

MINUTES of MEETING of ARGYLL AND BUTE LOCAL REVIEW BODY held in the MEMBERS ROOM, KILMORY, LOCHGILPHEAD on TUESDAY, 31 AUGUST 2010

Present: Councillor Roderick McCuish (Chair)
Councillor Robin Currie Councillor Alister MacAlister

Attending: Charles Reppke, Head of Governance and Law (Legal Adviser)
Fiona McCallum, Committee Services Officer (Minute Taker)

1. DECLARATIONS OF INTEREST

None declared.

2. CONSIDER NOTICE OF REVIEW: PLOT 4, ARDNACROSS FARM, PENINVER, CAMPBELTOWN, PA28 6QP

The Chair welcomed everyone to the meeting and advised that parties to the Review were not permitted to address the Local Review Body (LRB). He advised that the only participants entitled to speak would be the Members of the LRB panel and Mr Reppke who would provide procedural advice if required.

The Chair advised that his first task would be to establish whether or not the LRB felt they had sufficient information before them to reach a decision on the Review.

Councillor McCuish advised that although there was a lot of information before the Panel today he would like to obtain more information in respect of the impact of further development on the landscape and he recommended that a site inspection be arranged to clarify this.

Councillor MacAlister supported the comments made by Councillor McCuish and confirmed that he thought it would be useful to have a site inspection as the information before the Panel did not contain any photographs or plans of the site in question.

Councillor Currie agreed that a site inspection should be arranged and in addition to this that a hearing should be arranged in view of the large number of supporters.

Mr Reppke outlined the hearing procedure in terms of a Local Review which would involve the LRB determining which interested parties they would like to hear from on specified matters determined by the LRB. It would then be a requirement of the interested parties to submit their comments on the specified matters in writing in advance of the hearing.

Mr Reppke questioned whether it would be necessary to hold a hearing as there had been no objectors to the development and the LRB would still have the opportunity to ask interested parties questions on the

specified matters determined by the LRB at the site inspection. On this basis the LRB agreed not to have hearing and that an accompanied site inspection should be arranged.

Mr Reppke referred to Councillor MacAlister's comments about there being no photographs or plans contained within the information before the LRB and questioned whether or not the LRB would wish to request this information. The LRB confirmed that this would not be necessary.

Decision

1. Agreed to hold an accompanied site inspection to determine what the impact of further development at this site would have on the landscape in the context of policy designations in the Local Plan;
2. Agreed to invite the Planning Department and all the supporters of the development to the accompanied site inspection as interested parties; and
3. Agreed to reconvene this meeting at the conclusion of the site inspection.

The Argyll and Bute Local Review Body re-convened on Friday 8 October 2010 at 10.45 am within the Peninver Hall, Peninver

Present: Councillor Roderick McCuish (Chair)
Councillor Robin Currie
Councillor Alister MacAlister

Attending: Iain Jackson, Governance and Risk Manager (Adviser)
Fiona McCallum (Minute Taker)

The Chair welcomed everyone to the reconvened meeting of the LRB and introductions were made. He advised that parties to the Review were not permitted to address the LRB and that the only participants entitled to speak would be the Members of the LRB panel and Mr Jackson who would provide procedural advice if required.

Having undertaken an accompanied site inspection prior to this meeting (see Appendix A) the Chair advised that his first task would be to establish whether or not the LRB felt that they now had sufficient information before them to reach a decision on the Review and the Members confirmed that they did and went on to debate the merits of the case.

Councillor McCuish advised that he did not think another dwelling would compromise or have an adverse impact visually or environmentally on the landscape.

Councillor Currie stated that the only reason planning refused the application was because the site was contrary to the North and South Kintyre Landscape Capacity Study (LCS) and at the Mid Argyll, Kintyre

and the Islands Area Committee on 6 October 2010 it had been confirmed that the LCS was purely an advisory tool and not a plan that had to be religiously followed. He confirmed that the Mid Argyll, Kintyre and the Islands Area Committee agreed the North and South Kintyre Landscape Capacity Study as long as there would be flexibility and he saw no reason why the LRB could not be flexible with this case.

Councillor MacAlister advised that he saw no problem with the site.

Councillor McCuish confirmed that he found the site inspection valuable. He referred to the Planner's statement that no dwellings should be on the roadside yet travelling to the site there were houses all along the roadside. He stated that the site was situated on the landward side of the road and would not be easily seen from the sea and advised that he was minded to grant the application.

Mr Jackson reminded the LRB that there was a procedure to follow and if they were minded to grant the application today they would need to draw up a set of conditions to attach to the application and would have to fully explain the reasons for going against the Planner's decision. The fact that the site was contrary to the Landscape Capacity Study would also necessitate the requirement for an Area Capacity Evaluation to be carried out on the site.

Councillor McCuish acknowledged that he would have difficulty in drawing up a set of conditions today that would be fair to both the applicant and Planners and therefore he would like to ask the Planners to draw up appropriate conditions for consideration by the LRB. He also suggested that the LRB Members should consider the need for an Area Capacity Evaluation for the site.

Councillor Currie agreed that conditions should be drawn up by the planners but questioned the need for an Area Capacity Evaluation to be undertaken.

Councillor McCuish stated that he felt it was important that a belts and braces approach should be taken to make sure the correct procedure was followed to avoid any future challenge.

Decision

1. Agreed to request (from the Planning Authority) written submissions regarding details of appropriate conditions and reasons should the LRB be minded to grant the application;
2. Noted that LRB Members would consider the need for an Area Capacity Evaluation;
3. Agreed to adjourn the meeting and reconvene at the earliest opportunity at a date and time still to be specified within Kilmory, Lochgilphead.

