicants dwelling house 'Fernlea'. Following a lengthy planning process, the application was refused under delegated powers on the 24<sup>th</sup> of January 2024 (Appendix 3) for the following reasons:

*1. The proposed development conflicts with NPF4 Policy 13, and Policies LDP 11 and SG LDP TRAN 4 of the adopted 'Argyll and Bute Local Plan' 2015 and Policy 37 of emerging proposed 'Local Development Plan 2' as the proposed development would result in the intensification in vehicular use of a sub-standard private road with no delineation between pedestrian or vehicular use.*

*The proposed development constitutes a material intensification of the use of an existing and constrained access regime and would be capable of support only if compliance with various highway safety concerns could be demonstrated through the submission, examination and acceptance of competent detail.*

*The land necessary for the upgrade of the existing private road, if achievable, does not form part of the planning application site and is not within the acknowledged legal ownership/control of the Applicant.*

During the planning process and within the delegated report of handling, the main reason for the refusal of this application is based on the comments received from the A&BC Roads officer (Appendix 4) in relations to NPF4 Policy 13. All other NPF4 policies have been assessed and the proposed application meets their requirements and is confirmed appropriate in all other planning aspects. Therefore, this Notice of Review will focus on NPF4 Policy 13 and provide further justification in order to try and achieve a positive outcome following a review undertaken by the LRB.

### Discussion:

The current application has been subject to objection from the Roads Engineer who advised that the existing private road, which also forms part of the Longsdale Footpath, is narrow with poor geometry, serves numerous properties and has limited passing opportunities. The private road has narrow verges and provides limited step off areas for pedestrians.

The Roads Authority concluded by stating that the private road is unsuitable for further development or intensification of use.

Whilst we take on board all of these comments, we feel that they alone do not merit sufficient justification to determine the application for refusal. It has also been noted that the type of consent being applied for is noted as planning permission in principle on the Roads consultation response dated 16<sup>th</sup> August 2023 whereas our application submitted is for full planning permission. (we have presumed this to be a typo error copied over from another similar consultation response)



During the planning consultation process and when the first consultation response was received from the Roads officer (Appendix 4) recommending the application for refusal, the client prepared and issued additional supporting documentation in response to the comments received from the Roads engineer which can be viewed in (Appendix 5). This additional information presented a number of photo's taken at various locations along the private access road leading up to the application site to try and demonstrate that the existing private access road is of an acceptable standard and can sufficiently accommodate any additional traffic which may be generated from the sitting of the proposed glamping pod. The private access road serves 5no. individual properties including the applicants house Fernlea and measures 3m at its narrowest point and extends for a total length of 118m (0.07miles) from the junction of the UC72 Polvinister Road to the application site boundary. There is corner at the bottom of the road and then the majority of the access is straight with good sightlines climbing approximately 10m over a gradual incline. Along this section of private road which is also part of the core path C160(c) network, there is an adequate roadside grass verge which provides step off areas for pedestrians when met by vehicles using the access road. The vast majority of the grass verge is 1m in width and at points, there is sufficient space to accommodate vehicles which can be seen within the photo's contained within Appendix 5.



Aerial view showing extent of private road

Following the submission of this additional information to the planning authority, the client also prepared a risk assessment (Appendix 6) as further supporting documentation and the suggestion of a site visit to discuss the application and in particular the issues raised by the Roads engineer. A further response was received from the Roads engineer maintaining their initial objection to this application whilst also advising that a site visit would not be required.

**Potential B&B usage:**

Limited B&B activity is a prescribed right for any householders with properties of certain sizes up to certain thresholds without needing planning permission. The applicants house 'Fernlea' is

a four-bedroom detached dwelling which could be used for B&B purposes, and we feel that this potential usage needs to be considered whilst reviewing this application for an ancillary pod within the garden grounds of the applicant's house. It is of no consequence whether B&B activity is active or not (past and present) but merely the ability to do so. And likewise, this prescribed right could be adopted by any of the other four properties accessed from the same private access road. The proposed pod is ancillary to an existing dwelling and would see no significant increase in traffic (as noted in the design statement) and fundamentally is no different to a room within the applicant's house being used for B&B purposes or any of the other dwelling houses accessed by the private road operating a B&B from their properties and the potential of additional vehicular movements. Neither of which would be subject to planning or roads department consultation. Our suggestion would be that the potential usage of a room within the applicant's dwelling house for B&B usage is transferred to this ancillary pod within the garden grounds of the applicant's house.

NOTE: the use of one bedroom for B&B within a house containing three bedrooms, or two bedrooms for B&B within houses containing four or more bedrooms, is explicitly provided for within Class 9 (houses) of the Use Classes Order - and has been so since 1999

#### **Similar Applications as precedents:**

##### **Broom Hill ref: 22/01001/PP (Appendix 7)**

This application was recently submitted for the sitting of a single glamping pod within the garden ground of Broom Hill, Ardconnel Hill, Oban. The application lies within close proximity of the applicant's site and was refused planning permission following the comments received by the Roads engineer. A Notice for Review was submitted and following this, a positive outcome was sought, and planning permission was granted.

Broom Hill was previously used for the letting of two bedrooms for B&B purposes and that such usage would be modified to facilitate a glamping pod within their garden grounds. During the LRB meeting, Councillor Brown sought clarity on the position that each of the houses serviced by the private access road could in theory operate as a B&B premises, increasing the vehicular use of the private access road and there would be nothing to stop them. The planning officer confirmed this to be the case and we feel that this is an identical situation to the application which we are seeking permission for. A condition was added to the Broom Hill permission to state:

*‘the new glamping pod hereby approved must not be occupied during any period when any bedrooms within the principal dwelling house are operating as (or being occupied as) bed & breakfast or guest house accommodation ‘*

Based on the similarities between this recent application and which was subsequently approved following a Notice for Review, we would consider it appropriate that a similar condition could be included to monitor and maintain vehicular movements whilst protected future usage should the property change ownership.

##### **Soroba Lodge ref: 20/01542/PP (Appendix 8)**

A planning application was submitted for two holiday pods within the garden ground of Soroba Lodge, which is served via a shared private access. Soroba Lodge had the ability to operate two

bedrooms for B&B purposes within the main house. The Planning Department and Roads Engineer were concerned about traffic levels on the shared private access and ultimately the application was refused under delegated powers. An appeal against the refusal was however successful. When issuing planning permission in May 2022 under ref 21/0005/LRB, the Local Review Body attached planning condition 3 to prohibit occupation of the two approved pods at any time when B&B activity was occurring within the house.

It is of no consequence whether B&B activity is active. Limited B&B activity is a prescribed right for householders with properties of certain sizes up to certain thresholds without needing planning permission. Indeed, it is this very ability to exercise that right without needing planning permission that led to planning officer concerns about the inability to prevent B&B usage in the future in both the Soroba Lodge and Broom Hill examples.

The outcome of the Notice of Reviews at both Broom Hill (23/0007/LRB) and Soroba Lodge (21/0005/LRB) provides a direct precedent example which can be readily compared to the planning application at Fernlea.

## **Summary:**

Mr & Mrs Fielden are seeking permission to sit a single glamping pod within the garden ground of their existing home 'Fernlea'. The design, siting and layout for the proposed pod has been confirmed acceptable in all respects by planning officers, except for concerns over the existing shared access regime serving the site. Those concerns are reflected in the single reason for refusal detailed previously namely comments received from the Roads Engineer over the existing access road.

The decision to refuse overstates the anticipated vehicular demands associated with the development, pays insufficient regard to existing traffic levels at the site, and ignores a precedent case of direct relevance. This is the type of development that is commonly approved by the Planning Authority without any concerns over increase in vehicular demand.

We would stress again, that the applicant's house is a four-bedroom detached dwelling which could be used for B&B purposes, and it is of no consequence whether B&B activity is active or not (past and present) but merely the ability to do so.

The proposed pod would not generate a material intensification in traffic as suggested. Mr and Mrs Fielden being residents with young children in the area do not wish to be providing multiple turnovers on a daily basis and as such propose the following condition as to allow vehicular movements to be minimised. Planning condition wording could potentially read:

***Condition** - Notwithstanding the provisions of Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 as amended, the new glamping pod hereby approved must only be made available for periods not less than a 3-day occupancy*

***Reason** - In the interests of road safety, to ensure that vehicle numbers using the private access do not increase beyond current levels.*

Furthermore, Visitors using the pod shall be encouraged to use alternative means to access Oban, such as walking and cycling, given the sites location and close proximity to core path network.

The Local Review Body is asked to support this Notice of Review and we would stress that a site visit is undertaken to view the existing access road and ask any further questions you may have regarding this Notice for Review. We hope that a positive outcome can be reached to enable a small positive contribution towards the local tourist accommodation in a way that accords with local and national planning policy and raises no unacceptable impacts.

**Appendix 2 - Planning Application Form**

## Planning Application Form – Addendum

- *The addendum is a record of any minor amendments to the details contained within the Planning Application Form as originally submitted. The amendments have been instructed by the Applicant/Agent during the validation process and recorded by Council officers.*
- *The detail within the addendum requires to be read in conjunction with, and supersedes the relevant detail contained within the original planning application form unless otherwise stated below.*

Section of Form Amended		Description of Amendment	Date Amended
Page No.	Section		
3	Water Supply and Drainage Arrangements	Agent confirmed that the water supply and drainage arrangements will be by existing mains supply.	20.6.23.



Central Validation Team at Argyll and Bute Council 1A Manse Brae Lochgilphead PA31 8RD Tel: 01546 605518 Email: [planning.hq@argyll-bute.gov.uk](mailto:planning.hq@argyll-bute.gov.uk)

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100630414-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

## Type of Application

What is this application for? Please select one of the following: \*

- Application for planning permission (including changes of use and surface mineral working).
- Application for planning permission in principle.
- Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- Application for Approval of Matters specified in conditions.

## Description of Proposal

Please describe the proposal including any change of use: \* (Max 500 characters)

Proposed siting of accommodation pod for short term letting use on grounds of existing dwelling house

Is this a temporary permission? \*

Yes  No

If a change of use is to be included in the proposal has it already taken place?  
(Answer 'No' if there is no change of use.) \*

Yes  No

Has the work already been started and/or completed? \*

No  Yes – Started  Yes - Completed

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant  Agent

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="Fernlea"/>
First Name: *	<input type="text" value="Graham"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text" value="Fielden"/>	Address 1 (Street): *	<input type="text" value="Polvinister Road"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value="REDACTED"/>	Town/City: *	<input type="text" value="Oban"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Argyll and Bute"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="PA34 5TN"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="REDACTED"/>		

## Site Address Details

Planning Authority:

Full postal address of the site (including postcode where available):

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Northing	<input type="text" value="730110"/>	Easting	<input type="text" value="186461"/>
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## Pre-Application Discussion

Have you discussed your proposal with the planning authority? \*

Yes  No

## Site Area

Please state the site area:

0.10

Please state the measurement type used:

Hectares (ha)  Square Metres (sq.m)

## Existing Use

Please describe the current or most recent use: \* (Max 500 characters)

Garde ground associated with existing dwelling

## Access and Parking

Are you proposing a new altered vehicle access to or from a public road? \*

Yes  No

If Yes please describe and show on your drawings the position of any existing. Altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any change to public paths, public rights of way or affecting any public right of access? \*

Yes  No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application Site?

2

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? \*

3

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).

## Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? \*

Yes  No

Do your proposals make provision for sustainable drainage of surface water?? \* (e.g. SUDS arrangements) \*

Yes  No

Note:-

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? \*

- Yes  
 No, using a private water supply  
 No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

## Assessment of Flood Risk

Is the site within an area of known risk of flooding? \*

Yes  No  Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? \*

Yes  No  Don't Know

## Trees

Are there any trees on or adjacent to the application site? \*

Yes  No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

## Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? \*

Yes  No

If Yes or No, please provide further details: \* (Max 500 characters)

Local authority collection service

## Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? \*

Yes  No

## All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? \*

Yes  No

## Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013) \*

Yes  No  Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

## Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? \*

Yes  No

## Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? \*

Yes  No

Is any of the land part of an agricultural holding? \*

Yes  No

## Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

## Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding

Signed: Mr Graham Fielden

On behalf of:

Date: 30/05/2023

Please tick here to certify this Certificate. \*

## Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? \*

Yes  No  Not applicable to this application

b) If this is an application for planning permission or planning permission in principal where there is a crown interest in the land, have you provided a statement to that effect? \*

Yes  No  Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? \*

Yes  No  Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? \*

Yes  No  Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? \*

Yes  No  Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? \*

Yes  No  Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

- Site Layout Plan or Block plan.
- Elevations.
- Floor plans.
- Cross sections.
- Roof plan.
- Master Plan/Framework Plan.
- Landscape plan.
- Photographs and/or photomontages.
- Other.

If Other, please specify: \* (Max 500 characters)

Provide copies of the following documents if applicable:

- |  |  |
|--|--|
| A copy of an Environmental Statement. *  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Design Statement or Design and Access Statement. *                                   | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> N/A |
| A Flood Risk Assessment. *   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Drainage/SUDS layout. *  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Transport Assessment or Travel Plan  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Contaminated Land Assessment. *  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Habitat Survey. *  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Processing Agreement. *  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |

Other Statements (please specify). (Max 500 characters)

## Declare – For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Mr Iain Robertson

Declaration Date: 30/05/2023

## Payment Details

Telephone Payment Reference:

Created: 30/05/2023 22:38

**Appendix 3 - Decision Notice (Refusal of planning application ref 23\_01067\_PP)**

Municipal Buildings Albany Street Oban PA34 4AW

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)  
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)  
(SCOTLAND) REGULATIONS 2013**

**REFUSAL OF PLANNING PERMISSION**

**REFERENCE NUMBER: 23/01067/PP**

**Mr Graham Fielden  
Fernlea  
Polvinister Road  
Oban  
Argyll and Bute  
PA34 5TN**

I refer to your application dated 1st June 2023 for planning permission in respect of the following development:

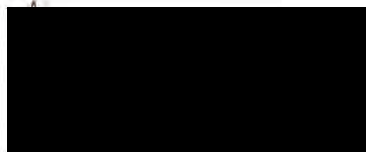
**Siting of accommodation pod for short term letting use**

**AT:**

**Garden Ground Of Fernlea Polvinister Road Oban Argyll And Bute**

Argyll and Bute Council in exercise of their powers under the above mentioned Act and Regulations hereby refuse planning permission for the above development for the **reasons(s) contained in the attached appendix.**

Dated: 24 January 2024



Fergus Murray  
Head of Development and Economic Growth



**REASONS FOR REFUSAL RELATIVE TO APPLICATION NUMBER: 23/01067/PP**

1. The proposed development conflicts with NPF4 Policy 13, and Policies LDP 11 and SG LDP TRAN 4 of the adopted 'Argyll and Bute Local Plan' 2015 and Policy 37 of emerging proposed 'Local Development Plan 2' as the proposed development would result in the intensification in vehicular use of a sub-standard private road with no delineation between pedestrian or vehicular use.

The proposed development constitutes a material intensification of the use of an existing and constrained access regime and would be capable of support only if compliance with various highway safety concerns could be demonstrated through the submission, examination and acceptance of competent detail.

The land necessary for the upgrade of the existing private road, if achievable, does not form part of the planning application site and is not within the acknowledged legal ownership/control of the Applicant.



**NOTES TO APPLICANT (1) RELATIVE TO APPLICATION NUMBER 23/01067/PP**

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended) within three months from the date of this notice. A Notice of Review request must be submitted on an official form which can be obtained by contacting The Local Review Body, Committee Services, Argyll and Bute Council, Kilmory, Lochgilphead, PA31 8RT or by email to [localreviewprocess@argyll-bute.gov.uk](mailto:localreviewprocess@argyll-bute.gov.uk)
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state, and it cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the landowner's interest in the land, in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997 (as amended).

**APPENDIX TO DECISION REFUSAL NOTICE**

**Appendix relative to application: 23/01067/PP**

- A. 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 (delete as appropriate) if yes, list amendments

- B. Is the proposal a departure from the Development Plan:

No

If yes, state level of departure:

No Departure

- C. **Summary justification statement for refusal of planning permission**

N/A

## Utilities Statement in Support of a Planning Application for Accommodation Pod Fernlea, Polvinister Road, Oban

### 1. Background Information

The applicant is Mr Graham Fielden whose current residence is Fernlea, Polvinister Road, Oban.

The home located in the semi-rural on the outskirts of Oban and he hopes to be able to offer a unique accommodation opportunity in a sustainable manner and help satisfy local demand for this type of holiday accommodation to satisfy demand from visitors to the area

REFUSED by the PLANNING AUTHORITY  
Relative to Application No:  
23/0167/P/PA  
*Fergus Murray*  
Head of Development and Economic Growth  
24 June 2024

### 2. Site Proposals - Foul Water

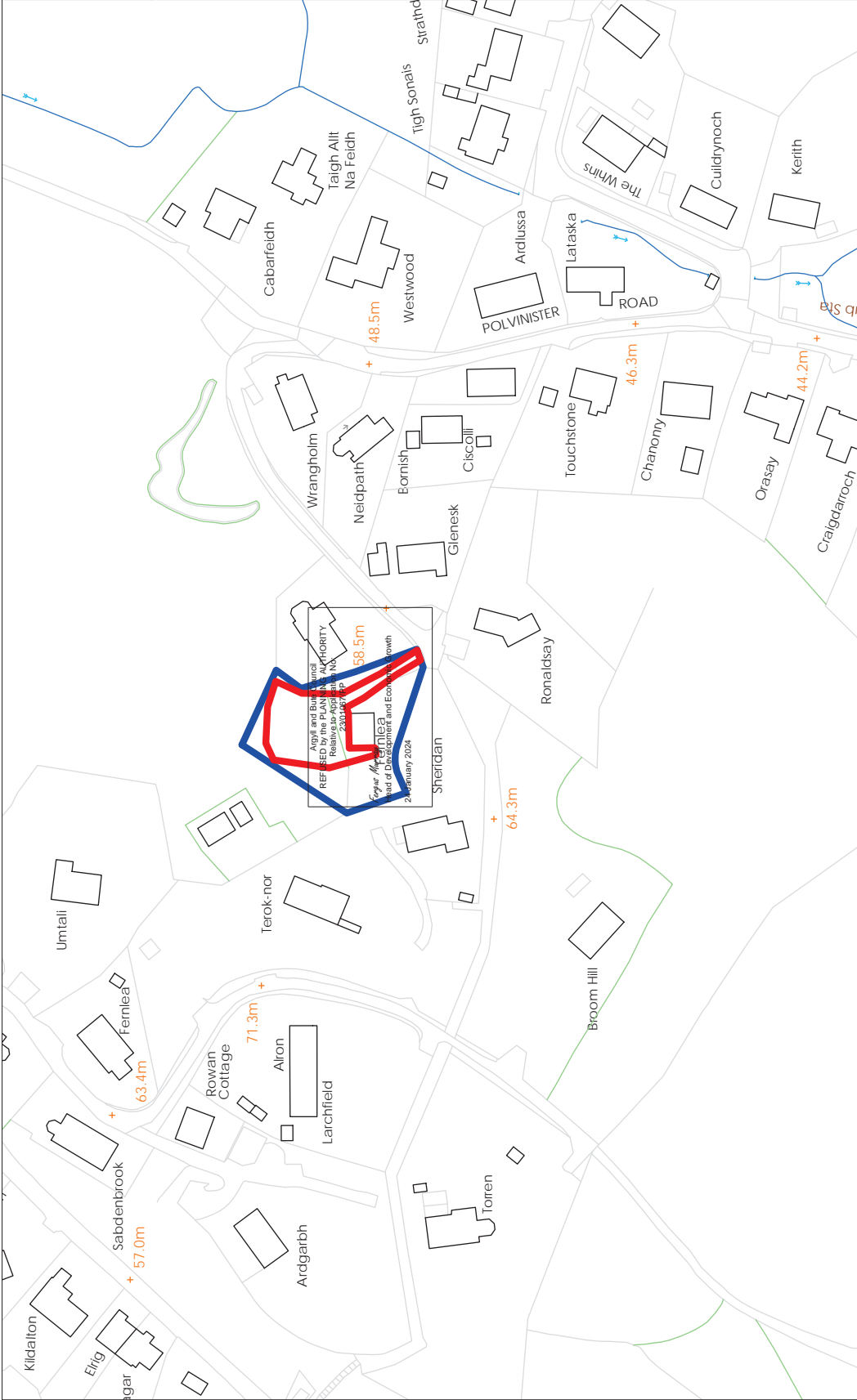
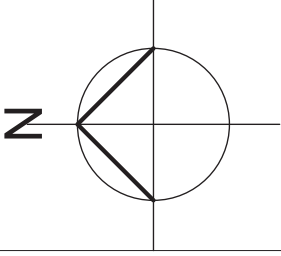
The existing dwelling known as Fearnlea on the application site has a connection to the main Scottish water foul sewer in place already. The proposal for the pod is to connect into the existing private dwelling system which is then in turn connected to the public network. Therefore, a new connection is not required for the new pod development as the building is considered ancillary to the main dwelling.

