

**MINUTES of MEETING of ARGYLL AND BUTE LOCAL REVIEW BODY held MEETING ROOM
1, MUNICIPAL BUILDINGS, ALBANY STREET, OBAN on TUESDAY, 25 JUNE 2024**

Present: Councillor Gordon Blair (Chair)

Councillor Fiona Howard

Councillor Peter Wallace

Attending: Iain Jackson, Governance, Risk and Safety Manager (Adviser)
Fiona McCallum, Committee Services Officer (Minutes)

1. APOLOGIES FOR ABSENCE

There were no apologies for absence.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

**3. CONSIDER NOTICE OF REVIEW REQUEST: GARDEN GROUND OF
FERNLEA, POLVINISTER ROAD, OBAN, PA34 5TN (REF: 24/0007/LRB)**

The Chair, Councillor Gordon Blair, welcomed everyone to the meeting. He explained that no person present would be entitled to speak other than the Members of the Local Review Body (LRB) and Mr Jackson, who would provide procedural advice if required.

He referred to the site inspection held earlier today (see note of site inspection attached as Appendix A to this Minute) and to the further information requested from the Planning Officer, and advised that his first task would be to establish if the Members of the LRB felt that they had sufficient information before them to come to a decision on the Review.

The Members of the LRB all confirmed that they had sufficient information before them to come to a decision on the Review.

Councillor Wallace advised that his only concern had been the tight corner at the bottom of the hill. He said that he had noted that there was plenty of parking available for all the houses even if the neighbours had visitors.

Councillor Howard advised that she believed that the tight corner and narrow width of the road would encourage road users to drive with care.

Councillor Blair advised that the site inspection had been helpful in that respect. He advised that he was also pleased to see the red squirrel and noted that the Applicant wished to promote biodiversity in the area.

Councillor Howard read out the following Motion:

Motion

The reason for refusal of this application was an objection from the roads department in relation to intensification of use of the private road and road safety issues related to that which 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.

I have noted however that the application complied with all relevant planning policies and there was no objection to this application on any other policy grounds from the Planning Department.

The Applicant's agent has confirmed that the applicants could use two rooms within their dwelling house for bed and breakfast accommodation in terms of Class 9 (houses) of the Use Classes Order without 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.

The Applicants' agent has raised the issue of precedent in regard to the approval of similar application but I do not consider that there has been a precedent as each application must be considered on its own merits.

It is entirely possible that had the LRB's for Broomhill (22/01001/PP) and Soroba Lodge (20/01542/PP) been made up of different Members then a different decision could have been reached in respect of those and I've noted that the minute of the LRB for Broomhill records that it was a majority decision of the LRB as one of the Members confirmed that he agreed with the recommendation from the Roads Department that the application be refused.

Turning to the road safety issues identified by the planners/roads department, in relation to the single track access road and potential implications for road users and members of the public.

I have noted that the property is fully occupied by the family and there is no likelihood at this point in time of the house being used as bed and breakfast accommodation, nor has it been used as such in the past, so on that basis, I recognise the point that an approval of this application will mean by default that there will be an intensification of the use of the road.

It has been confirmed at the site visit that the private road has been used without any issues for a number of years and it has been helpful to have had the opportunity of undertaking the site visit.

The impact of the intensification on road safety is a subjective matter and while I understand the concerns of the planners/roads department about the single track road and the junction between Polvinister Road and Glencruitten Road, the road users should be driving to road conditions with appropriate levels of care.

Having considered the representations of all the interested parties, including the confirmation by the Applicant's agent that the pod would only be occupied for periods of not less than 3 days, I do not consider that the small intensification of the use of the road due to the pod will cause an increase in road safety issues, such as to warrant a refusal of this application.

I am of the view therefore that this application can be approved and I would therefore move that the application is approved as a minor departure from NPF4 Policy 13 and Policy 37 of LDP2 subject to the conditions and reasons provided by the planners as detailed on pages 4, 5 and 6 of the papers for today's meeting along with the following additional conditions which in effect restrict (1) the use of the pod for bed and breakfast, if at any point the principal house is being used for bed and breakfast and (2) ensures that the pod is only made available for periods of not less than a 3-day occupancy.

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 any 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

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.

Councillor Peter Wallace advised that he would be happy to support this Motion. He asked if it would be possible to add an additional condition in respect of maintenance of the road verges.

Mr Jackson acknowledged that the Applicant had indicated that he would be willing to maintain the verges. He explained that this could be included as an Advisory Note from Planning that the road verges be maintained.

Decision

The Members of the Argyll and Bute Local Review Body, having considered the merits of the case de novo agreed to grant planning permission as a minor departure from NPF 4 Policy 13 and Policy 37 of LDP2 subject to the following conditions and reasons and the inclusion of an Advisory Note by Planning regarding maintenance of the private road verges:

Standard Time Limit Condition:

The development to which this permission relates must be begun not later than three years from the date of this permission.

Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997.

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 30/05/22, 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	22823-WHAS-ZZ-XX-PL-A-00-0001-01		21/06/23
Site Plan	22823-WHAS-ZZ-XX-PL-00-0002-02		01/08/23
Plans & Elevations	22823-WHAS-ZZ-XX-PL-A-00-0003-01		21/06/23
External Site Layout	22823-WHAS-ZZ-XX-PL-A-00-0004-01		21/06/23
Design Statement - 7 Pages			01/08/23
Management Plan			13/09/23
Proposed Screening			01/08/23
Utilities Statement			21/06/23

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 published in full on the planning application file available to view 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. 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.