### 3. Site Proposals - Surface Water

Surface water arising from the new pod will be taken to a gravel soakaway around the new pod and will not require a connection to the public network.

### 4. Site Proposals - Water Connection

The existing dwelling known as Fearnlea on the application site has a connection to the mains Scottish Water mains water pipe in place already. The proposal for the pod is to take a connection from the existing dwelling on the site and feed the pod from the sites existing connection. Therefore, a new connection is not required for the new pod development as the building is considered ancillary to the main dwelling.



Application site outlined in **RED**  
 Other land in ownership of the Applicant in **BLUE**

Project

Proposed Accommodation Pod at  
 Fernlea, Polvinister Road, Oban

Detail

Planning Application  
 LOCATION PLAN

Client

Mr G Fielden

Scale

1 : 1250

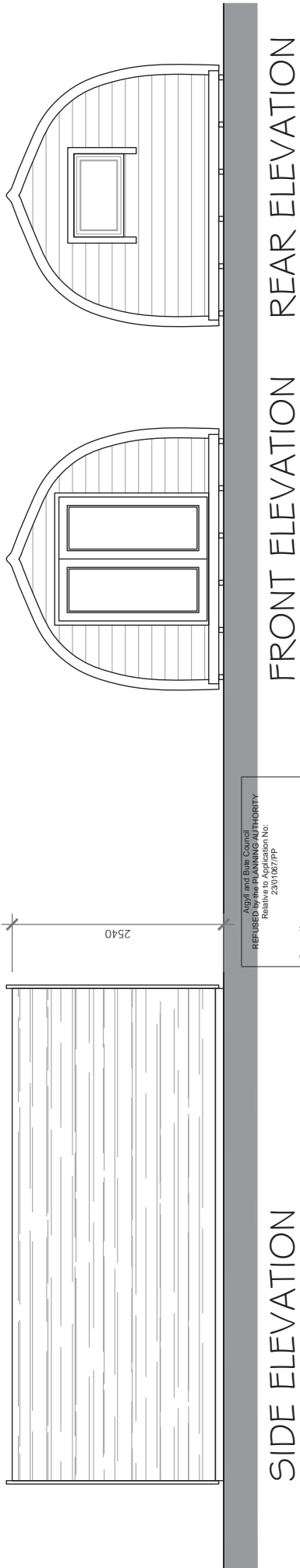
Date

April 2023



Job No

22823-WHAS-ZZ-XX-PL-A-00-0001-01

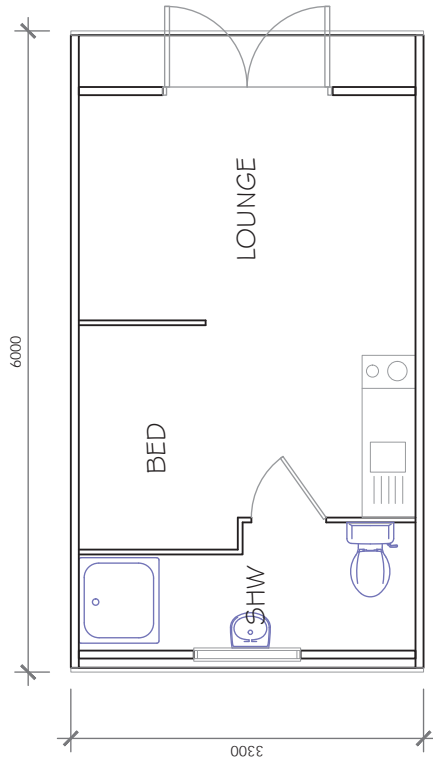


ADGAL and BUIE Council  
 REFUSED by the PLANNING AUTHORITY  
 Relative to Application No:  
 23/01667PP  
 Fergus Murray  
 Head of Development and Economic Growth  
 24 January 2024

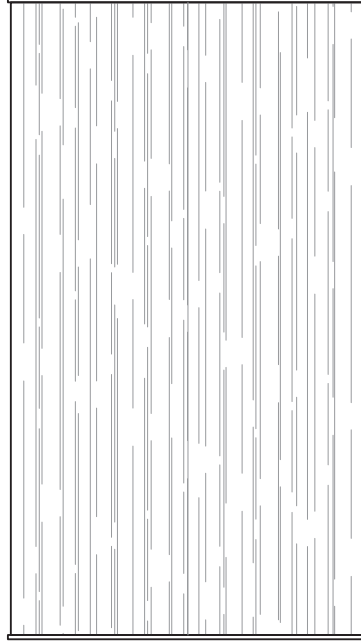
SIDE ELEVATION

FRONT ELEVATION

REAR ELEVATION



FLOOR PLAN



ROOF PLAN

Project

Proposed Accommodation Pod at  
Femlea, Polvinister Road, Oban

Detail

Planning Application  
PLANS & ELEVATIONS

Client

Mr G Fielden

Scale

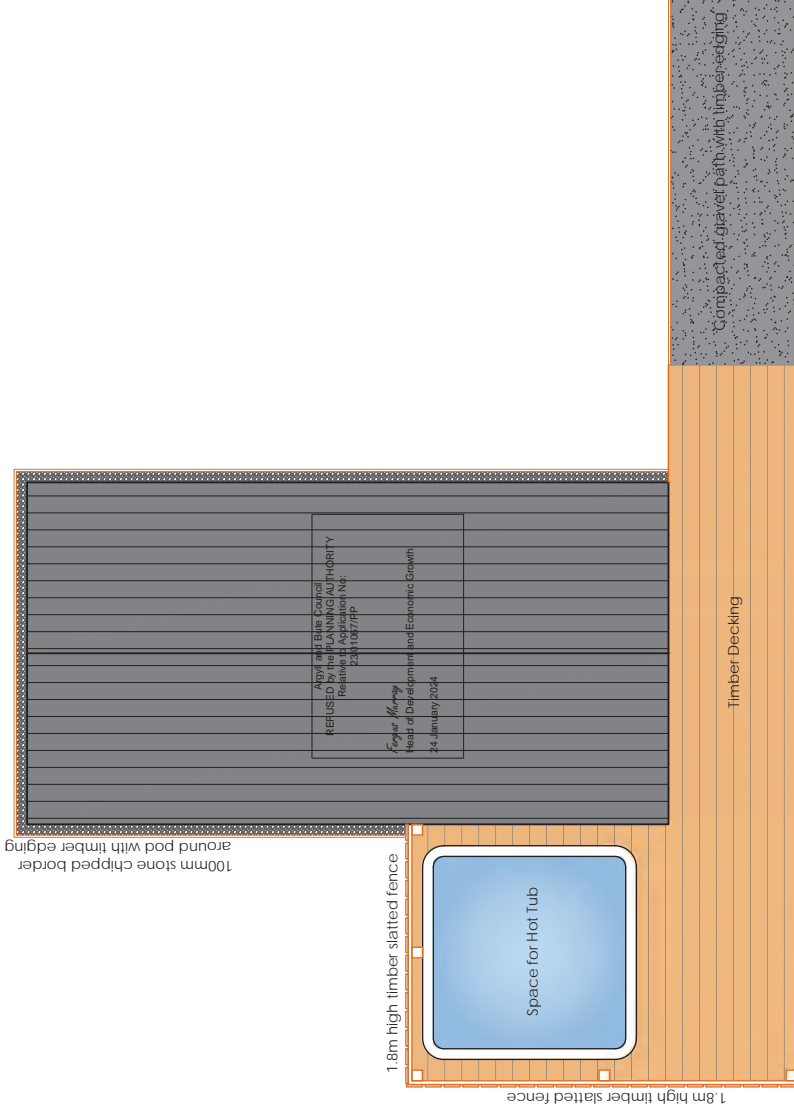
1:50

Date

April 2023



JOB NO  
22823-WHAS-ZZ-XX-PL-A-00-0003-01



# POD SITE LAYOUT



Project	Proposed Accommodation Pod at Fernlea, Polvinister Road, Oban	
Client	Mr G Fielden	
Detail	Planning Application EXTERNAL SITE LAYOUT	
Scale	1:50	Date
		May 2023
Job No	22823-WHAS-ZZ-XX-PL-A-00-0004-01	

**Statement in response to Consultee Response - Roads - 16/08/2023 in relation to Planning Application for Accommodation Pod Fernlea, Polvinister Road, Oban**

In reference to consultee response your ref 23/01067/PP (Your contact James Jackson, Operational Services), we would respond as follows:

The road referenced is a private un-adopted road that also falls within the core path network in this area, we understand due to the un-adopted nature of the road the comments submitted by the Roads department are advisory and we would seek to address them in the following ways;

**“the private Road is narrow with poor geometry.”**

The private road is single track and measures 3.0m at its narrowest point and extends for a total length of 118m as shown below in fig1. For the greater length of this distance the road is straight with good sight lines

Argyll and Bute Council  
REFUSED by the PLANNING AUTHORITY  
Relative to Application No:  
23/01067/PP  
Clyde Murray  
Head of Development and Economic Growth  
24 January 2024

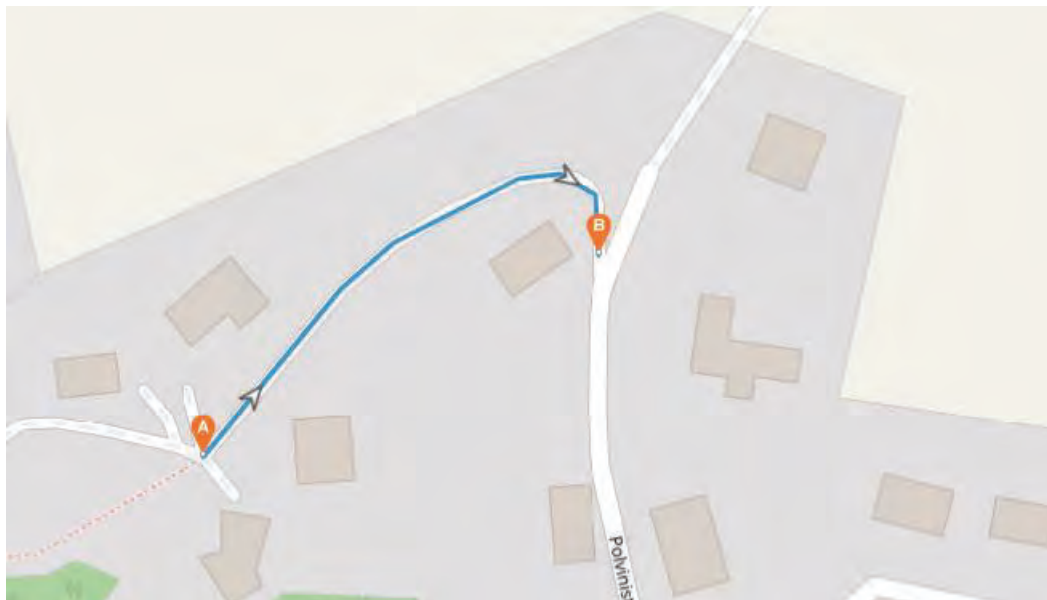


Figure 1: Illustration showing total length of Private Road

**“Narrow verges provide limited step off areas for pedestrians”**

The vast majority of the road length has step of verges of greater than 1.0m in width.

The applicant will maintain the verges along its length in order that they do not become overgrown and are accessible to those accessing the track. This shall also be a benefit not only to visitors to the development but also to users utilising the core path network.

The access road already forms part of the core path network in the area and regular users of the path already use the current verges to step of the road when vehicles use this route.

**“the private road serves numerous houses”**

The total number of houses served by the private road is only five (Including the applicant’s property)

The application proposal should not be considered, as it seems to be, as a new dwelling. The proposed pod is ancillary to an existing dwelling which already uses the un-adopted access road.

The proposal would see no significant increase in traffic (as noted in the design statement) on this section of road and is no different to any of the properties accessed by the un-adopted road operating a B&B operation from their home or a home having 2 or 3 cars neither of which would be subject to planning or roads department consultation and would have a more substantial impact than that of the submitted proposal.

Neath and Bute Council  
REFUSED by the PLANNING AUTHORITY  
Relative to Application No:  
23/01067/PP  
  
*Fergus Murray*  
Head of Development and Economic Growth  
  
24 January 2024

Operational Services already note that the road falls within a 20mph speed restriction area which is to the benefit of the site access.

We would be grateful if the above statements can be taken into consideration in your determination of the application and we would welcome the opportunity to provide further comment on a site visit is desired.



Supporting Information in relation to  
Statement in response to Consultee  
Response - Roads - 16/08/2023 in  
relation to Planning Application for  
Accommodation Pod Fernlea,  
Polvinister Road, Oban

Argyll and Bute Council  
REFUSED by the PLANNING AUTHORITY  
Relative to Application No:  
23/01067/PP  
*Fergus Murray*  
Head of Development and Economic Growth  
24 January 2024

---

23/01067/PP | Siting of accommodation  
pod for short term letting use | Garden  
Ground Of Fernlea Polvinister Road Oban  
Argyll And Bute





Typical section of verge



View down the private access road in the direction of Polvinister Road



View looking up the private access road in the direction of Fernlea.



Vehicle accessible width of verge



Typical section of verge



View looking up the private road in the direction of Fernlea



Vehicle accessible verge at on Private Road



View looking in the direction of Fernlea



Typical section of verge



Typical section of verge  
(Looking down the Private road)



Typical section of verge (Looking up the private Road)



Typical section of verge

## Design and Access Statement in Support of a Planning Application for Accommodation Pod Fernlea, Polvinister Road, Oban

### 1. Background Information

The applicant is Mr Graham Fielden whose current residence is Fernlea, Polvinister Road, Oban.

The home located in the semi-rural on the outskirts of Oban and he hopes to be able to offer a unique accommodation opportunity in a sustainable manner and help satisfy local demand for this type of holiday accommodation to satisfy demand from visitors to the area

REFUSED BY THE PLANNING AUTHORITY  
Relative to Application No:  
23/0167/P/PA  
*Fergus Murray*  
Head of Development and Economic Growth  
24 January 2024

### 2. Site Appraisal

The total application site extends to an area of approx. 0.1Ha. The property is bounded on the south, west and east by other detached dwellings on Polvinister Road to the north the site is bounded by rough grazing land.

The site is split over 2 generally level areas, the lower part of the site is where the current residence is sited along with garden ground and parking areas, a steep banking leads to another upper-level area which is garden area. Development would not involve a great deal of site preparation or earth moving as the proposal seeks to work with the landscape. Disabled access would possibly be difficult to achieve however ambulant disabled access would be possible.

The site is accessed from the existing Polvinister road and the small scale of the development would have no overall impact on the use of the road as this proposal is associated with an existing dwelling.

Using Argyll & Bute Councils own data an average length of stay in the area is between 4 to 6 days on average, taken over a maximum occupancy period of 48 weeks in any year then this would equate to approximately 69 vehicle movements per year directly associated with the pod.

Visitors to the pod would also be encouraged to walk around the area (it is as quick to walk into the town centre from the site as it is to drive), promotion of existing walking routes in the area would be visible to visitors to the pod.

The access road to the site is single track and also serves the 3 other dwellings in the immediate vicinity, the road is verged with grass verges of at least 1.0m wide and would provide sufficient pedestrian separation along its line.

The site slopes from north to south, access between the levels on site would be by means of a new path working with the site contours with a mix of ramp and steps.

The proposed siting of the hut would have no overall impact on the existing housing group.

The buildings surrounding the site are of similar style and mostly single and two storey detached dwellings.

The new pod will be small, scale and be mobile. The choice for external finishing materials would reflect the existing situation to ensure that the hut would be 'appropriate' in its setting in order to accord with both Council Development Plan Policies and Scottish Government Guidance.

Argyll and Bute Council  
 Planning and Economic Development  
 Relative to Application No:  
 23/0118  
 Fergus Murray  
 Head of Development and Economic Growth  
 24 January 2024

**3. Services**

A mains water supply is proposed and is available within the site boundary.

An electricity supply is also available within the site boundaries.

A public sewage system is available within the site boundaries.

**4. Policy Considerations**

The overall aims of this proposal are to ensure that the proposed pod accommodation is carefully located, is worthy of its setting and is the result of an imaginative, responsive and sensitive design process. The proposal will fulfil these aims and in so doing will provide a sustainable development not out of keeping in its surroundings. This sensitive approach is in accordance with the aims of Scottish Government Guidance as expressed in Planning Advice Note 72 – Housing in the Countryside.

The site is also covered by the National Planning Framework 4, the applicable policies are stated in the table below

<p><b>Policy 30(b) – Tourism</b></p>	<p>(a) Tourism is central to the proposal and the aims of the policy can be identified in the following ways;</p> <p>i. The proposal shall make a positive contribution to the local economy by providing accommodation for visitors to the area and allow them to enjoy the services offered in the local area. Argyll and Bute council state <b>“Tourism is an extremely important sector for Argyll and Bute employing almost 25% of private sector jobs and 9% of</b></p>
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**our GVA compared to a 3% GVA average for Scotland<sup>3</sup>** Table 1 below also demonstrates the positive impact tourism makes to the local economy

- ii. The proposal fits in with similar tourism related activities in the general locality.
- iii. The provision of homes for local people would not be impacted by this development as it does not take an existing home out of the market.
- iv. The applicant intends to provide an electric car charging point on the site which will encourage more users of sustainable transport to make use of the accommodation. Fernlea also benefits from an existing 2.4kw solar PV installation which will enable the charging point to be optimised for use that would not further incur the National Grid.
- v. With the elevation of the site wheelchair access would be difficult however careful planning of the access would allow ambulant disabled users to make use of the accommodation. The applicant has personal experience of family members with disabilities and recognises and are supportive of the requirements of parents and carers of those with additional needs to be able to feel welcome and safe when taking a much-needed holiday.
- vi. The buildings are formed from sustainable timber sources and contribute to net zero targets. Heating will be from non-carbon-based sources.
- vii. The site is on the fringes of the natural environment and access to this is encouraged by the applicants. The proposal also looks to work around the natural environment on site and take advantage of existing ecology and landscape.

The proposal is considered to comply with Policy 30(b).

Argyll and Shetland Council  
 REFUSED by the PLANNING AUTHORITY  
 Referral to the Planning Committee  
 23/01067/PP  
 Fernlea Homes  
 Head of Development and Economic Growth  
 24 January 2024

Table 1.

**National and Regional International Tourism Performance, 2019**

Indicators	Scotland		Argyll & the Isles	
	Key Facts in 2019	% Change 2018/19	Key Facts in 2019	% Change 2018/19
Visits (000s)	3,460	-7%	150	+19%
Spend (£M)	2,538	+7%	90	+128%
Nights (000s)	27,385	+8%	691	+60%
Average length of stay	7.9 nights	+16%	4.6 nights	+34%
Average spend per day	£93	0%	£131	+43%
Average spend per visit	£734	+15%	£602	+91%

Source: IPS, 2019



## 5. Site Photographs



Proposed Pod Location



View towards rear of pod site



View from Front of proposed Pod site



Access Road & Existing Parking area with site above



Access route to pod level to be improved and reprofiled

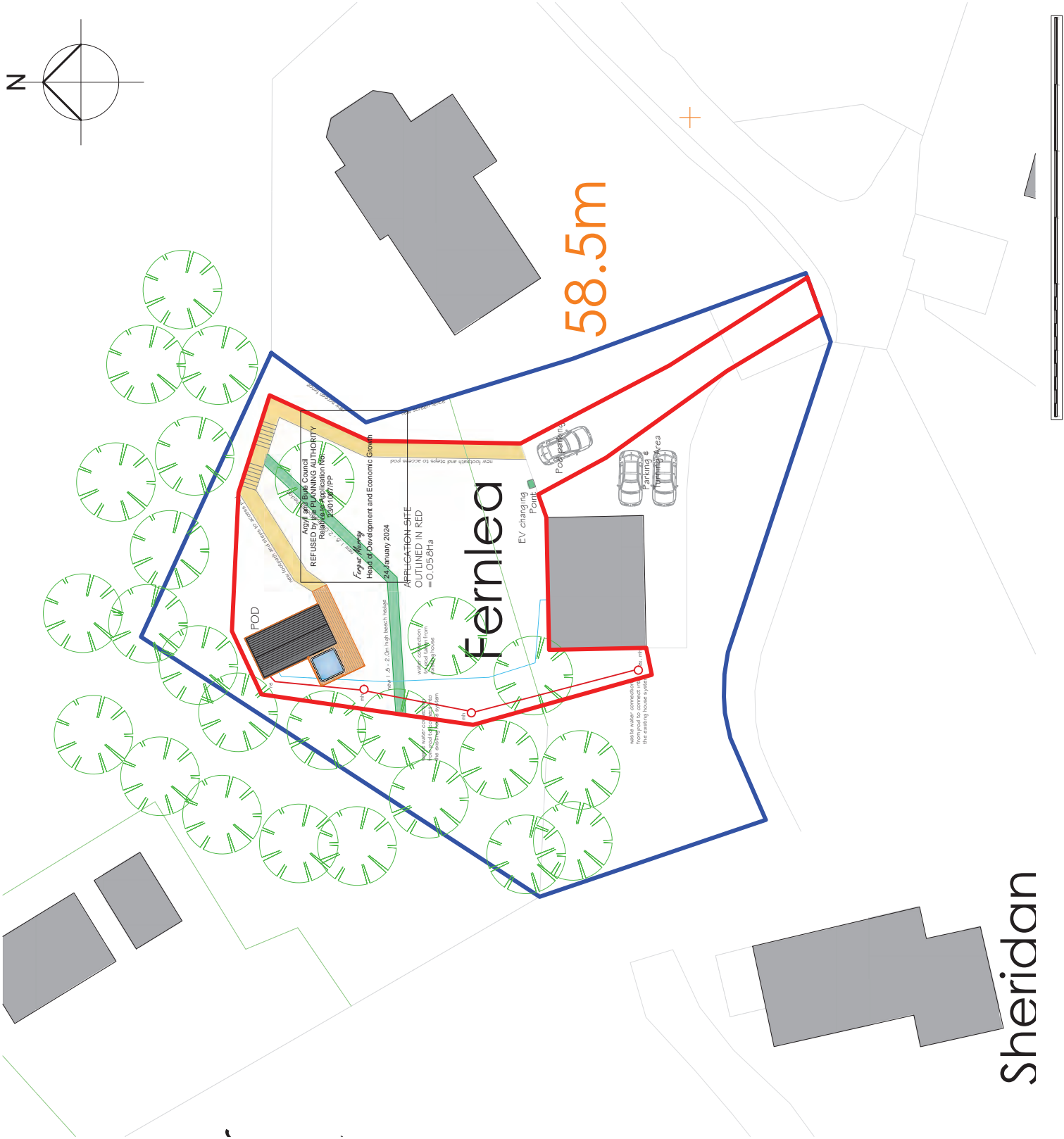
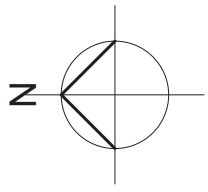
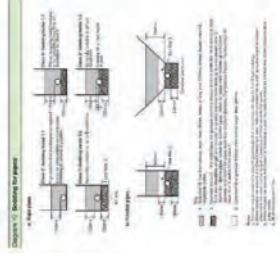
DRAINAGE NOTES:

1. Drainage: The wastewater drainage system is to be constructed and installed in accordance with -
  - a. for sanitary pipework, BS EN 12056-2:200
  - above ground drainage pipes to be in uPVC sized as follows-
    - Dn 110 to WC
    - Dn 32 to WHB
    - Dn 32 to SHW
    - Dn 110 to Soil Vent Pipe (SVP)
  - All branch wastes to be trapped and SVP to have accessible rodding point.
  - Ventim deep trap seal to be provided to the washbasin.
  - Ventim to be installed in a vertical line to the SVP and should not share the same branch as other waste.
  - All pipe diameters below floor slab to be Dn 110
  - for a drainage system outside the building, BS EN 752-3 | 1997 (amend 2), BS 752-4:1990 and BS EN 1610:1998
  - c. for rainwater pipes and gutters, BS EN 12056-3:2000
2. Gradient of all underground drains to be installed at not less than 1 in 80
3. Min. 200mm diameter bend to be installed at foot of drainage stacks

- svp denotes 100mm dia. soil and vent pipe taken through roof
- shw denotes 100mm dia. air admittance valve
- whb denotes 100mm dia. hot water boiler
- nwp denotes rainwater pipe position
- re denotes rodding eye
- mth denotes manhole
- c denotes inspection chamber
- bg denotes underground foul water drain
- u denotes underground surface water drain

Legend:

- Denotes min. 500mm depth on min. 1500mm well compacted hardcore base
- Denotes paving slabs on blinding and compacted hardcore base - slabs laid with crossfall away from building
- Denotes new grass seeded to pool
- Denotes site boundary line.



Project	
Proposed Accommodation Pod at Fernlea, Polvmister Road, Oban	
Client	
Mr G Fielden	
Detail	
Planning Application SITE PLAN	
Scale	Date
1:200	April 2023
JOB No	
22823-WHAS-ZZ-XX-PL-00-0002-02	



- Existing View from approximate location of the front of the new Pod
- Existing fence is in the region of 1.0m high



- Proposed View with screen hedge planted on line of existing fence
- Preserves private of the immediate neighbouring properties whilst maintaining the longer view from site
- Proposed hedging to be between 1.8m and 2.0m high
- Hedging will also screen the pod from the lower areas so when looking up from the access road the pod will not be visible behind the hedge.
- Improved biodiversity on site with hedging attracting new species to site.

Application for new Pod at Fearnlea, Polvinster Road, Oban  
 Mr G Fielden  
 Screening Proposal

## Design and Access Statement in Support of a Planning Application for Accommodation Pod Fernlea, Polvinister Road, Oban

### 1. Background Information

The applicant is Mr Graham Fielden whose current residence is Fernlea, Polvinister Road, Oban.

The home located in the semi-rural on the outskirts of Oban and he hopes to be able to offer a unique accommodation opportunity in a sustainable manner and help satisfy local demand for this type of holiday accommodation to satisfy demand from visitors to the area

REFUSED BY THE PLANNING AUTHORITY  
Relative to Application No:  
23/0167/P/PC  
*Fergus Murray*  
Head of Development and Economic Growth  
24 January 2024

### 2. Site Appraisal

The total application site extends to an area of approx. 0.1Ha. The property is bounded on the south, west and east by other detached dwellings on Polvinister Road to the north the site is bounded by rough grazing land.

The site is split over 2 generally level areas, the lower part of the site is where the current residence is sited along with garden ground and parking areas, a steep banking leads to another upper-level area which was is garden area. Development would not involve a great deal of site preparation or earth moving as the proposal seeks to work with the landscape. Disabled access would possibly be difficult to achieve however ambulant disable access would be possible.

The site slopes from north to south, access between the levels on site would be by means of a new path working with the site contours with a mix of ramp and steps.

The proposed siting of the hut would have no overall impact on the existing housing group.

The buildings surrounding the site are of similar style and mostly single and two storey detached dwellings.

The new pod will be small scale and be mobile. The choice for external finishing materials would reflect the existing situation to ensure that the hut would be 'appropriate' in its setting in order to accord with both Council Development Plan Policies and Scottish Government Guidance.

### 3. Services

A mains water supply is proposed and is available within the site boundary.

An electricity supply is also available within the site boundaries.

A public sewage system is available within the site boundaries.

### 4. Policy Considerations

Argyll and Bute Council  
 is the PLANNING AUTHORITY  
 Relative to Application No:  
 23/01067/PP  
 Fergus Murray  
 Head of Development and Economic Growth  
 24 January 2024

The overall aims of this proposal are to ensure that the proposed pod accommodation is carefully located, is worthy of its setting and is the result of an imaginative, responsive and sensitive design process. The proposal will fulfil these aims and in so doing will provide a sustainable development not out of keeping in its surroundings. This sensitive approach is in accordance with the aims of Scottish Government Guidance as expressed in Planning Advice Note 72 – Housing in the Countryside.

The site is also covered by the National Planning Framework 4, the applicable policies are stated in the table below

<p><b>Policy 30(b) – Tourism</b></p>	<p>(a) Tourism is central to the proposal and the aims of the policy can be identified in the following ways;</p> <ul style="list-style-type: none"> <li>i. The proposal shall make a positive contribution to the local economy by providing accommodation for visitors to the area and allow them to enjoy the services offered in the local area..</li> <li>ii. The proposal fits in with similar tourism related activities in the general locality.</li> <li>iii. The provision of homes for local people would not be impacted by this development as it does not take an existing home out of the market.</li> <li>iv. The applicant intends to provide an electric car charging point on the site which will encourage more users sustainable transport to make use of the accommodation.</li> <li>v. With the elevation of the site wheelchair access would be difficult however careful planning of the access would allow ambulant disabled users to make use of the accommodation.</li> <li>vi. The buildings are formed from sustainable timber sources and contribute to net zero targets. Heating will be from non-carbon-based sources.</li> <li>vii. The site is on the fringes of the natural environment and access to this</li> </ul>
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	<p>is encouraged by the applicants. The proposal also looks to work around the natural environment on site and take advantage of existing ecology and landscape.</p> <p>The proposal is considered to comply with Policy 30(b).</p>
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Argyll and Bute Council  
REFUSED by the PLANNING AUTHORITY  
Relative to Application No:  
23/01067/PP

*Murray*  
Head of Development and Economic Growth  
24 January 2024

### 5. Site Photographs



Proposed Pod Location



View towards rear of pod site



View from Front of proposed Pod site



Access Road & Existing Parking area with site above



Access route to pod level to be improved and reprofiled

Siting of accommodation pod for short term letting use  
Garden Ground of Fernlea Polvinister Road Oban Argyll and Bute  
Ref. No: 23/01067/PP

## Management Plan

The applicant and this application recognise the importance of good neighbour relations and environmental impact and as such, the management plan stipulates how this shall be achieved.

The pod shall be let subject to terms and conditions which shall be agreed at point of booking. These shall also be displayed at the pod. It is also of note that the maximum occupancy of two adults.

These conditions are shown:

- **Use of Pods:** The Pods shall be used as a holiday let only and for no other purpose. Only members of the booking party shall be permitted on the site. Third party access is strictly prohibited. You must not use the Accommodation, or allow it to be used, for any dangerous, offensive, noisy, illegal or immoral activities. You must not cause any nuisance or annoyance to any neighbours or anyone else during your stay.
- **Noise:** We don't allow any amplified music or loud revelling that disturbs local residents. Quiet time is 10:00pm to 9:00am. It's very important to us that our neighbours are shown respect and we all need sleep for tomorrow's adventures! Anyone committing a nuisance or disturbing the peace may be asked to leave immediately and without a refund.
- **Hot Tub:** Use of the hot tub before 9am and after 10pm is prohibited.
- **Rubbish and Recycling:** We are passionate about recycling and would ask that you comply by using our recycling facilities and use the correct bins provided.
- **Transport:** We seek to minimise vehicular movements and request that consideration should be given to other modes of transport. The pod is situated on the "Core Path Network" and gives direct access to Oban Town centre. Maps are located within the information packs.
- **Parking:** Only one vehicle per booking is permitted at the site.
- **Drones:** The flying of drones on the site is prohibited.
- **Safety:** Please observe a 10mph speed limit along the access road. The road is regularly used by pedestrians and residents.
- **Pets:** Unfortunately, we are unable to accommodate pets at this pod.
- **Smoking:** The pod is a strictly no smoking or vaping accommodation.

It is also of note there's very little light pollution in Argyll, making it one of the best places in Scotland to watch the night sky. A clear night can reveal a canopy of stars that will take your breath away. It can be possible to spot satellites, meteors, meteor showers, comets and even meteorites, or you can simply gaze at the moon. From a city centre location, you might see fewer than 100 stars with our naked eyes. Under a dark sky we can see over 1,000 stars. You may even be lucky enough to see the Northern Lights.

- Considering the above the development of the pod shall implement:
- Low level illumination at all foot paths.
- No additional lighting shall be installed at the parking area as this already benefits from the lighting installed at Fernlea which is a PIR (Passive Infrared) sensor operated light.
- Within the entrance to the pod the lighting fixture will be fully shielded and emit no light above the horizontal plane.
- Internal to the pod, black out blinds shall be installed.

**Appendix 4 - Roads Comments (16.07.23)**

Operational Services  
Oban, Lorn and the Isles Area

## OBSERVATIONS ON PLANNING APPLICATION

Our Ref: 23/01067/PP  
Contact: James Jackson  
Tel: 01631 567983

Planning Application No: 23/01067/PP Dated: 30<sup>th</sup> June 2023 Received:  
Applicant: Mr Graham Fielden.  
Proposed Development: Siting of accommodation pod for short term letting use.  
Location: Garden Ground Of Fernlea Polvinister Road Oban Argyll And Bute PA34 5TN.  
Type of consent: Planning Permission Ijn Principal.  
Ref. No(s) of Drg(s) submitted: Series of drawings.

### RECOMMENDATION: Refuse.

Proposals Acceptable	Y	Proposals Acceptable	Y/N	Proposals Acceptable	Y/N
<b>1. General</b>		<b>3. New Roads</b>		<b>4. Servicing and Car Parking</b>	
(a) General Impact of development	Y	(a) Widths		(a) Drainage	Y
(b) Safety Audit Required	N	(b) Pedestrian Provision		(b) Car parking Provision	Y
(c) Traffic Impact Analysis Required	N	(c) Layout (Horizontal/Vertical alignment)		(c) Layout of Parking bays/Garages	Y
(d) Drainage Impact/Flooding Assessment Required	N	(d) Turning Facilities (Circles/Hammerheads)		(d) Servicing Arrangements/Driveways	Y
(e) Sustainable Drainage System (SUDS) Provision	N	(e) Junction Details (Locations/radii/sightlines)			
<b>2. Existing Roads</b>		(f) Provision for P.U. Services		<b>5. Signing Y</b>	
(a) Type of connection (Road Junction/Footway Crossing)	Y			(a) Location	
(b) Location(s) of Connection(s)	Y			(b) Illumination	
(b) Sight-lines	Y				
(d) Pedestrian Provision	Y				

Item Ref.	COMMENTS
1	The proposal is accessed by a private road situated off the end of the UC72 Polvinister Road within an urban 20mph speed restriction. The private road is narrow with poor geometry. It has limited passing opportunities for vehicles It forms part of the Longsdale. Footpath. Narrow verges provides limited step off areas for pedestrians The private road serves numerous houses and is unsuitable for further development and intensification of use.

Item Ref.	CONDITIONS/ REASONS
	Refuse.

#### Notes for intimation to Applicant

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

\*Relevant Section of the Roads (Scotland) Act 1984

Signed: James Jackson  
Technical Officer

Date: 16/08/2023

**Appendix 5 - Supporting Information on Roads Consultation**



## Statement in response to Consultee Response - Roads - 16/08/2023 in relation to Planning Application for Accommodation Pod Fernlea, Polvinister Road, Oban

In reference to consultee response your ref 23/01067/PP (Your contact James Jackson, Operational Services), we would respond as follows:

The road referenced is a private un-adopted road that also falls within the core path network in this area, we understand due to the un-adopted nature of the road the comments submitted by the Roads department are advisory and we would seek to address them in the following ways;

### **“the private Road is narrow with poor geometry.”**

The private road is single track and measures 3.0m at its narrowest point and extends for a total length of 118m as shown below in fig1. For the greater length of this distance the road is straight with good sight lines

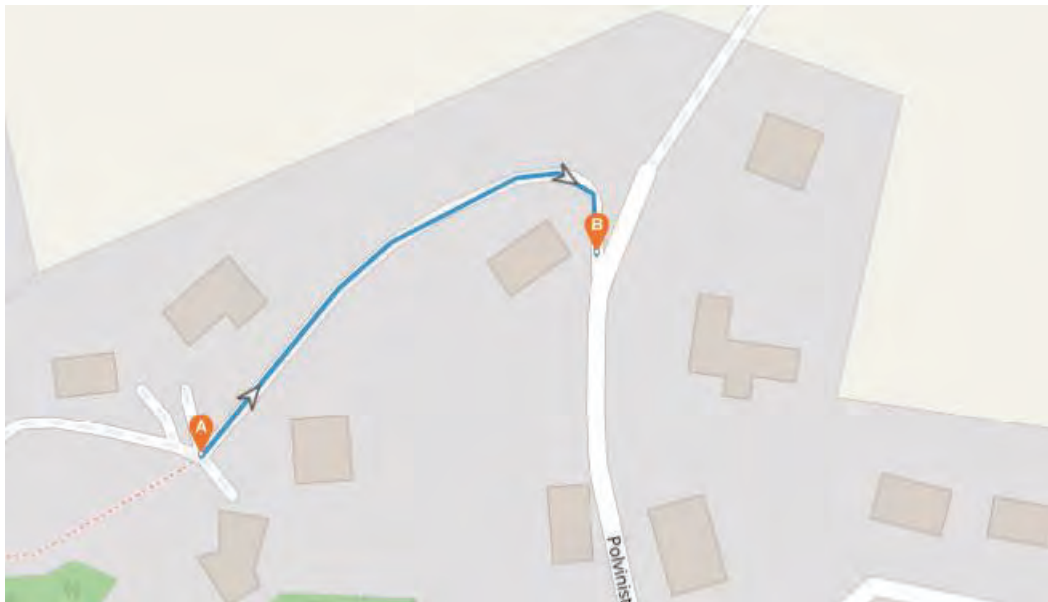


Figure 1: Illustration showing total length of Private Road

### **“Narrow verges provide limited step off areas for pedestrians”**

The vast majority of the road length has step of verges of greater than 1.0m in width.