Reason - In the interests of road safety

4. 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.

5. **PP – Management Plan**

The development shall be operated in accordance with the measures set out in the Management Plan for the proposed development submitted on 13/09/23 unless otherwise agreed in writing by the Planning Authority.

Reason: In order to avoid noise nuisance in the interest of amenity.

6. **PP – External Lighting**

Notwithstanding the effect of Condition 1, all external lights for the premises (security lights / access lighting) should:

- Be fitted with light cowl / hood to ensure that the light is controlled and does not shine onto neighbouring properties.
- Each external light should be fitted with a timer so that it only turns on when needed and will not be required to be left on for long periods of time.
- Not be excessively bright and affect neighbouring properties.

Reason: in order to protect the amenity of the area in terms of light nuisance.

7. **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 accommodation 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

8. 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.

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

Reason: To comply with the requirements of NPF4 Policy 3.

9. PP – Boundary Screening

Notwithstanding the effect of Condition 1, the accommodation pod shall not be brought into use until such time as the boundary screening shown on the Screening Proposal has been implemented on site, unless otherwise agreed in writing with the Planning Authority.

Reason: In the interests of privacy and amenity.

10. PP – Surface Water Drainage – No further detail required

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.

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

Note to Applicant

Further advice on SuDS can be found in SEPA's Standing Advice for Small Scale Development – www.sepa.org.uk.

(Reference: Further information from Planning, submitted)

Appendix A

ARGYLL AND BUTE LOCAL REVIEW BODY

NOTE OF MEETING OF SITE INSPECTION RE CASE 24/0007/LRB ACCESS ROAD LEADING TO FERNLEA, POLVINISTER ROAD, OBAN, PA34 5TN WEDNESDAY 25 JUNE 2024

In attendance Councillor Gordon Blair, Argyll and Bute LRB
 Councillor Fiona Howard, Argyll and Bute LRB
 Councillor Peter Wallace, Argyll and Bute LRB
 Iain Jackson, Governance, Risk and Safety Manager (Adviser)
 Graham Fielden, Applicant
 Robert Wilson, Agent
 Fiona Scott, Planning Officer
 Fiona McCallum, Committee Services Officer (Minutes)

Apologies were noted from James Jackson, Traffic and Development Officer

The Argyll and Bute Local Review Body (LRB) agreed on 20 May 2024 to conduct an accompanied site inspection. The purpose of the inspection was to view the private access road to assess its condition and other issues raised by the Roads Officer in his objection to the development.

The Local Review Body convened at 11.00 am on 25 June 2024 at Fernlea, Polvinister Road, Oban. The Chair welcomed everyone to the site inspection and introductions were made.

Mr Jackson welcomed all attendees and explained the procedure for the site visit.

Councillor Blair sought and received confirmation from Mr Fielden that he lived in the house with his wife and 3 children aged 14 years, 10 years and 5 years. Mr Fielden advised that he was not currently running the house as a bed and breakfast establishment but it may be something he would consider in the future once his children had left home.

Councillor Wallace sought and received confirmation from Mr Fielden that since he moved to his home 10 year ago he has not been aware of any accidents or incidents on the private access road. Mr Fielden explained that he was an Engineer and Project Manager and had prepared a risk assessment for the road which had been submitted as part of his supporting documentation in respect of this case.

Mr Fielden pointed out the core path in front of his property and advised that he would be encouraging visitors to use this path.

Councillor Blair sought and received confirmation from Mr Fielden that he proposed letting the accommodation pod for a minimum of 3 nights. Mr Fielden advised that they did not want to have multiple turnovers and envisaged bookings for at least 3 nights over the weekend or during the week.

Councillor Howard asked if there would be room to park 3 cars side by side in the driveway of Fernlea. Mr Fielden confirmed that there would be space. He added that he

also had an EV charger. Miss Scott confirmed that the plans accompanying the application included the layout of parking.

The Members of the LRB viewed the location of the proposed accommodation pod. Mr Fielden pointed out a neighbouring property, which could be seen from the site. He advised that his neighbour was objecting on the grounds of overlooking. Mr Fielden explained that he proposed planting a half hedge in front of the accommodation pod to address this concern. He advised that it would also provide privacy to those staying in the pod and would promote biodiversity in the area.

The Members of the LRB walked down the private road. They noted the core path and also noted that it was well used by dog walkers and cyclists. Mr Fielden advised that users of the path did not park next to its entrance.

Councillor Blair suggested that consideration could be given to displaying 20 mph signs on the private road. Mr Fielden confirmed that he would be happy to do this and also suggested the use of reflective mirrors and slow signs.

Councillor Howard sought and received confirmation from Mr Fielden that water did not run down the private road during heavy down pours.

The Members of the LRB noted grit bins at the top and bottom of the private road and also a run off area which cars could pull in to if they met vehicles coming the other way.

Councillor Howard suggested that the sharp bend and narrowness of the road would encourage road users to drive slowly.

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

This concluded the site visit.