The applicant will maintain the verges along its length in order that they do not become overgrown and are accessible to those accessing the track. This shall also be a benefit not only to visitors to the development but also to users utilising the core path network.

The access road already forms part of the core path network in the area and regular users of the path already use the current verges to step off the road when vehicles use this route.

**“the private road serves numerous houses”**

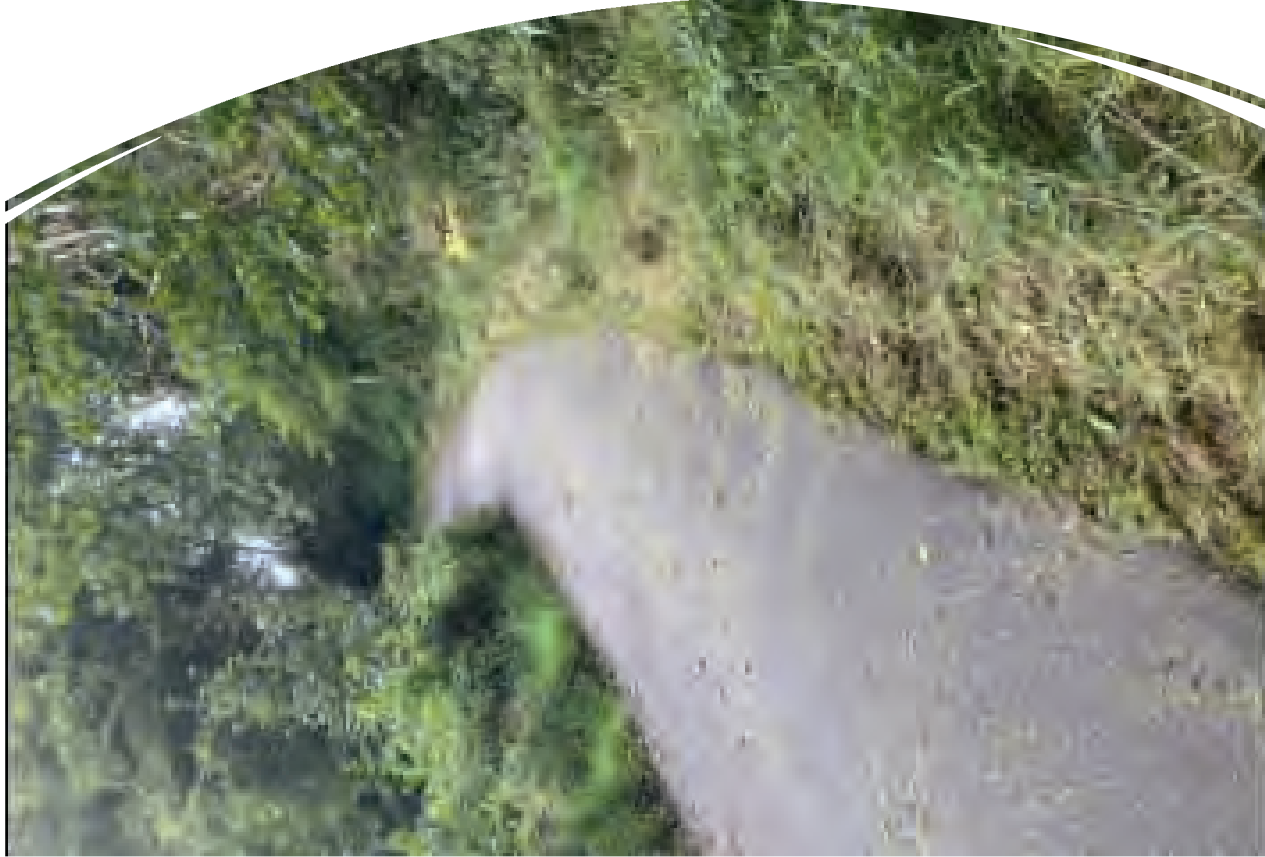
The total number of houses served by the private road is only five (Including the applicant's property)

The application proposal should not be considered, as it seems to be, as a new dwelling. The proposed pod is ancillary to an existing dwelling which already uses the un-adopted access road.

The proposal would see no significant increase in traffic (as noted in the design statement) on this section of road and is no different to any of the properties accessed by the un-adopted road operating a B&B operation from their home or a home having 2 or 3 cars neither of which would be subject to planning or roads department consultation and would have a more substantial impact than that of the submitted proposal.

Operational Services already note that the road falls within a 20mph speed restriction area which is to the benefit of the site access.

We would be grateful if the above statements can be taken into consideration in your determination of the application and we would welcome the opportunity to provide further comment on a site visit if desired.



Supporting Information in relation to  
Statement in response to Consultee  
Response - Roads - 16/08/2023 in  
relation to Planning Application for  
Accommodation Pod Fernlea,  
Polvinister Road, Oban

---

23/01067/PP | Siting of accommodation  
pod for short term letting use | Garden  
Ground Of Fernlea Polvinister Road Oban  
Argyll And Bute



Typical section of verge



View down the private access road in the direction of Polvinister Road



View looking up the private access road in the direction of Fernlea.



Vehicle accessible width of verge



Typical section of verge



View looking up the private road in the direction of Fernlea



Vehicle accessible verge at on Private Road



View looking in the direction of Fernlea



Typical section of verge



Typical section of verge  
(Looking down the Private road)



Typical section of verge (Looking up the private Road)



Typical section of verge

**Appendix 6 - Risk Assessment**



# Appendix 6 - Risk assessment

Assessment carried out by: Graham Fielden

Date assessment was carried out: 05/10/2023

Activity	Hazard	Risk	Persons in Danger	Risk Rating	Control Measures	Risk left on site	Additional Comments
Walking up private lane on core path network	Live traffic & other road users	Struck by	pedestrians	Med	Road has a mandatory 20mph speed limit	Low	Whilst the road has a 20-mph (which is a benefit) speed limit in reality 20mph is difficult to achieve
Walking up private lane on core path network	Live traffic & other road users	Struck by	pedestrians	Med	Step off verges to be maintained as per verge management plan	Low	To ensure pedestrian vehicular separation
Walking up private lane on core path network	Live traffic & other road users	Struck by	pedestrians	Med	Visitors to be pre informed of speed limit on road	Low	This to be informed via pre booking information. Any breach of this condition of contract could result in the guests booking being terminated
Walking up private lane on core path network	Live traffic & other road users	Struck by	pedestrians	Med	Visitors to be informed of speed limit on road within welcome pack	Low	Aim of good communication
Walking up private lane on core path network	Live traffic & other road users	Struck by	pedestrians	Med	Visitors to be informed of walking paths to town centre once arrived at the property and encouraged to use as an alternative to driving	Low	Limited parking within town to supplement this aim
Walking up private lane on core path network	Live traffic & other road users	Struck by	pedestrians	Med	A condition of booking to be that only one vehicle per booking will be allowed at the property	Low	Aim is to reduce the overall number of vehicular movements

**Appendix 7 - Local Review Body decision letter on planning application 22\_01001\_PP  
(23\_0007\_LRB)**



Executive Director: Douglas Hendry

**Legal and Regulatory Support**

Kilmory, Lochgilphead, Argyll, PA31 8RT  
Tel: 01546 602127  
e.mail – [lynsey.innis@argyll-bute.gov.uk](mailto:lynsey.innis@argyll-bute.gov.uk)  
[www.argyll-bute.gov.uk](http://www.argyll-bute.gov.uk)

Fair Planning and Design  
c/o Stephen Fair  
Lios Mhoire  
Ardconnel Terrace  
Oban  
PA34 5DJ

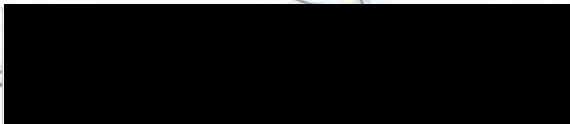
Direct Line	01546 604338
Ask for	Lynsey Innis
Our Ref:	
Your Ref:	23/0007/LRB
Date:	12 December 2023

Dear Sir

**LOCAL REVIEW BODY REFERENCE: 23/0007/LRB**  
**PLANNING APPLICATION REFERENCE: 22/01001/PP**  
**BROOM HILL, ARDCONNEL HILL, OBAN, PA34 5DY**

I refer to the above and enclose herewith the Decision Notice and duly stamped plans relative to the case.

Yours faithfully



David Logan  
Head of Legal and Regulatory Support

Enc

c.c Planning Authority



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# ARGYLL AND BUTE LOCAL REVIEW BODY

## DECISION NOTICE



### Details of Review Case: 23/0007/LRB

Address of Appeal Property:	Broom Hill, Ardconnel Hill, Oban
Description of Proposal:	Use of land for siting of a glamping pod.
Applicant for Review:	Mr & Mrs Martin & Arlene McLeod
Agent:	Fair Planning & Design
Date Review Validated:	13 September 2023
Drawings referred to:	<ul style="list-style-type: none"> <li>• Statement of Case</li> <li>• Application Form</li> <li>• Roads Authority Consultation Response</li> <li>• Planning Officer email confirming acceptability of proposal (other than access)</li> <li>• Report of Handling</li> <li>• Decision Notice</li> <li>• Refused Application Plans</li> <li>• Local Review Body decision letter on Planning application 20/01542/PP (LRB ref 21/0005/LRB)</li> </ul>
Method of which case determined	Written Submissions and Site Visit

### 1. The Review Application

Planning permission 22/01001/PP for use of land for the siting of a glamping pod within garden ground of Broom Hill, Ardconnel Hill, Oban was refused under delegated powers on 18 July 2023 for the following reasons:

1. The proposed development conflicts with NPF4 Policy 13, and Policies LDP 11 and SG LDP TRAN 4 of the adopted 'Argyll and Bute Local Plan' 2015 and Policy 37 of emerging proposed 'Local Development Plan 2' as the proposed development would result in the intensification in vehicular use of a sub-standard private road with no delineation between pedestrian or vehicular use.

The proposed development constitutes a material intensification of the use of an existing and constrained access regime and would be capable of support only if compliance with various highway safety concerns could be demonstrated through the submission, examination and acceptance of competent detail.

The land necessary for the upgrade of the existing private road, if achievable, does not form part of the planning application site and is not within the acknowledged legal ownership/control of the Applicant.

2.	<b>Outline of Reasons for Review</b>
2.1	A Notice of Review submitted by the Applicant's Agent was received and validated on 13 September 2023.
2.2	<p>The Applicant's Agent set out the grounds for requesting the Review as follows:</p> <p><b>Introduction</b></p> <p>Planning application 22/01001/PP, submitted on 17 May 2022 by Great Glen Designs on behalf of Martin and Arlene McLeod, sought planning permission for the siting of one glamping pod within the grounds of Broom Hill, Ardconnel Hill, Oban.</p> <p>The application was refused under delegated powers on 18 July 2023 for the following reason:</p> <ol style="list-style-type: none"> <li>1. The proposed development conflicts with NPF4 Policy 13, and Policies LDP 11 and SG LDP TRAN 4 of the adopted 'Argyll and Bute Local Plan' 2015 and Policy 37 of emerging proposed 'Local Development Plan 2' as the proposed development would result in the intensification in vehicular use of a sub-standard private road with no delineation between pedestrian or vehicular use.</li> </ol> <p>The proposed development constitutes a material intensification of the use of an existing and constrained access regime and would be capable of support only if compliance with various highway safety concerns could be demonstrated through the submission, examination and acceptance of competent detail.</p> <p>The land necessary for the upgrade of the existing private road, if achievable, does not form part of the planning application site and is not within the acknowledged legal ownership/control of the Applicant.</p> <p>During the planning application process, and within the delegated report of handling, planning officers confirm that they find the development acceptable in all terms other than concerns regarding the existing shared private access to the site. The proposal is confirmed as appropriate in all other planning respects. This Notice of Review therefore focusses on the single issue of concern as reflected in the reason for refusal. Mr &amp; Mrs McLeod submit this Notice of Review for the reasons set out in below and respectfully invite the Local Review Body to grant planning permission.</p> <p><b>Discussion</b></p> <p>As confirmed throughout the planning report of handling, the application is considered acceptable in all terms other than access. The planning service assessment confirms that the design, siting, water supply, drainage, biodiversity and other matters are all satisfactory or can be</p>

controlled by planning conditions.

The essential question on which the planning decision rests is whether the existing private access is sufficient to serve the proposed glamping pod or not.

The Roads Engineer considers that there would be a material intensification of use of an existing sub-standard private access and has accordingly objected to the application. A single objection from a member of the public also raises concern over the existing shared access.

The applicants, through their former agent, confirmed that the existing house was used for the letting of two bedrooms for B&B purposes\* and that such usage would be modified to achieve a glamping pod within the garden grounds. Limiting B&B accommodation within the main family home and enabling a self-contained pod in the garden grounds would facilitate privacy for guests and to the McLeods' and their children.

Swapping B&B rights to one bedroom within the house for a glamping pod within the garden ground ensures that there would be no additional traffic nor any intensification of use of the existing access arising from the development as proposed. The pod would be let to a couple or family arriving in a single vehicle. Accordingly, the existing access does not require any improvements that may otherwise be necessary to enable the development of a holiday pod.

Planning officers' resistance to this logic focusses on a perceived inability to retain control over B&B activity within the main house, and therefore that an additional glamping pod must involve some intensification of use of the existing access.

A recent Local Review Body decision considered a near identical scenario in another location within Oban last year. The LRB's decision in that case is of critical importance as it provides a direct precedent to the current appeal case.

Planning application 20/01542/PP proposed two holiday pods within the garden ground of Soroba Lodge, which is served via a shared private access. Soroba Lodge had the ability to operate two bedrooms for B&B purposes within the main house. The Planning Service and Roads Engineer were concerned about traffic levels on the shared private access and ultimately the application was refused under delegated powers. An appeal against the refusal was however successful. When issuing planning permission in May 2022 under ref 21/0005/LRB, the Local Review Body attached planning condition 3 to prohibit occupation of the two approved pods at any time when B&B activity was occurring within the house.

The planning condition attached to the Soroba Lodge decision is an effective way of guaranteeing that there can be no increase above

existing traffic levels, whilst maintaining flexibility to the householder in terms of B&B activity. That balanced and tailored approach to the circumstances allowed the Planning Authority to support an otherwise acceptable development whilst retaining ongoing control in an entirely legitimate and enforceable way. The specific wording in the planning condition avoids the apparent pitfall of seeking to restrict the applicant's right to operate B&B within the house (as had been of concern to planning officers in that case) by controlling the use of the holiday pods instead.

It is unfortunate that the OLI Area Team Leader/individual planning officers have difficulty in accepting Members' decision in the Soroba Lodge case (20/01542/PP), as evidenced in the following paragraph from the report of handling for Broom Hill (22/01001/PP):

"Whilst officers have to accept the previous decision by the LRB on planning permission 20/01542/PP, they maintain their professional opinion that the approach adopted by the LRB at that time was wrong. Officers cannot, therefore, accept that a substantial precedent has been set."

In cases where any individual officer of the council disagrees with, or has difficulty accepting, a decision of elected Members, or indeed any decision taken by a higher authority, it is professionally appropriate for that officer to stand aside and request that another officer issues future decisions that are consistent with earlier council decisions. Continuing to adjudicate on a new application whilst clearly refusing to accept the validity of a contemporaneous precedent decision by Members of the Local Review Body, creates conflicting and inconsistent decision making.

The report of handling for 22/01001/PP also seeks to distinguish between the Soroba Lodge example and the Broom Hill application on the basis that Soroba Lodge was actively in use for B&B and Broom Hill was previously used for B&B. It is however of no consequence whether B&B activity is active or latent. Limited B&B activity is a prescribed right for householders with properties of certain sizes up to certain thresholds without needing planning permission.\* Indeed, it is this very ability to exercise that right without needing planning permission that led to planning officer concerns about the inability to prevent B&B usage in the future in both the Soroba Lodge and Broom Hill examples. As discussed above, this difficulty is neatly overcome by the wording of the planning condition imposed by the Local Review Body when they granted planning permission for the two Soroba Lodge pods (20/01542/PP & 21/0005/LRB).

The Short-Term Letting Licence requirements have also taken effect within the last year, and these make it more straightforward for the Planning Authority to monitor B&B activity within houses going forward.

The outcome of the Notice of Review at Soroba Lodge under 21/0005/LRB provides a direct precedent example which can be readily



compared to the planning application at Broom Hill. That the two matters were before the Planning Authority in such close succession merely serves to strengthen the connection between the two decisions.

\* NOTE: the use of one bedroom for B&B within a house containing three bedrooms, or two bedrooms for B&B within houses containing four or more bedrooms, is explicitly provided for within Class 9 (houses) of the Use Classes Order - and has been so since 1999.

**Assessment of access usage and proposed vehicular/pedestrian activity**

The existing private access serving Ardconnel Hill joins Longsdale Road (public road) north of the application site, near its junction with Laurel Road.

The shared access travels up Ardconnel Hill serving 12 residential properties at present. Broom Hill is the 3rd last property to be reached, with just two houses further along the private access.

Broom Hill comprises a detached four-bedroom house, two of which have the ability to provide B&B accommodation without comprising a change of use of the house. Planning application 22/01001/PP would see a single glamping pod provided within the extensive garden grounds (partially outlined black in the image below) of Broom Hill in lieu of one B&B bedroom inside the house.

Traffic levels generated at the site would be unchanged.



There are two existing footpath connections immediately north of the

application site (shown highlighted red in the image above), providing safe pedestrian linkages to Polvinister Road to the east and Rockfield Road/Ardconnel Road to the west. Proximity to these existing footpath routes enhances the ability of the development to be walkable to different parts of the town, including the nearest bus routes.

Considering the context of Oban, where large sections of the town utilise shared surface spaces for pedestrians and vehicles, it is considered that the proposed single glamping pod would be safely accessed and suitably served in terms of transport connections.

### **Summary**

Mr & Mrs McLeod wish to provide a single glamping pod within the garden ground of their existing home, Broom Hill. The design, siting and layout proposed has been confirmed as acceptable in all respects by planning officers, except for concerns over the existing shared access regime serving the site. Those concerns are reflected in the single reason for refusal detailed above.

The decision to refuse overstates the anticipated vehicular demands associated with the development, pays insufficient regard to existing traffic levels at the site, and ignores a precedent case of direct relevance.

Application 22/01001/PP proposes a small glamping pod within the garden ground of an existing house which would attract a single vehicle when being accessed by car. This is the type of development that is commonly approved by the Planning Authority without any concerns over increase in vehicular demand.

The proposed pod would not generate a material intensification in traffic at this shared access. Traffic generation can be controlled by a similar planning condition to that which was imposed by the Local Review Body in granting planning permission for two pods at Soroba Lodge. Such an approach allows a positive decision to be taken consistently with the LRB decision in 2022. Planning condition wording could potentially read:

**Condition** - Notwithstanding the provisions of Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 as amended, the new glamping pod hereby approved must not be occupied during any period when two bedrooms within the principal dwellinghouse are operating as [or being occupied as] bed and breakfast or guest house accommodation.

**Reason** - In the interests of road safety, to ensure that vehicle numbers using the private access do not increase beyond current levels.

In policy terms, the proposal represents a small-scale development on an appropriate site, in accordance with relevant national and local policy and supplementary planning guidance. As there is no material increase in

	<p>traffic generated by the proposal, there is by default no conflict with NPF4, LDP11, SG LDP TRAN 4 of the adopted LDP or with Policy 37 of the Proposed LDP2. Ongoing monitoring of B&amp;B activity within the Broom Hill can readily be achieved by cross referencing to Short Term Letting Licence applications.</p> <p>The Local Review Body is asked to support this Notice of Review and enable a small positive contribution towards tourist accommodation to be provided in a way that accords with local and national planning policy and raises no unacceptable impacts.</p>
<b>3.</b>	<b>Deliberation</b>
3.1	A meeting of the Argyll and Bute Local Review Body (ABLRB) (which consisted of a panel of three – Councillor Kieron Green (Chair), Councillor Jan Brown and Councillor Dougie Philand, took place on 30 October at 2:00pm by Microsoft Teams.
3.2	At this meeting the Members of the LRB agreed that further information and a site visit was required.
3.3	<p>The Argyll and Bute Local Review Body unanimously agreed to:</p> <ol style="list-style-type: none"> <li>1. request that the Roads Department clarify whether their recommendation to refuse the proposed development was based on the two rooms within the house being used for B&amp;B or not ;</li> <li>2. request that the Planning Department provide draft conditions to be attached to the application should the Local Review Body determine that it is appropriate to approve the Notice of Review Request;</li> <li>3. hold an accompanied site inspection to view the development site in context of the surrounding area including the length of the private access track, the visibility splays at the junction of Longsdale Road and the private access track and to view the differing standards of access to the neighbouring properties to gain a fuller understanding of how an intensification of use of the private access track, considered to be substandard, would impact on the current layout. It was noted that both the Planning authority and Roads Department would require to attend with an invitation extended to all other interested parties; and</li> <li>4. adjourn the meeting and reconvene at the earliest opportunity after the site inspection and following receipt of the further information and comments from interested parties.</li> </ol>
3.4	The Argyll and Bute Local Review Body held an accompanied site inspection at 1:00 pm on Wednesday, 8 November 2023 (a Minute of the Site Inspection is attached at Appendix 1 to this Notice).
3.5	The Argyll and Bute Local Review Body reconvened at 3:00 pm on Friday,

	8 December 2023 by Microsoft Teams.
3.6	At this meeting the Members of the Local Review Body agreed that they had sufficient information to enable them to proceed to determine the case.
3.7	<p>Councillor Brown moved the following motion:-</p> <p>The reason for refusal of this application was an objection from the roads department in relation intensification of use of the private road and road safety issues related to that.</p> <p>I've noted however that the application complied with all relevant planning policies and there was no objection to this application on any policy grounds from the Planning Department.</p> <p>If the applicant was to reopen the dwelling house as a B&amp;B this could increase the road usage by two cars and there would be no need to apply for planning permission and as such the roads department could not raise any objection on the grounds of intensification of use of the road.</p> <p>Indeed every home on the private road could open their home as a B&amp;B and the Roads Department would not be able to raise an objection.</p> <p>Having had the opportunity of undertaking the site visit and considering the further representations from the planners and the applicants' agent and all other information provided to the LRB, I am of the view that this application can be approved.</p> <p>The applicants, in their initial application confirmed that their house had previously been used for the letting of two bedrooms for B&amp;B, albeit not recently and the reason for the application for the self-contained pod in the garden grounds was to allow privacy for guests and in particular for the applicants and their children and an approval for the pod would mean that it would not be necessary to let the rooms in the house for B&amp;B.</p> <p>I also note from the LRB review application that their agent was of the view that the reduction in potential the use of one of the rooms in the house was something that the LRB should consider on the basis that the applicants could, if they wished, let two rooms for B&amp;B without any recourse to planning or roads.</p> <p>Turning to the road safety issues identified by the planners/roads department, ie, in relation to firstly, the single track access road and potential implications for road users and members of the public and secondly, the junction of the road with Longsdale Road where egress from the single track road was considered to be an issue.</p> <p>In my view these are subjective matters and while I understand the concerns of the planners/roads department, the single track access road is used by a number of properties and as it is a single track road, road</p>

	<p>users should be driving to road conditions and care should be taken when driving on it.</p> <p>It appears to have been used without any issues for a number of years and I cannot see how the use of a pod as opposed to the potential use of two rooms within the house without recourse to the planners or the roads department would mean that there would be an intensification of the use of the road that would cause an increase in road safety issues, such as to warrant a refusal of this application.</p> <p>I would therefore move that the application is approved subject to the conditions and reasons provided by the planners as detailed on pages 6, 7 and 8 of the papers for today's meeting along with the following additional condition which in effect restricts the use of the pod for B&amp;B, if at any point the principal house is being used for B&amp;B.</p> <p>Notwithstanding the provisions of Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 as amended, the new glamping pod hereby approved must not be occupied during any period when any bedrooms within the principal dwellinghouse are operating as [or being occupied as] bed and breakfast or guest house accommodation.</p> <p>Reason - In the interests of road safety.</p> <p>This was seconded by Councillor Philand.</p>
3.8	<p>The Chair, Councillor Green advised that although he had sympathy for the applicants, he couldn't ignore the issues that had been highlighted at the site visit in terms of the access. He advised that as such he agreed with the recommendation from the Roads Department that the application be refused.</p>
<b>4.</b>	<b>Decision</b>
4.1	<p>The Argyll and Bute Local Review Body, having considered the merits of the case de novo, agreed by a majority to grant the application as per the Motion above, noting that the conditions attached to the Planning Consent would be as follows, taking account of the additional condition contained within the Motion:-</p> <p><b>CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 22/01001/PP</b></p> <p>Standard Time Limit Condition:</p> <p>The development to which this permission relates must be begun not later than three years from the date of this permission.</p> <p>Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997.</p>

Standard Soils Management Condition:

Where the development involves ground breaking works, soil management should be undertaken in compliance with the established best practice set out in the DEFRA publication "Construction Code of Practice for the Sustainable Use of Soils on Construction Sites 2009", unless an alternative methodology for sustainable management of soil is submitted to and approved in writing by the Planning Authority.

Reason: In order to ensure that sustainable management of soils and compliance with the requirements of NPF4 Policy 5A.

Additional Conditions

1. PP - Approved Details & Standard Notes – Non EIA Development

The development shall be implemented in accordance with the details specified on the application form dated 16/05/22, supporting information and, the approved drawings listed in the table below unless the prior written approval of the planning authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Plan Title.	Plan Ref. No.	Version	Date Received
Location Plan			07/10/22
Proposed Site Layout	100		30/11/22
Design Sketch	101		17/05/22
Proposed Site Sections	200		30/11/22

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

Note to Applicant

Please note the comments contained in the consultation response from Scottish Water which is available to view on the planning application file on the Public Access section of the Council's website.

2. PP - Occupancy Restriction

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

Reason: In order to define the permitted occupancy having regard to the

fact that the premises are unsuitable for permanent residential occupation.

Note to Applicant

- For the avoidance of doubt this permission only provides for the occupation of the premises on a short term basis on the grounds that the development is unsuited to full time residential occupation. Specifically the occupation of the premises as a dwelling shall require the benefit of a separate planning permission.
- The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 will require the host of any new short-term let to apply to the Council for a licence. Further information can be found on the Council's website: <https://www.argyll-bute.gov.uk/licences/short-term-lets-licence>.

3. PP – Submission of Details of Materials

Notwithstanding the effect of Condition 1, no development shall commence until written details of the type and colour of materials to be used in the construction of the glamping pod hereby approved have been submitted to and approved in writing by the Planning Authority. The development shall thereafter be completed using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.

Reason: In order to integrate the development into its surroundings.

4. PP - Biodiversity Enhancement Measures

Notwithstanding the effect of Condition 1, no development shall commence until a biodiversity statement has been submitted to and approved in writing by the Planning Authority. The statement shall demonstrate how the proposal will contribute to conservation/restoration/enhancement of biodiversity, and how these benefits will be implemented and maintained for the lifetime of the development.

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.

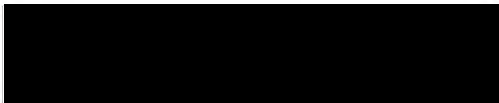
All biodiversity enhancement measures consisting of new or enhanced planting shall be undertaken either in accordance with the approved scheme of implementation or within the next available planting season following the development first being brought into use.

		<p>The biodiversity statement should refer to Developing with Nature guidance   NatureScot as appropriate.</p> <p>Reason: To comply with the requirements of NPF4 Policy 3.</p> <p>5. PP – Surface Water Drainage – No further detail required</p> <p>Notwithstanding the effect of Condition 1, the development shall incorporate a surface water drainage system which is consistent with the principles of Sustainable urban Drainage Systems (SuDS) compliant with the guidance set out in CIRIA’s SuDS Manual C753. The requisite surface water drainage shall be operational prior to the development being brought into use and shall be maintained as such thereafter.</p> <p>Reason: To ensure the provision of an adequate surface water drainage system and to prevent flooding.</p> <p>Note to Applicant</p> <p>Further advice on SuDS can be found in SEPA’s Standing Advice for Small Scale Development – <a href="http://www.sepa.org.uk">www.sepa.org.uk</a></p> <p>6. Restriction on the use of the pod for B&amp;B, if at any point the principal house is being used for B&amp;B.</p> <p>Notwithstanding the provisions of Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 as amended, the new glamping pod hereby approved must not be occupied during any period when any bedrooms within the principal dwellinghouse are operating as [or being occupied as] bed and breakfast or guest house accommodation.</p> <p>Reason - In the interests of road safety.</p>
<p><b>5.</b></p>	<p><b>Reason for Decision</b></p>	
	<p>5.1</p>	<p>The majority of the Local Review Body were of the opinion that it was possible impose conditions in order to grant planning permission to permit the use of land for the siting of a glamping pod in the garden ground of Broom Hill, Ardconnel Hill, Oban for the following reasons:-</p> <ol style="list-style-type: none"> <li>1. In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997.</li> <li>2. In order to ensure that sustainable management of soils and compliance with the requirements of NPF4 Policy 5A.</li> <li>3. For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.</li> <li>4. In order to define the permitted occupancy having regard to the fact</li> </ol>



		<p>that the premises are unsuitable for permanent residential occupation.</p> <ol style="list-style-type: none"><li>5. In order to integrate the development into its surroundings.</li><li>6. To comply with the requirements of NPF4 Policy 3.</li><li>7. To ensure the provision of an adequate surface water drainage system and to prevent flooding.</li><li>8. In the interests of road safety.</li></ol>
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This decision notice is issued by the Head of Legal and Regulatory Support by authorisation of the Argyll and Bute Local Review Body on 12<sup>th</sup> December 2023



.....  
David Logan, Head of Legal and Regulatory Support

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

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

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

**ARGYLL AND BUTE LOCAL REVIEW BODY****NOTE OF MEETING OF SITE INSPECTION RE CASE 23/0007/LRB  
BROOM HILL, ARDCONNELL HILL, OBAN, PA34 5DY  
WEDNESDAY 8 NOVEMBER 2023**

In attendance: Councillor Kieron Green, Argyll and Bute LRB (Chair)  
Councillor Jan Brown, Argyll and Bute LRB  
Councillor Dougie Philand, Argyll and Bute LRB  
Iain Jackson, Governance, Risk and Safety Manager (Adviser)  
Lynsey Innis, Senior Committee Assistant (Minutes)  
Martin McLeod, Applicant  
Arlene McLeod, Applicant  
Stephen Fair, Applicant's Agent  
Fiona Scott, Planning Officer  
James Jackson, Traffic and Development Officer

The Argyll and Bute Local Review Body (LRB) agreed on 30 October 2023 to conduct a site inspection. The purpose of the inspection was to view the development site in context of the surrounding area including the length of the private access road; the visibility splays at the junction of Longsdale Road and the private access road and to view the differing standards of access to the neighbouring properties to gain a fuller understanding of how an intensification of use of the private access road would impact on the current layout.

The Local Review Body convened at 1:00 pm on 8 November 2023 at Broom Hill, Ardconnell Hill, Oban. The Chair welcomed everyone to the site inspection and introductions were made.

Councillor Philand asked the Applicant's Agent to highlight the exact area of the proposed development. Mr Fair outlined the area which was approximately 2.36 acres.

The Chair, Councillor Green enquired whether there were any issues with the siting of the glamping pod that concerned the Planning Authority. The Planning Officer confirmed that there were no issues of concern for the Planning Authority.

Councillor Brown sought clarity on the provision of Bed and Breakfast facilities within the existing house also situated on the site. She enquired whether the intention would be to reduce the use of the two bedrooms currently used for the provision of B&B to achieve a glamping pod within the garden grounds. The Applicant's Agent confirmed that the intention was to reduce the provision of B&B in the house from 2 bedrooms to 1 in order to limit the intensification in vehicular use of the private access road.

Councillor Brown enquired as to whether the Roads Authority had taken into consideration that the house was operating as a two-bed B&B when they recommended refusal of the proposed development. The Traffic and Development

Officer advised that the recommendation for refusal was made without the knowledge that the house was being used for B&B.

Councillor Green sought clarity on the view that the private access road was substandard. The Traffic and Development Officer advised that by the current specification the road would be considered substandard in a new development.

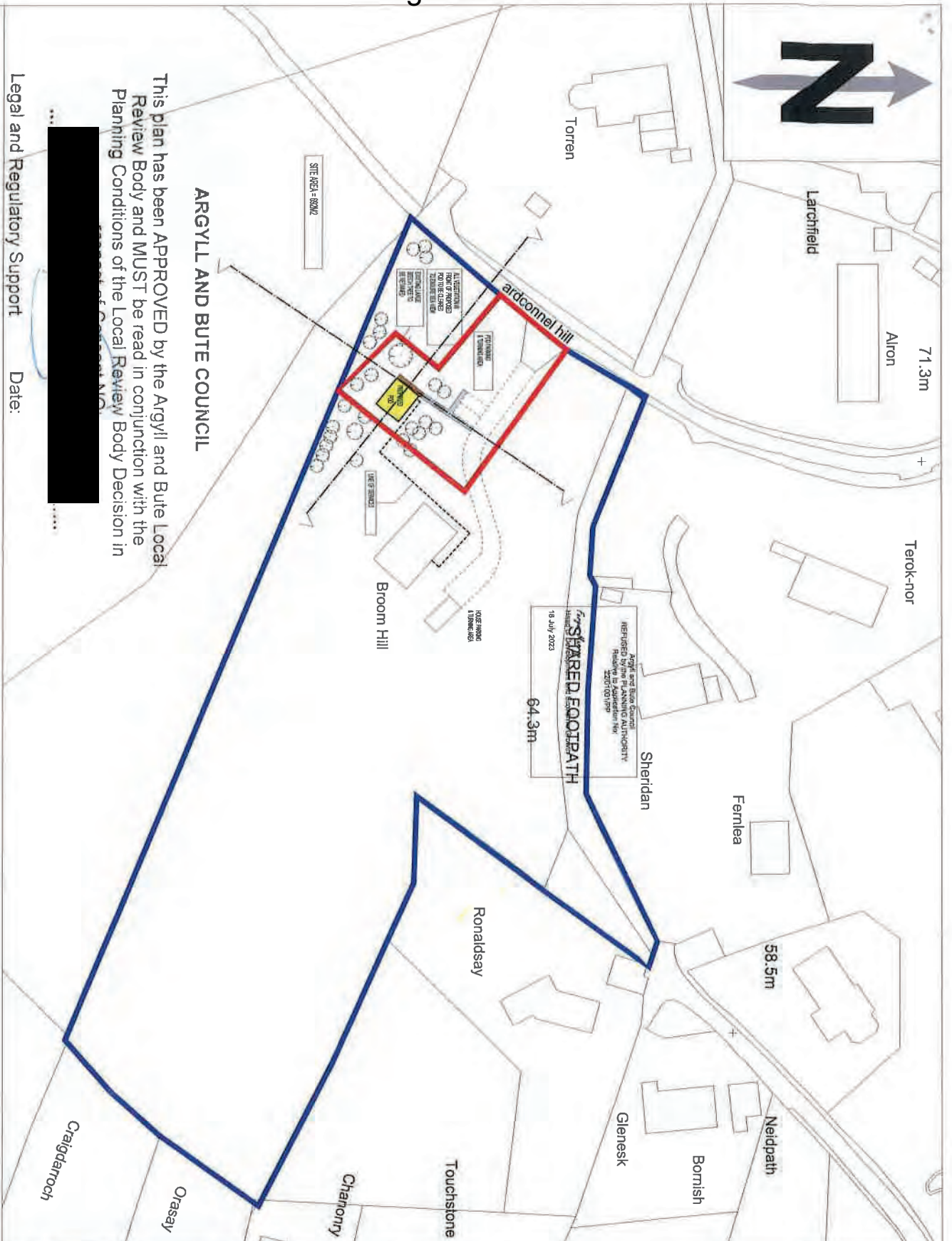
Councillor Philand asked why the use of the house as a B&B had not been taken into account when considering the application. The Traffic and Development Officer advised that there was currently no requirement for a B&B property to seek permission. The Planning Officer clarified that where 2 or less rooms are used in a house for the provision of B&B, there is no requirement for consent from either the Planning or Roads authorities as they benefit from deemed planning permission.

Councillor Brown sought clarity on the position that each of the houses serviced by the private access road could in theory operate as B&B premises, increasing vehicular use of the private access road and there would be nothing to stop them. The Planning Officer confirmed this to be the case.

Having established the parking spaces available for the occupiers of the house and the potential development, the LRB walked the length of the private access road to view the differing standards of access to the neighbouring properties and to gain a fuller understanding of how an intensification of use of the private access road, would impact on the current layout. At the junction with Longsdale Road, the Traffic and Development Officer took the opportunity to highlight the visibility splays and discussion took place in respect of the volume of traffic using Longsdale Road, particularly during busy summer months and the potential issues of meeting other road users on the private access road.

Having established that Members had no further questions, the Chair thanked all in attendance for their input.

This concluded the site visit.



ARGYLL AND BUTE COUNCIL

This plan has been APPROVED by the Argyll and Bute Local Review Body and MUST be read in conjunction with the Planning Conditions of the Local Review Body Decision in

.....

Legal and Regulatory Support Date:

PROPOSED SITE LAYOUT



**Note -**  
The contractor will be held to have checked all dimensions before commencing with any works and, in the event of discrepancies, is to refer them directly to the producer of this document for clarification prior to commencement of any works.  
Within dimensions are to be taken in all cases. Drawings should not be read for dimension. In case of doubt refer to this office.  
Any discrepancies between this drawing and Structural Engineers drawings to be reported to this office for clarification, generally Structural Engineers drawings / details to take precedence.

PROJECT	PROPOSED GLAMIS POD INSTALLATION AT BROOKHILL, BROOKHILL HILL, ORAN
CLIENT	MR LARS MACLEOD
DATE	PROPOSED SITE LAYOUT
SCALE	1:500
DATE	12.06.2022
DRAWING NO.	22/03
ISSUE NO.	100
EMAIL: GREAT.GLENDESIGNS@GMAIL.COM TELEPHONE: 0185 835 792	

Note -  
The contractor will be held to have checked all dimensions before commencing with any works and, in the event of discrepancies, is to refer them directly to the producer of this document for clarification prior to commencement of any works.  
Written dimensions are to be taken to all cases. Drawings should not be scaled for dimensions. In case of doubt refer to this office.  
Any discrepancies between this drawing and Structural Engineers drawings are to be reported to the architect for clarification, generally Structural Engineers drawings / details to take precedence.



PRODUCT  
PROPOSED GLAMPING POD INSTALLATION  
AT BROOMHILL, ARDCONNELL HILL, OBAN.

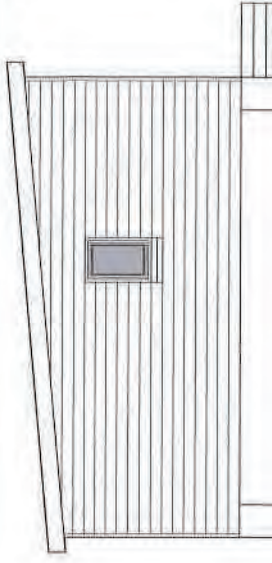
CLIENT  
MR. & MRS. MACLEOD.

DETAIL  
DESIGN SKETCH



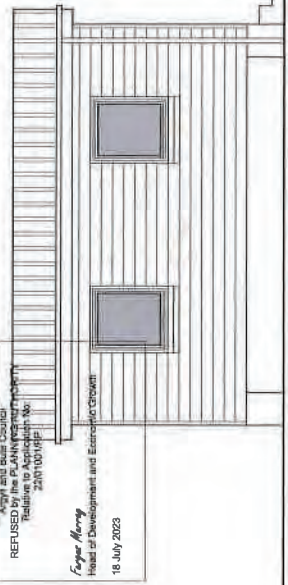
E-MAIL - GREAT.GLEN.DESIGNS@GMAIL.COM  
TELEPHONE - 0798 3636 192

SCALE	1 : 50	DATE	12 . 05 . 2022
JOB NO.	22-023	DWG. NO.	101



RED PINE BARGE BOARDS  
HORIZONTAL TIMBER (OR UPVC TIMBER EFFECT) LINING BOARD FINISH TO EXTERNAL WALLS  
DOUBLE GLAZED WHITE UPVC EXTERNAL DOORS  
DECKING AREA TO FRONT ELEVATION

FRONT ELEVATION



VERTICAL CORRUGATED SHEETING FINISH TO ROOF  
UPVC GUTTERING  
RED PINE BARGE BOARDS  
DOUBLE GLAZED WHITE UPVC WINDOWS  
HORIZONTAL TIMBER (OR UPVC TIMBER EFFECT) LINING BOARD FINISH TO EXTERNAL WALLS

SIDE ELEVATION

SIDE ELEVATION

**ARGYLL AND BUTE COUNCIL**

This plan has been APPROVED by the Argyll and Bute Local Review Body and MUST be read in conjunction with the Planning Conditions of the Local Review Body Decision in [REDACTED]

Legal and Regulatory Support

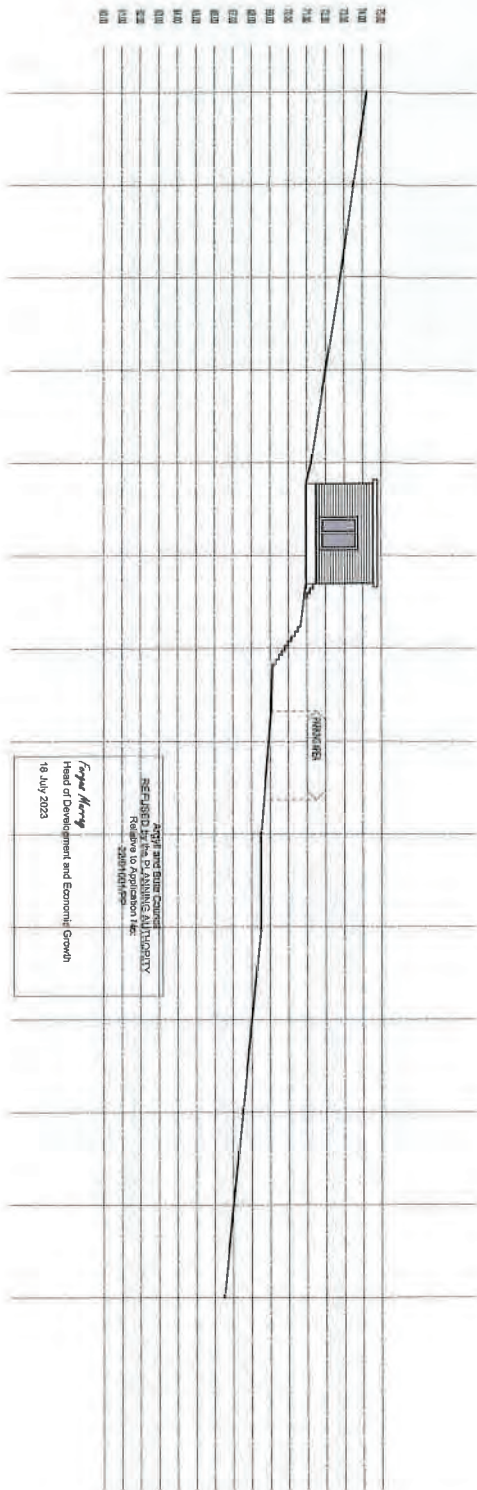
SECTION XX

**SIDE ELEVATION**

NOTE -  
STRUCTURE TO COMPLY FULLY WITH THE CARAVAN ACT  
SECTION 29 (1) OF THE CARAVAN SITES AND CONTROL OF DEVELOPMENT ACT 1960 DEFINED A CARAVAN AS -  
ANY STRUCTURE DESIGNED OR ADAPTED FOR HUMAN HABITATION WHICH IS CAPABLE OF BEING MOVED FROM ONE PLACE TO ANOTHER (WHETHER BEING TOWED, OR BY BEING TRANSPORTED ON A MOTOR VEHICLE OR TRAILER) AND ANY MOTOR VEHICLE SO DESIGNED OR ADAPTED BUT DOES NOT INCLUDE  
A STRUCTURE DESIGNED OR ADAPTED FOR HUMAN HABITATION WHICH IS COMPOSED OF NOT MORE THAN TWO SECTIONS SEPARATELY CONSTRUCTED AND DESIGNED TO BE ASSEMBLED ON A SITE BY MEANS OF BOLTS, CLAMPS AND OTHER DEVICES; AND IS, WHEN ASSEMBLED, PHYSICALLY CAPABLE OF BEING MOVED, BY ROAD FROM ONE PLACE TO ANOTHER (WHETHER BEING TOWED, OR BY BEING TRANSPORTED ON A MOTOR VEHICLE OR TRAILER), SHALL NOT BE TREATED AS NOT BEING OR HAVE BEEN A CARAVAN WITHIN THE MEANS OF PART 1 OF THE CARAVAN SITES CONTROL OF DEVELOPMENT ACT 1960 BY REASON ONLY THAT IT CANNOT LAWFULLY BE MOVED ON A HIGHWAY WHEN ASSEMBLED

STRUCTURE ALSO COMPLES WITH THE 2006 AMENDED DEFINITION OF CARAVAN.  
A) LENGTH (EXCLUSIVE OF ANY DRAWBAR) DOESNT EXCEED 20M  
B) WIDTH DOESNT EXCEED 6.8M  
C) OVERALL HEIGHT (MEASURED INTERNALLY FROM THE FLOOR AT THE LOWEST LEVEL TO THE CEILING AT THE HIGHEST LEVEL) 3.05M (10FT)

FLOOR PLAN



Argyll and Bute Council  
 REFINED SITE PLANNING AUTHORITY  
 Response to Application No: 18/19/14/19  
 18 July 2023  
 Fyfe, Henry  
 Head of Development and Economic Growth



**ARGYLL AND BUTE COUNCIL**

This plan has been APPROVED by the Argyll and Bute Local Review Body and MUST be read in conjunction with the Planning Conditions of the Local Review Body Decision in respect of Consent NO: [REDACTED]

Legal and Regulatory Support Date:

Note -  
 The contractor will be held to have checked all dimensions before commencing with any works and, in the event of discrepancies, is to refer them directly to the producer of this document for clarification prior to commencement of any works.  
 Written dimensions are to be taken in all cases. Drawings should not be sealed for dimensions. In case of doubt refer to this office.  
 Any discrepancies between this drawing and Structural Engineers drawings to be reported to this office for clarification, generally Structural Engineers drawings / details to take precedence.

PROJECT  
 PROPOSED GLAMPING POD INSTALLATION  
 AT BROOKHILL, ARDCONNEL HILL, OBAN.

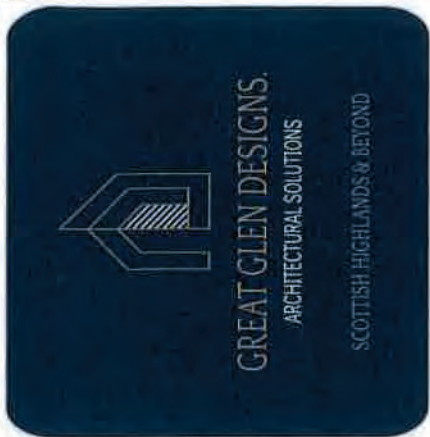
CLIENT  
 MR & MRS MACLEOD.

DETAIL  
 PROPOSED SITE SECTIONS

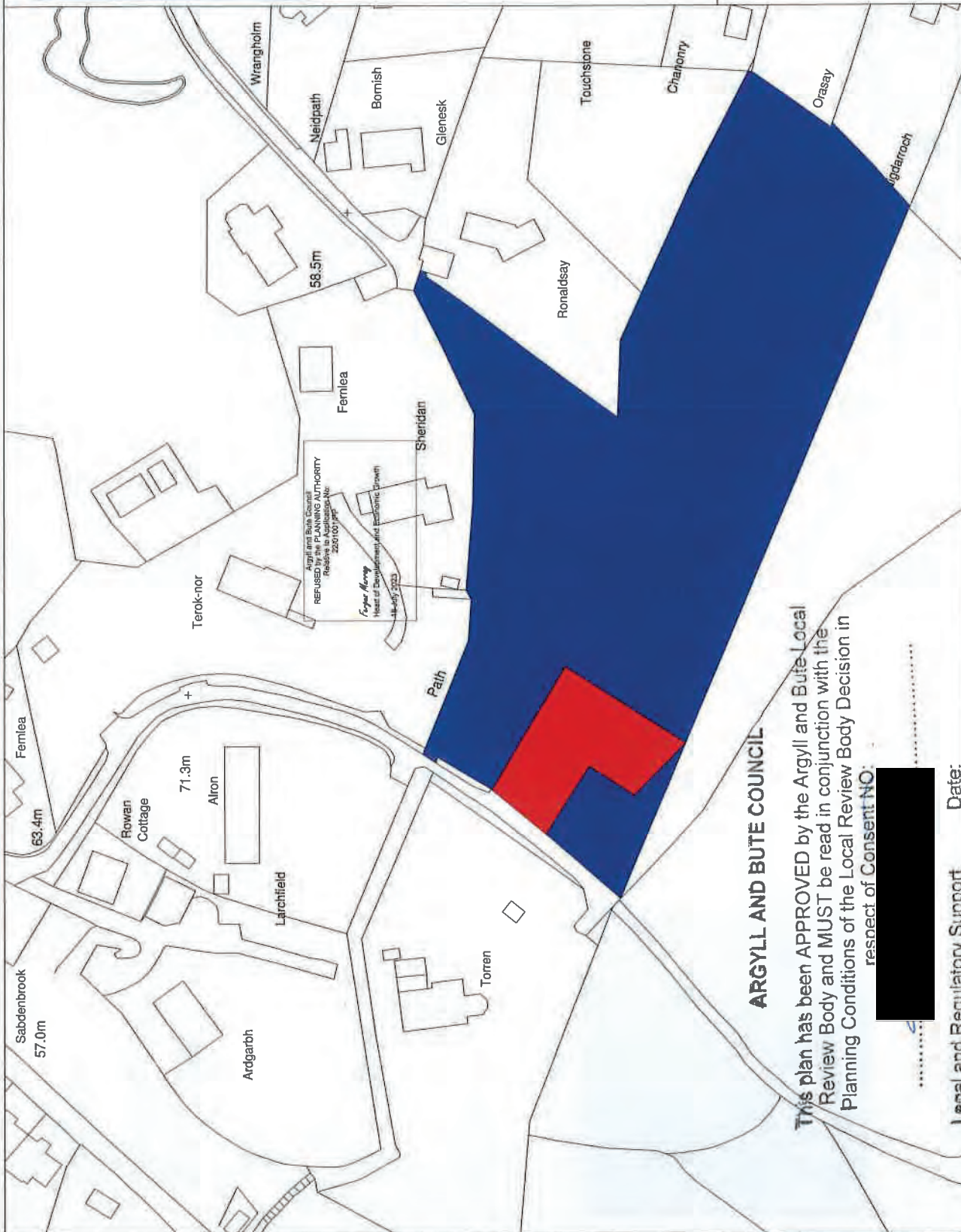


EMAIL: GREATGLENDESIGNS@GMAIL.COM  
 TELEPHONE: 0799 3536 182

SCALE	1:500	DATE	14.11.2022
JOB NO	22-023	DRG NO	200



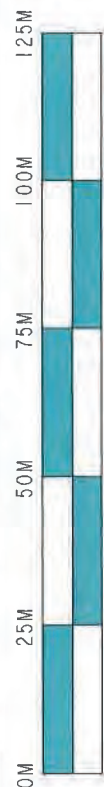
PROPOSED GLAMPING POD INSTALLATION  
AT BROOMHILL, ARDCONNELL HILL, OBAN  
SCALE - 1 : 1250  
DATE - 12 . 05 . 2022



**ARGYLL AND BUTE COUNCIL**

This plan has been APPROVED by the Argyll and Bute Local Review Body and MUST be read in conjunction with the Planning Conditions of the Local Review Body Decision in respect of Consent NO: [REDACTED]

Legal and Regulatory Support      Date:



SCALE BAR

LOCATION PLAN



**Appendix 8 - Local Review Body decision letter on planning application 20\_01542\_PP  
(21\_0005\_LRB)**

# ARGYLL AND BUTE LOCAL REVIEW BODY



## DECISION NOTICE

### Details of Review Case: 21/0005/LRB

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

<b>1</b>	<b>The Review Application</b>
1.1	<p>Planning permission – 20/01542/PP for erection of land to form yard for erection of two holiday units and the installation of a septic tank at Garden Ground of Soroba Lodge, Oban, was refused under delegated powers on 7 September 2021 for the following reasons:</p> <ol style="list-style-type: none"> <li>1. Policy LDP 11 and SG LDP TRAN 4 of the adopted 'Argyll and Bute Local Development Plan' 2015 and Policy 37 of the proposed 'Local Development Plan 2' 2019 state that the use of an existing private access will only be accepted if that access is either safe and appropriate in its current form or else is capable of commensurate improvements considered by the Roads Authority to be appropriate and necessary to the scale and nature of the proposed new development, and that it takes into account any current access issues (informed by an assessment of usage).</li> </ol> <p>The proposed development would result in the intensification of use of a private access regime where there are known constraints and it has not been demonstrated, through lack of structural details of the existing bridge, that the private access track is capable of serving the proposed development, either in its current state or else by any reasonable and necessary commensurate improvements to that access as informed by the submission and assessment of information necessary for the planning authority to properly assess this part of the proposed development.</p> <p>Furthermore the requested Safety Audit/Risk Assessment/Traffic</p>

		<p>Management Plan to ascertain and mitigate any implications caused by the proposed development both during the construction phase and on completion of the development due to the fact that the proposed access is situated on a primary school/link path/cycle path which forms part of the Core Path Network has not been forthcoming.</p> <p>In addition, no part of the existing access forms part of the planning application site or within the acknowledged legal ownership/control of the developer. It is therefore concluded that it would be inappropriate in this case to attempt to resolve these matters through the use of suspensive planning conditions given the fundamental nature of the highway/pedestrian/cyclist safety issues raised by the development and the uncertainty as to the ability of the developer to bring about any necessary improvements.</p> <p>In this regard, and in the absence of the submission and professional assessment of this necessary information, the proposal is considered contrary to the provisions of SG LDP 11 and SG LDP TRAN 4 of the adopted 'Argyll and Bute Local Development Plan' 2015 and Policy 37 of the proposed 'Argyll and Bute Local Development Plan 2'.</p>
<b>2</b>	<b>Outline Reasons for Review</b>	
	2.1	A Notice of Review submitted by the applicant's agent was received on 7 October 2021 and validated on 7 October 2021.
	2.2	The applicant's agent outlined the reasons for review as contained within the supporting documentation attached at appendix one to this decision notice.
<b>3</b>	<b>Deliberation</b>	
	3.1	A meeting of the Argyll and Bute Local Review Body (which consisted of a panel of three – Councillor David Kinniburgh (Chair), Councillor Audrey Forrest and Councillor Alastair Redman took place virtually on 26 November 2021 by Microsoft Teams.
	3.2	The Chair advised that his first task would be to establish if the Members of the Local Review Body felt that they had sufficient information before them to come to a decision on the Review.
	3.3	At this meeting the Local Review Body agreed that they did not have sufficient information to come to a decision on the Review.
	3.4	<p>The Argyll and Bute Local Review Body –</p> <ol style="list-style-type: none"> <li>1. Agreed to request the following further written information from the Planning Officer – <ul style="list-style-type: none"> <li>• Clarification on whether there could be a planning condition attached to an approval that required completion of a construction method</li> </ul> </li> </ol>

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

3.11	<p>At this meeting Councillor Kinniburgh referred to the previous meeting which was continued to allow Councillor Forrest time to seek a competent Motion to approve the application, and invited Councillor Forrest to address the LRB at this point.</p> <p><b>Motion</b></p> <p>I have noted previously that other than the road safety issues that the planners have asked us to consider which in their view means that the application doesn't comply with Policy LDP 11 and SG LDP TRAN 4 of the current LDP and Policy 37 of the proposed LDP2 this application complies with all other relevant policies in the current LDP and the proposed LDP2.</p> <p>Having had the opportunity of reading the further representations from the planners and the applicants' agent and all other information provided to the LRB, I am of the view that this application can be approved.</p> <p>I've noted the details of the legal advice received by the Council, albeit in relation to another application and while it is clear that a condition that ensures that only the pods are used for B&amp;B accommodation and not the dwellinghouse could be challenged and may be difficult to enforce, it is a condition that can be applied to an approval of the application.</p> <p>I am prepared to take the applicant and their agent at their word, where they have said that the whole driver behind the project is to provide self-contained accommodation that will provide B&amp;B guests and the applicants' high levels of privacy and that they will not let the rooms in the house that they currently use for B&amp;B. I would not expect them to renege on that.</p> <p>Turning to the road safety issues identified by the planners/roads department, ie, in relation to the shared access and potential implications for members of the public due to the fact that the access is situated on a primary school/link path/cycle path.</p> <p>In my view these are subjective matters and while I understand the concerns of the planners/roads department, the shared access over the bridge is used by vans delivering to Soroba House Hotel and customers of the hotel, post office vans and others delivering to the properties behind the hotel and to the existing guest house along with customers of the guest house and I cannot see how the exchange of 2 rooms within the house to the 2 pods for B&amp;B would mean that there would be a material increase in traffic that would require the commensurate improvements required by the roads department/planners in relation to this shared access or cause any issues for members of the public.</p> <p>The conditions to be attached to the approval, which in effect restrict the use of the pods for B&amp;B, if at any point the principal house is being used for B&amp;B and the submission by the applicant of a 'construction method statement' that requires to be approved by the planners will in my view be sufficient to manage these concerns.</p>
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I would therefore move that the application is approved subject to the conditions provided by the applicants' agent and detailed on pages 12 and 13 of the papers considered by the LRB at the meeting on 6 April with an amendment to condition 3 as follows

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

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

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

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

**4. Decision**

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

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

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

Supporting Statement (7 Pages)			01/09/20
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*Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.*

Note to Applicant:

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

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

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

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

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

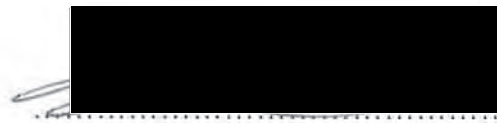
Note to Applicant:

	<p>For the avoidance of doubt this permission only provides for the occupation of the premises on a short term basis on the grounds that the development is unsuited to full time residential occupation. Specifically the occupation of the premises as a dwellinghouse or dwellinghouses shall require the benefit of a separate planning permission.</p> <p>3. Notwithstanding the provisions of Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 as amended, the new letting units are not to be occupied during any period when the principal dwellinghouse is operating as [or being occupied as] a bed and breakfast or guest house. <i>Reason – in the interests of road safety to ensure that vehicle numbers do not increase from their existing levels.</i></p> <p>4. Notwithstanding the provisions of Condition 1, the development shall incorporate a surface water drainage system which is consistent with the principles of sustainable urban drainage systems (SuDS) compliant with the guidance set out in CIRIA's SuDS Manual C753. The requisite surface water drainage shall be operational prior to the development being brought into use and shall be maintained as such thereafter.  <i>Reason: To ensure the provision of an adequate surface water drainage system and to prevent flooding.</i></p> <p>5. No development shall commence or is hereby authorised until a Construction Method Statement (CMS) has been submitted to and approved in writing by the Planning Authority. The CMS shall include a full description of material delivery methods, construction vehicle size, vehicle numbers and vehicle weights proposed for use during construction phases, as well as defined hours during which all construction vehicle movements will be confined having regard to the nearby primary school campus term time opening hours. Thereafter, the development shall only be undertaken in strict accordance with such details as are approved.  <i>Reason: In the interests of road and pedestrian safety.</i></p>
<b>5.</b>	<b>Reason for Decision</b>
5.1	<p>Having reviewed all the information received, the Argyll and Bute Local Review Body noted that the Planning Officer had considered the application was contrary to SG LDP 11 and SG LDP TRAN 4 of the adopted 'Argyll and Bute Local Development Plan' 2015 and Policy 37 of the proposed 'Argyll and Bute Local Development Plan 2', and concluded that other than the road safety issues, this application complied will all other relevant policies in the current LDP and the proposed LDP2.</p>
5.2	<p>It was the view of the LRB that the roads issues identified by the planners/roads department ie, in relation to the shared access and potential implications for members of the public due to the fact that the access was situated on a primary school/link path/cycle path, were subjective, and they did not agree that the exchange of two rooms within the house to the 2 pods for bed and breakfast</p>



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

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

A black rectangular redaction box covers the signature of David Logan. To the left of the box, the tip of a pen is visible, suggesting the signature was handwritten.

David Logan  
Head of Legal and Regulatory Support

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

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

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

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



## fair planning & design

chartered planning and architectural services

### Written statement for Notice of Review to Argyll and Bute Council – Local Review Body

**Appellant:** Michael & Rowan Acey

**Project Ref:** 2020034

**Development:** Refusal of planning application 20/01542/PP:  
Erection of 2 holiday pods and installation of septic tank

**Site:** Grounds of Soroba Lodge, Oban, PA34 4SB

**Scale:** Local development



## Introduction

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

*"1. Policy LDP 11 and SG LDP TRAN 4 of the adopted 'Argyll and Bute Local Development Plan' 2015 and Policy 37 of the proposed 'Local Development Plan 2' 2019 state that the use of an existing private access will only be accepted if that access is either safe and appropriate in its current form or else is capable of commensurate improvements considered by the Roads Authority to be appropriate and necessary to the scale and nature of the proposed new development, and that it takes into account any current access issues (informed by an assessment of usage).*

*The proposed development would result in the intensification of use of a private access regime where there are known constraints and it has not been demonstrated, through lack of structural details of the existing bridge, that the private access track is capable of serving the proposed development, either in its current state or else by any reasonable and necessary commensurate improvements to that access as informed by the submission and assessment of information necessary for the planning authority to properly assess this part of the proposed development.*

*Furthermore the requested Safety Audit/Risk Assessment/Traffic Management Plan to ascertain and mitigate any implications caused by the proposed development both during the construction phase and on completion of the development due to the fact that the proposed access is situated on a primary school/link path/cycle path which forms part of the Core Path Network has not been forthcoming.*

*In addition, no part of the existing access forms part of the planning application site or within the acknowledged legal ownership/control of the developer. It is therefore concluded that it would be inappropriate in this case to attempt to resolve these matters through the use of suspensive planning conditions given the fundamental nature of the highway/pedestrian/cyclist safety issues raised by the development and the uncertainty as to the ability of the developer to bring about any necessary improvements.*

*In this regard, and in the absence of the submission and professional assessment of this necessary information, the proposal is considered contrary to the provisions of SG LDP 11 and SG LDP TRAN 4 of the adopted 'Argyll and Bute Local Development Plan' 2015 and Policy 37 of the proposed 'Argyll and Bute Local Development Plan 2'."*

During the planning application process, and within the delegated report of handling, planning officers confirm that they find the development acceptable in all terms other than access. The proposal is confirmed as appropriate in other planning respects. This Notice of Review therefore focusses solely on the single issue of concern as reflected in the reason for refusal.

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

## Background

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

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

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

Concurrently with our applications, a nearby proposal for two house plots (advanced by a separate landowner/applicant) served by the same shared access, was being handled by the Planning Authority. Planning application 19/02562/PPP was refused in August 2020 for reasons relating to site access. An appeal against that decision was then submitted to the Scottish Government DPEA, who granted planning permission in principle subject to conditions on 5 August 2021.

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

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

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

## Discussion

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

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

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

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

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

\* NOTE: the use of one bedroom for B&B within a house containing three bedrooms, or two bedrooms for B&B within houses containing four or more bedrooms, is explicitly provided for within Class 9 (houses) of the Use Classes Order - and has been so since 1999.

## Assessment of access usage and proposed vehicular activity

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

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

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

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

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

Traffic levels generated at the site would be unchanged.

## Precedent decisions

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

## Appraisal

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

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

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

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

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

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

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

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

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

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

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

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

Finally, turning to construction traffic:

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

Summary

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Mr & Mrs Acey wish to provide two detached one-bedroom holiday pods within the garden ground of their existing home, Soroba Lodge. The siting and layout proposed has been confirmed as acceptable in all respects by planning officers, except for concerns over the existing shared access regime serving the site. Those concerns are reflected in the single reason for refusal detailed above.

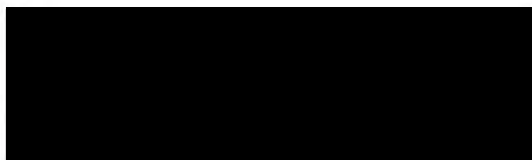
The decision to refuse overstates the anticipated vehicular demands associated with the development and pays insufficient regard to existing traffic levels at the site. That process runs contrary to that which is evidenced in numerous precedent cases for holiday pods on shared accesses, or within the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

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

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

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

The Local Review Body is asked to support this Notice of Review and enable a small positive contribution towards tourist accommodation to be provided in a way that accords with local and national planning policy and raises no unacceptable impacts.



.....  
Stephen Fair MRTPI MURP

fair planning & design

6 October 2021

**List of appendices**

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

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**STATEMENT OF CASE**

**FOR**

**ARGYLL AND BUTE COUNCIL  
LOCAL REVIEW BODY**

**24/0007/LRB**

**REFUSAL OF PLANNING PERMISSION 23/01067/PP**

**USE OF LAND FOR THE SITING OF AN ACCOMMODATION POD FOR  
SHORT TERM LETTING USE**

**GARDEN GROUND OF FERNLEA, POLVINISTER ROAD, OBAN**

**22 APRIL 2024**

## STATEMENT OF CASE

The Planning Authority is Argyll and Bute Council ('the Council'). The appellant is Mr Graham Fielden ('the appellant').

Planning permission 23/01067/PP for the use of land for the siting of an accommodation pod for short term letting use within the garden ground of Fernlea, Polvinister Road, Oban ('the appeal site') was refused by the Planning Service under delegated powers on 24 January 2024.

The planning application has been appealed and is subject of referral to a Local Review Body.

### DESCRIPTION OF SITE

The site for the proposed accommodation pod comprises an area of ground within the rear garden ground of the property which is elevated above the level of the dwellinghouse. The site is relatively well enclosed by established tree and shrub cover which the application shows enhanced by hedge planting to the front of the proposed pod which will ensure that it integrates well within the site and wider landscape where it will not give rise to any privacy or amenity issues with neighbouring properties.

Whilst it is accepted that the proposed accommodation pod could be accommodated within the site without any significant adverse visual impact on the site or the wider landscape within which it is proposed, a suitable access regime to serve the proposed development cannot be achieved.

The development constitutes a material intensification of the use of an existing and constrained access regime and would be capable of support only if compliance with various highway safety concerns could be demonstrated through the submission, examination and acceptance of competent detail. The land necessary for the upgrade of the existing private road, if achievable, is located outwith the application site boundary and outwith the land in the control of the Applicant. Consequently, it was considered likely that the proposed development would have a significant adverse impact upon highway safety and therefore planning permission was refused.

### 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 Act, regard is to be had to the development plan, and all other material planning considerations and 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 development constitutes a material intensification of the vehicular use of a sub-standard private road with no delineation between pedestrian or vehicular use and whether the upgrade of the private access can be achieved on land within the ownership/control of the Applicant.*



- *Whether the dwellinghouse the subject of the review is suitable for bed and breakfast purposes permitted under Class 9 of the Town and Country Planning (General Permitted Development and Use Classes) (Scotland) Amendment Order 2020.*

The Report of Handling (Appendix 1) sets out the Council's full assessment of the application in terms of Development Plan policy and other material considerations.

#### **REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING**

It is not considered that any additional information is required in light of the appellant's submission. The issues raised were assessed 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 any significant public representation, it is not considered that a Hearing is required.

#### **COMMENT ON APPELLANT'S SUBMISSION**

The case from the Planning Service is set out in the Report of Handling appended to this statement.

The Planning Service has no comment to make on the Appellant's submission.

#### **ADOPTED LOCAL DEVELOPMENT PLAN 2**

Since planning permission was refused, 'Local Development Plan 2' (LDP2) has been adopted which, along with 'National Planning Framework 4' represent the Development Plan against which planning applications are assessed.

However, the policies contained within LDP2 were considered during the processing of the application and therefore, in this instance, the adoption of LDP2 does not change the assessment previously undertaken by Officers, namely that the development the subject of this review would conflict with NPF4 Policy 13 and Policy 37 of LDP2.

#### **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.

As set out above, it remains the view of the Planning Service, as set out in the Report of Handling appended to this statement, that the proposed development constitutes a material intensification of the use of an existing and constrained access regime and would be capable of support only if compliance with various highway safety concerns could be demonstrated through the submission, examination and acceptance of competent detail.

The land necessary for the upgrade of the existing private road, if achievable, does not form part of the planning application site and is not within the acknowledged legal ownership/control of the Applicant.

Furthermore, as set out in the Report of Handling, the dwellinghouse the subject of this review is not, and has not, been used as bed and breakfast accommodation and no details have been advanced as to the suitability of the existing dwellinghouse for such purposes.

Taking account of the above, it is respectfully requested that the application for review be dismissed.

**APPENDIX 1**

**Report of Handling Relative to 23/01067/PP**

**Argyll and Bute Council  
Development & Economic Growth**

**Planning Application Report and Report of Handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 relative to applications for Planning Permission or Planning Permission in Principle**

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**Reference No:** 23/01067/PP  
**Planning Hierarchy:** Local  
**Applicant:** Mr Graham Fielden  
**Proposal:** Siting of Accommodation Pod for Short Term Letting Use  
**Site Address:** Garden Ground of Fernlea, Polvinister Road, Oban

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**DECISION ROUTE**

- Delegated - Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997
- Committee - Local Government Scotland Act 1973
- 

**(A) THE APPLICATION**

**(i) Development Requiring Express Planning Permission**

- Siting of accommodation pod for short term letting use

**(ii) Other specified operations**

- Utilisation of existing vehicular access
  - Connection to public water main
  - Connection to public drainage network
- 

**(B) RECOMMENDATION:**

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission be REFUSED for the reasons appended to this report.

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**(C) CONSULTATIONS:**

Argyll and Bute Council – Roads Authority

Report dated 16/08/23 recommending refusal of the proposed development maintained in an e-mail dated 22/11/23 after reviewing additional information submitted by the Applicant.

Argyll and Bute Council – Environmental Health Service (EHS)

Memo dated 11/09/23 advising no objection to the proposed development subject to conditions being imposed on the grant of permission to secure a Management Plan for the proposed development and to ensure that external lighting proposed is to an acceptable standard to avoid light nuisance. It should however be noted that a Management Plan has been submitted in support of the proposed development and, should permission be granted, a condition will be imposed to ensure the pod is operated in accordance with the details set out in the Management Plan.

Scottish Water

Letter dated 06/07/23 advising no objection to the proposed development but providing advisory comments for the Applicant.

Representations are published in full on the planning application file and are available to view via the [Public Access](#) section of the Council's website.

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**(D) HISTORY:**

No relevant planning history.

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**(E) PUBLICITY:**

The proposal has been advertised in terms of Regulation 20 and Neighbour Notification procedures, overall closing date 03/08/23.

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**(F) REPRESENTATIONS:**

**(i) Representations received from:**

Mrs Christine McNab, Touchstone, Polvinister Road, Oban, PA34 5TN (25/07/23)  
Mr John Watson, Glen Esk, Polvinister Road, Oban, PA34 5TN (24/07/23)  
Mr Douglas Swan, Ronaldsay, Polvinister Road, Oban, PA34 5TN (24/07/23)  
Mr Freddy Lockhart, The Oaks, Polvinister Road, Oban, PA34 5TN (24/07/23)  
Oban District Access Panel (17/07/23)

Representations are published in full on the planning application file and are available to view via the [Public Access](#) section of the Council's website.

**(ii) Summary of issues raised:**

- The access road is a narrow, steep, single track road with blind corners and no passing places or pavements. The access road is used regularly by pedestrians, cyclists and horse riders.

There are significant concerns regarding the increase in traffic utilising the private road and the impact that this would have on pedestrian safety.

**Officer Comment:** *The road safety issues are discussed in more detail in the assessment at Section P below.*

- Concerns over the construction period of the proposed pod which would cause problems for residents.

**Officer Comment:** *This is not a material planning consideration but a civil matter between affected properties. Should this comment relate to noise from the construction period, this would be dealt with by the Council's EHS.*

- Concerns from noise arising from the proposed accommodation pod.

**Officer Comment:** *The application is accompanied by a Management Plan which outlines the operation of the proposed pod. Furthermore, the pod is proposed within the garden ground of the donor dwellinghouse where the Applicant can retain effective control of its operation.*

- Concerns that the proposed pod will overlook neighbouring properties and result in a loss of privacy and amenity currently afforded to them.

**Officer Comment:** *It is considered that the proposed pod is a sufficient distance from neighbouring properties to ensure that no significant privacy or amenity conflict would arise. Furthermore the Applicant has taken on board the comments of third parties and provided details of additional screen planting to the front of the proposed pod.*

- The proposal would result in an adverse visual impact on the surrounding residential area.

**Officer Comment:** *The pod is proposed within the extensive rear garden of the donor dwellinghouse which benefits from significant tree and shrub cover. Furthermore the Applicant has provided details of additional screen planting to the front of the proposed pod. In this regard it is not considered that the proposed pod would be an overly dominant feature within the site or wider landscape.*

- Whilst the aim of the Oban District Access Panel (ODAP) is to encourage accessible holiday accommodation, it is noted that in this instance, given the constraints of the site levels and the nature of the holiday accommodation, it would be unreasonable, in terms of the Equalities Act, to press for an accessible pod unit.

**Officer Comment:** *The comments of the ODAP are noted.*

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**(G) SUPPORTING INFORMATION**

**Has the application been the subject of:**

**(i) Environmental Impact Assessment Report:**      Yes No

**(ii) An Appropriate Assessment under the Conservation (Natural Habitats) Regulations 1994:**      Yes No

(iii) A Design or Design/Access statement: Yes No

(iv) A report on the impact of the proposed development e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc: Yes No

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**(H) PLANNING OBLIGATIONS**

Is a Section 75 agreement required: Yes No

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**(I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: Yes No**

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**(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.**

**[National Planning Framework 4 \(Adopted 13<sup>th</sup> February 2023\)](#)**

**Part 2 – National Planning Policy**

**Sustainable Places**

NPF4 Policy 1 – Tackling the Climate and Nature Crises

NPF4 Policy 2 – Climate Mitigation and Adaption

NPF4 Policy 3 – Biodiversity

NPF4 Policy 4 – Natural Places

NPF4 Policy 9 – Brownfield, Vacant and Derelict Land and Empty Buildings  
(includes provisions relevant to Greenfield Sites)

NPF4 Policy 12 – Zero Waste

NPF4 Policy 13 – Sustainable Transport

**Liveable Places**

NPF4 Policy 18 – Infrastructure First

NPF4 Policy 22 – Flood Risk and Water Management

**Productive Places**

NPF4 Policy 30 – Tourism

**[‘Argyll and Bute Local Development Plan’ Adopted March 2015](#)**

LDP STRAT 1 – Sustainable Development

LDP DM 1 – Development within the Development Management Zones

LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment

LDP 5 – Supporting the Sustainable Growth of our Economy

LDP 8 – Supporting the Strength of our Communities

LDP 9 – Development Setting, Layout and Design  
LDP 10 – Maximising our Resources and Reducing our Consumption  
LDP 11 – Improving our Connectivity and Infrastructure

**‘Supplementary Guidance to the Argyll and Bute Local Plan 2015’ (Adopted March 2016 & December 2016)**

**Natural Environment**

SG LDP ENV 1 – Impact on Habitats, Species and our Biodiversity  
**Landscape and Design**

SG LDP ENV 14 – Landscape

**Support for Business & Industry: Main Potential Growth Sector: Tourism**

SG LDP TOUR 1 – Tourist Facilities and Accommodation, including Static and Touring Caravans

**Bad Neighbour Development**

SG LDP BAD 1 – Bad Neighbour Development

**Sustainable Siting and Design**

SG LDP Sustainable – Sustainable Siting and Design Principles

**Resources and Consumption**

SG LDP SERV 2 – Incorporation of Natural Features / SuDS  
SG LDP SERV 5(b) – Provision of Waste Storage & Collection Facilities within New Development

**Transport (Including Core Paths)**

SG LDP TRAN 2 – Development and Public Transport Accessibility  
SG LDP TRAN 4 – New & Existing, Public Roads & Private Access Regimes  
SG LDP TRAN 6 – 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 3/2013.**

- Third Party Representations
- Consultation Responses
- [ABC Technical Note – Biodiversity \(Feb 2017\)](#)

[Argyll and Bute proposed Local Development Plan 2 \(November 2019\)](#) – The Examination by Scottish Government Reporters to the Argyll and Bute Local Development Plan 2 has now concluded and the [Examination Report](#) has been published (13<sup>th</sup> June 2023). The Examination Report is a material consideration of significant weight and may be used as such until the conclusion of the LDP2 Adoption Process. Consequently, the Proposed Local Development Plan 2 as recommended to be modified by the Examination Report and the published Non

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Notifiable Modifications is a material consideration in the determination of all planning and related applications.

**Spatial and Settlement Strategy**

Policy 01 – Settlement Areas  
Policy 04 – Sustainable Development

**High Quality Places**

Policy 05 – Design and Placemaking  
Policy 08 – Sustainable Siting  
Policy 09 – Sustainable Design  
Policy 10 – Design – All Development  
Policy 14 – Bad Neighbour Development

**Diverse and Sustainable Economy**

Policy 22 – Economic Development  
Policy 23 – Tourism Development, Accommodation, Infrastructure and Facilities

**Connected Places**

Policy 37 – Development Utilising an Existing Private Access or Existing Private Road  
Policy 40 – Vehicle Parking Provision

**Sustainable Communities**

Policy 61 – Sustainable Urban Drainage Systems (SUDS)  
Policy 63 – Waste Related Development and Waste Management

**High Quality Environment**

Policy 73 – Development Impact on Habitats, Species and Biodiversity

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**(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:** Yes No

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**(L) Has the application been the subject of statutory pre-application consultation (PAC):** Yes No

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**(M) Has a Sustainability Checklist been submitted:** Yes No

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**(N) Does the Council have an interest in the site:** Yes No

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**(O) Requirement for a pre-determination hearing:** Yes No

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**(P)(i) Key Constraints/Designations Affected by the Development:**

- N/A

**(P)(ii) Soils**

Agricultural Land Classification:

Built Up Area

Peatland/Carbon Rich Soils Classification:

Class 1

Class 2

Class 3

N/A

Peat Depth Classification:

N/A

Does the development relate to croft land?

Yes  No

Would the development restrict access to croft or better quality agricultural land?

Yes  No  N/A

Would the development result in fragmentation of croft / better quality agricultural land?

Yes  No  N/A

**(P)(iii) Woodland**

Will the proposal result in loss of trees/woodland?

Yes

No

(If yes, detail in summary assessment)

Does the proposal include any replacement or compensatory planting?

Yes

No details to be secured by condition

N/A

**(P)(iv) Land Status / LDP Settlement Strategy**

Status of Land within the Application

Brownfield

*(tick all relevant boxes)*

Brownfield Reclaimed by Nature

Greenfield

**ABC LDP 2015 Settlement Strategy**

LDP DM 1 *(tick all relevant boxes)*

Main Town Settlement Area

Key Rural Settlement Area

Village/Minor Settlement Area

Rural Opportunity Area

Countryside Zone

Very Sensitive Countryside Zone

Greenbelt

**ABC LDP 2015 Allocations/PDAs/AFAs etc:**

N/A

**ABC pLDP2 Settlement Strategy**

*(tick all relevant boxes)*

Settlement Area

Countryside Area

Remote Countryside Area

Helensburgh & Lomond Greenbelt

**ABC pLDP2 Allocations/PDAs/AFAs etc:**

N/A

**(P)(v) Summary assessment and summary of determining issues and material considerations**



Planning permission is sought for the siting of an accommodation pod within the garden ground of Fernlea, Polvinister Road, Oban.

Fernlea is situated within a small cluster of residential development accessed via a private access track which spurs from the end of the public UC72 Polvinister Road.

The site for the proposed accommodation pod comprises an area of ground within the rear garden ground of the property which is elevated above the level of the dwellinghouse. The site is relatively well enclosed by established tree and shrub cover which the application shows enhanced by hedge planting to the front of the proposed pod which will ensure that it integrates well within the site and wider landscape where it will not give rise to any privacy or amenity issues with neighbouring properties.

The application shows a dedicated parking area to serve the proposed pod sited adjacent to the parking area currently serving the dwellinghouse. Due to the elevated position of the site, a new footpath and steps is proposed from the parking area to serve the accommodation pod.

The proposed accommodation pod comprises a modest, single storey, curved roof structure with finishing materials indicated as horizontal timber cladding. The pod provides open plan living/sleeping accommodation with a separate shower room. The proposed pod has been oriented with its main elevation facing towards the rear of the donor dwellinghouse. Externally the pod opens out onto an area of timber decking with a hot tub positioned to its west elevation.

The natural finishing materials of the proposed pod, together with it being well contained within the garden ground of the dwellinghouse, would ensure that it would not result in an incongruous feature within the site or wider landscape and, due to the distance from neighbouring properties, and existing and proposed landscaping, it is not considered that it would give rise to any adverse privacy or amenity issues should permission be granted.

Water supply and drainage to serve the proposed accommodation pod are via connection to the public water main which are discussed in more detail in the relevant section below.

**NPF4 Policy 1** seeks to prioritise the climate and nature crises in all decisions; it requires to be applied together with other policies in NPF4. Guidance from the Scottish Government advises that it is for the decision maker to determine whether the significant weight to be applied tips the balance in favour for, or against a proposal on the basis of its positive or negative contribution to climate and nature crises. In this case, given the small scale nature of the development proposed and its alignment with all other relevant policies in NPF4 and those supporting policies in the adopted LDP, it is considered that the development proposed would be in accordance with the broad aims of NPF4 Policy 1 as underpinned by LDP Policies STRAT 1, LDP DM 1 and the adopted Sustainability Checklist and Policies 01 and 04 of pLDP2.

**NPF4 Policy 2** seeks to ensure that new development proposals will be sited to minimise lifecycle greenhouse gas emissions as far as possible, and that proposals will be sited and designed to adapt to current and future risks from climate change. Guidance from the Scottish Government confirms that at present there is no single accepted methodology for calculating and / or minimising emissions. The emphasis is on minimising emissions as far as possible, rather than eliminating emissions. It

is noted that the provisions of the Settlement Strategy set out within Policy LDP DM 1 of the LDP promotes sustainable levels of growth by steering significant development to our Main Towns and Settlements, rural growth is supported through identification of Key Rural Settlements and safeguards more sensitive and vulnerable areas within its various countryside designations. It is considered that the proposed development would be consistent with Policy 2 of NPF4 having had due regard to the specifics of the development proposed and to the overarching planning policy strategy outlined within the adopted LDP, notably policies STRAT 1, LDP DM 1, LDP DM 10 and the adopted Sustainability Checklist and Policies 01 and 04 of pLDP2.

**NPF4 Policy 3** seeks to protect biodiversity, reverse biodiversity loss and deliver positive effects from development and strengthen nature networks.

In the case of the development proposed by this application, it is considered that there are no issues of compliance with Policy 3. No material biodiversity impacts have been identified in the assessment of this application by the Planning Authority and whilst no specific proposals for biodiversity improvements have been submitted it is considered that, in the event that planning permission were to be granted, adequate and proportionate measures for biodiversity enhancement and protection could be delivered by planning condition. Such measures would be in compliance with NPF4 Policy 3 as underpinned by LDP Policy LDP 3 and SG LDP ENV 1 and Policy 73 of pLDP2.

**NPF4 Policy 4** seeks to protect, restore and enhance natural assets making best use of nature-based solutions.

The development proposed by the current planning application is considered appropriate in terms of its type, location and scale such that it will have no unacceptable impact on the natural environment. The proposed development is not within any designated European site of natural environment conservation or protection, it is not located within a National Park, a National Scenic Area a SSSI or RAMSAR site, or a National Nature Reserve nor is it within an area identified as Wild Land. The proposal is considered to be in accordance with NPF4 Policy 4 as underpinned by LDP Policies LDP 3 and SG LDP ENV 1 and Policy 73 of pLDP2.

**NPF4 Policy 9** seeks to encourage, promote and facilitate the reuse of brownfield, vacant and derelict land and empty buildings, and to help reduce the need for greenfield development.

The development proposed by this application is considered to be on a brownfield site by virtue of the fact that it is within the established residential curtilage of the property representing the sustainable reuse of brownfield land supported by NPF4 Policy 9(a) and underpinned by LDP policies STRAT 1, LDP DM 1 and SG LDP TOUR 1 and Policies 22 and 23 of pLDP2.

**NPF4 Policy 12** seeks to encourage, promote and facilitate development that is consistent with the waste hierarchy as defined within the policy document.

The development the subject of this planning application seeks to secure permission for the siting of an accommodation pod for holiday letting use. Whilst this is a development likely to generate waste when operational, it would benefit from regular waste uplifts by the Council and would be expected to comply with our adopted and enforced recycling and reuse strategy. Policy 12(b) of NPF4 aligns with LDP Policies LDP 10 and SG LDP SERV 5 and 5(b) and Policy 63 of pLDP2

and the current development proposal would raise no issue of conflict should permission be granted.

**NPF4 Policy 13** seeks to encourage, promote and facilitate developments that prioritise walking, wheeling, cycling and public transport for everyday travel and reduce the need to travel unsustainably.

The application proposes to utilise a private road spurring from the public UC72 Polvinister Road to serve the proposed development.

Part (b) of Policy 13 sets out that development proposals will be supported where it can be demonstrated that the transport requirements generated have been considered in line with the sustainable travel and investment hierarchies and where appropriate they:

- i. Provide direct, easy, segregated and safe links to local facilities via walking, wheeling and cycling networks before occupation;
- ii. Will be accessible by public transport, ideally supporting the use of existing services;
- iii. Integrate transport modes;
- iv. Provide low or zero-emission vehicle and cycle charging points in safe and convenient locations, in alignment with building standards;
- v. Supply safe, secure and convenient cycle parking to meet the needs of users and which is more conveniently located than car parking;
- vi. Are designed to incorporate safety measures including safe crossings for walking and wheeling and reducing the number and speed of vehicles;
- vii. Have taken into account, at the earliest stage of design, the transport needs of diverse groups including users with protected characteristics to ensure the safety, ease and needs of all users; and
- viii. Adequately mitigate any impact on local public access routes.

NPF4 Policy 13 is underpinned by LDP Policy LDP 11 which sets out a requirement that an appropriate standard of access is delivered to serve new developments, including off-site highway improvements where appropriate. This requirement is specified in more detail within LDP Policy SG LDP TRAN 4 (2) and Policy 37 of pLDP2 which sets out that further development that utilises an existing private access or private road will only be accepted if:

- i) The access is capable of commensurate improvements considered by the Roads Authority to be appropriate to the scale and nature of the proposed new development and that takes into account the current access issues (informed by an assessment of useage); AND the applicant can;
- ii) Secure ownership of the private road or access to allow for commensurate improvements to be made to the satisfaction of the Planning Authority; OR,
- iii) Demonstrate that an appropriate agreement has been concluded with the existing owner to allow for commensurate improvements to be made to the satisfaction of the Planning Authority.

The current application has been subject to objection from the Roads Authority who advised that the existing private road, which also forms part of the Longsdale Footpath, is narrow with poor geometry, serves numerous properties and has limited passing opportunities. The private road has narrow verges and provides limited step off areas for pedestrians.

The Roads Authority concluded by stating that the private road is unsuitable for further development or intensification of use.

The Applicant submitted a response challenging the Roads Authority consultation response which is summarised as follows.

*“The vast majority of the road length has step-off verges of greater than 1 metre in width.*

*The applicant indicates that he is willing to maintain the verges along its length in order that they do not become overgrown and are accessible to those accessing the track.*

*The access road already forms part of the core path network in the area and regular users of the path already use the current verges to step off the road when vehicles use the route.*

*The proposal should not be considered, as it seems to be, as a new dwelling but as a pod ancillary to the existing dwelling which already uses the un-adopted access road.*

*The proposal will not result in a significant increase in traffic and is no different to any of the properties accessed by the un-adopted road operating a B&B operation from their home or a home having 2 or 3 cars neither of which would be subject to planning or roads department consultation and would have a more substantial impact than that of the submitted proposal”.*

The Applicant also submitted a statement countering the comments of the Roads Authority on a point by point basis.

The Roads Authority considered the further information submitted by the Applicant but confirmed that their recommendation of refusal was their final position on the matter.

In the meantime, it was agreed with the Applicant that a decision on the current application would be deferred until such time as a Local Review Body (LRB) decision had been reached on planning application 22/01001/PP which was refused by the Planning Authority for similar reasons to those being advanced by the Roads Authority to the current proposal.

Whilst the LRB upheld the appeal and granted planning permission for the pod refused by the Planning Authority under 22/01001/PP, there are material differences in the cases. The property the subject of planning application 22/01001/PP had previously been used as bed and breakfast accommodation (under permitted development rights) with two large en-suite letting bedrooms and it was the intention of the Applicant to install the proposed glamping pod to replace the bed and breakfast use within the main dwellinghouse and thereby resulting in a claimed reduction of potential traffic using the road. This argument was accepted by the LRB panel against the advice of officers. The current applicant is claiming that this sets a material precedent.

However, the dwellinghouse the subject of the current application is not, and has not, been used as bed and breakfast accommodation and the Applicant has not advanced details as to the suitability of the existing dwellinghouse for such

purposes. The indication is that this is a four bedroom dwellinghouse currently occupied by the applicant and his wife and three children.

It has to be acknowledged that on two previous occasions, and against the advice of officers, the LRB panel has accepted an argument that an existing or proposed lawful incidental use of part of an existing dwellinghouse as bed and breakfast accommodation could be forfeited and replaced by development consisting of self-contained tourism accommodation within a 'pod' or 'pods' within the garden ground of the property and that this would somehow result in no net increase in vehicle movements associated with the dwellinghouse plus the new 'pod' development. Officers continue to question this approach but accept that Members are entitled to arrive at such decisions.

However, the argument accepted previously only works if the dwellinghouse is either currently in use as incidental bed and breakfast accommodation or that there is a reasonable prospect that it could be. In the case of the current application it is clear that the dwellinghouse is not being used to provide any incidental bed and breakfast accommodation and neither is it proposed to be. Added to this is the existing occupancy of the dwellinghouse which would appear to leave no spare rooms suitable for bed and breakfast accommodation.

Accordingly, in this instance, the proposed development of an additional building to be used for tourism accommodation must, therefore, represent an intensification in the residential occupancy of the site and, therefore, an intensification of the use of the existing constrained access regime.

The development constitutes a material intensification of the use of an existing and constrained access regime and would be capable of support only if compliance with various highway safety concerns could be demonstrated through the submission, examination and acceptance of competent detail. The land necessary for the upgrade of the existing private road, if achievable, is located outwith the application site boundary and outwith the land in the control of the Applicant. The proposed development is consequently, in view of the above, considered likely to have a significant adverse impact upon highway safety. The proposal is considered to be contrary to the NPF4 Policy 13(g) as underpinned by LDP Policies LDP 11 and SG LDP TRAN 4(2) and Policy 37 of pLDP2.

**NPF4 Policy 18** seeks to encourage, promote and facilitate an infrastructure first approach to land use planning, which puts infrastructure considerations at the heart of placemaking.

The development the subject of this planning application proposes connection to the public water supply and drainage infrastructure in the control of Scottish Water. In their response to the application Scottish Water raised no objection to the proposed development which would be serviced by the Tullich Water Treatment Works and Oban Waste Water Treatment Works. Policy 18 aligns with LDP Policy LDP DM 11 and Policies 05 and 08 of pLDP2 which seek to ensure suitable infrastructure is available to serve proposed developments and the current proposal would raise no issue of conflict should permission be granted.

**NPF4 Policy 22** seeks to strengthen resilience to flood risk and to ensure that water resources are used efficiently and sustainably.

As detailed above the development proposes connection to the public water supply to which Scottish Water has not objected to. With regards to the management of

rain and surface water at the site, this could be controlled through a condition to secure a suitable sustainable drainage system for the site should permission be granted.

The proposal is considered to be consistent with NPF4 Policy 22 as underpinned by LDP Policies LDP 10 and SG LDP SERV 2 and Policy 61 of pLDP2.

**NPF4 Policy 30** seeks to encourage, promote and facilitate sustainable tourism development which benefits local people, is consistent with our net zero and nature commitments, and inspires people to visit Scotland.

Policy 30(a) supports tourism development in locations identified in the LDP with a requirement in Part (b) of this policy for developments to take into account various criteria.

A brief statement in support of Policy 30(b) has been submitted with the application as follows:

**i) The contribution made to the local economy**

*“The proposal shall make a positive contribution to the local economy by providing accommodation for visitors to the area and allow them to enjoy the services offered in the local area”.*

**ii) Compatibility with the surrounding area in terms of the nature and scale of the activity and impacts of increased visitors**

*“The proposal fits in with similar tourism related activities in the general locality”.*

**iii) Impacts on communities, for example by hindering the provision of homes and services for local people**

*“The provision of homes for local people would not be impacted by this development as it does not take an existing home out of the market”.*

**iv) Opportunities for sustainable travel and appropriate management of parking and traffic generation and scope for sustaining public transport services particularly in rural areas**

*“The applicant intends to provide an electric car charging point on the site which will encourage more users sustainable transport to make use of the accommodation”.*

**v) Accessibility for disabled people**

*“With the elevation of the site wheelchair access would be difficult however careful planning of the access would allow ambulant disabled users to make use of the accommodation”.*

**vi) Measures taken to minimise carbon emissions**

*“ The buildings are formed from sustainable timber sources and contribute to net zero targets. Heating will be from non-carbon-based sources”.*

**vii) Opportunities to provide access to the natural environment**

*“The site is on the fringes of the natural environment and access to this is encouraged by the applicants. The proposal also looks to work around the natural environment on site and take advantage of existing ecology and landscape”.*

This small-scale tourism proposal is considered to be consistent with the provisions of NPF4 Policy 30 as underpinned by LDP Policies LDP 5 and SG LDP TOUR 1 and Policies 22 and 23 of pLDP2.

Accordingly, notwithstanding the above assessment that the proposed accommodation pod could be accommodated within the site without any significant adverse visual impact on the site or the wider landscape within which it is proposed, a suitable access regime to serve the proposed development cannot be achieved.

The proposed development constitutes a material intensification of the use of an existing and constrained access regime and would be capable of support only if compliance with various highway safety concerns could be demonstrated through the submission, examination and acceptance of competent detail. The land necessary for the upgrade of the existing private road, if achievable, is located outwith the application site boundary and the land in the control of the Applicant as submitted and the proposed development is consequently, in view of the above, considered likely to have a significant adverse impact upon highway safety contrary to the provisions of NPF4 Policy 13(f) as underpinned by LDP Policies LDP 11 as underpinned by SG LDP TRAN 4(2) and Policy 37 of pLDP2 and it is recommended that planning permission is refused.

**(Q) Is the proposal consistent with the Development Plan:** Yes No

**(R) Reasons why Planning Permission Should be Refused:**

See reasons for refusal below.

**(S) Reasoned justification for a departure to the provisions of the Development Plan**

N/A

**(T) Need for notification to Scottish Ministers or Historic Environment Scotland:**  
Yes No

**Author of Report:** Fiona Scott **Date:** 23/01/24

**Reviewing Officer:** Tim Williams **Date:** 24/01/24

**Fergus Murray**  
**Head of Development & Economic Growth**

**REASONS FOR REFUSAL RELATIVE TO APPLICATION REF. NO. 23/01067/PP**

1. The proposed development conflicts with NPF4 Policy 13, and Policies LDP 11 and SG LDP TRAN 4 of the adopted 'Argyll and Bute Local Plan' 2015 and Policy 37 of emerging proposed 'Local Development Plan 2' as the proposed development would result in the intensification in vehicular use of a sub-standard private road with no delineation between pedestrian or vehicular use.

The proposed development constitutes a material intensification of the use of an existing and constrained access regime and would be capable of support only if compliance with various highway safety concerns could be demonstrated through the submission, examination and acceptance of competent detail.

The land necessary for the upgrade of the existing private road, if achievable, does not form part of the planning application site and is not within the acknowledged legal ownership/control of the Applicant.



**APPENDIX TO DECISION REFUSAL NOTICE**

Appendix relative to application **23/01067/PP**

(A) 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. Yes No

(B) The reason why planning permission has been refused:

**See reasons for refusal above.**



**Location Plan Relative to: 24/00007/LRB**



1:1,250