**The Argyll and Bute Local Review Body re-convened on Thursday 11
November 2010 at 2.00 pm within the Members Room, Kilmory,
Lochgilphead.**

Present: Councillor Roderick McCuish (Chair)
Councillor Robin Currie
Councillor Alister MacAlister

Attending: Charles Reppke, Head of Governance and Law (Adviser)
Fiona McCallum (Minute Taker)

The Chair welcomed everyone to the reconvened meeting of the LRB and introductions were made. He advised that parties to the Review were not permitted to address the LRB and that the only participants entitled to speak would be the Members of the LRB Panel and Mr Reppke who would provide procedural advice if required.

The Chair referred to the request at the previous meeting for written submissions from the Planners and asked if any comments from interested parties had been received in respect of these written submissions. Mr Reppke confirmed that a late submission had been received from one interested party and that because this had been received out with the timescales specified in the LRB Regulations this would not be able to be taken into consideration by the LRB.

The Chair advised that his first task would be to establish whether or not the LRB felt that they now had sufficient information before them to reach a decision on the review and the Members confirmed that they did and went on to debate the merits of the case.

Councillor Currie referred to condition 3 (v) of the Planner's written submission, stating that he thought 120m² would not be a big house and he also referred to condition 3 (i) stating that the dwelling should be a single storey in height. Councillor McCuish stated that as no comments in this respect had been received from interested parties then the LRB could only assume that they were happy with the conditions set out by the Planners.

Councillor McCuish advised that in his opinion the application could be approved as a minor departure for the following reasons:-

The proposed development being located immediately adjacent to the consented development plots on which a meaningful start has been by formation of an access can be absorbed into the landscape with an element of adverse impact on the landscape character and quality. He believed that the impact can be justified as a minor departure to Policy HOU1 and PDCZ 4 when considered in the context of the North and South Kintyre Landscape Capacity Study Technical Guidance. He stated that it is justified on the basis of the existing sites having already been consented prior to that Study which creates a node of development in an area not recommended for development. This factor provides a justification to complete this node of development and that given any further development of this site could create a ribbon development or

urban intrusion into this predominantly rural setting any consent granted should be tied to a Section 75 Agreement restricting any further development of Ardnacross Farm in the ownership of the applicant and his immediate family so as to prevent any further development in this sensitive countryside which would in his opinion result in an unjustified change in the landscape character of this area.

At this point Councillor McCuish asked if the other LRB Members had any comments to make and they both confirmed that they were in agreement with the reasons Councillor McCuish had given for approving the planning application as a minor departure.

Councillor McCuish went on to state that had there not been the consented sites adjacent to the proposed site creating a node of development he would not have deemed a departure from Policy to be justified and was satisfied that in granting consent on this site it will provide only a minimal greater intrusion into the landscape character and visual amenity of the area than the two plots already granted, and as such creates an exceptional case for the approval of this application as a minor departure to policy. The imposition of the Section 75 Agreement will prevent any further development in this locality and recognises the very limited scope that existed for any development in the red area identified in the North and South Kintyre Landscape Capacity Study. In the event of the Section 75 not being completed within 4 months the application should be refused on the grounds originally outlined in the Planner's report.

Decision

The Argyll and Bute Local Review Body agreed to go against the Planner's decision and approve planning permission in principle as a minor departure subject to the following conditions and reasons and a Section 75 Agreement to restrict any further development at Ardnacross Farm which will negate the requirement for an Area Capacity Evaluation to be carried out and that the Decision Notice and approved plans will not be issued until completion of the Section 75 Agreement:-

1. That the permission is granted in terms of Section 59 of the undernoted Act and Regulation 10 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2007 on the basis of an application for planning permission in principle, and that further approval of Argyll and Bute Council or of Scottish Minister on appeal shall be required, such application(s) must be made before whichever is the later of the following:-
 - (a) the expiration of a period of 3 years from the date of this permission.
 - (b) the expiration of a period of 6 months from the date on which an earlier application for the requisite approval was refused.
 - (c) the expiration of a period of 6 months from the date on which an appeal against such refusal is dismissed.

and in the case of b) and c) above only one such application can be made after the expiration of the period of 3 years from the original planning permission in principle.

Reason: In accordance with Section 59 (1) of the Town and Country Planning (Scotland) Act 1997.

2. The proposed development shall be carried out in accordance with the details specified in the application form dated 14 December 2009; and the approved drawings numbered 1 of 2 and 2 of 2.

Reason: In order to ensure that the proposed development is carried out in accordance with the details submitted with the approved drawings.

3. No development shall commence until details of the siting, design and finishes of the dwelling house hereby approved have been submitted to and approved by the Planning Authority. Thereafter the development shall be implemented in accordance with the duly approved details. Such details shall show a dwelling house which incorporates the following elements:

- i) The dwelling shall be single storey in height.
- ii) The window openings shall have a strong vertical emphasis.
- iii) The walls shall be finished in a white wet dash render/smooth coursed cement render/natural stone.
- iv) The roof shall be symmetrically pitched to at least 37 degrees and be finished in natural slate or a good quality substitute slate.
- v) The building shall be of a general rectangular shape and gable ended with a maximum external footprint of 120m²
- vi) Any porches (which are encouraged in the design) shall have traditional "peaked" roofs.
- vii) Details of the proposed finished floor level of the dwelling relative to an identifiable fixed datum located out with the application site.

Reason: In the interest of visual amenity, in order to integrate the proposed dwelling house with its surrounds and, no such details having been submitted.

4. No development shall commence until details of any proposed landscape and boundary treatment, including details of location, height and materials of any walls/fences/gates, have been submitted to and approved by the Planning Authority. Thereafter the development shall be implemented in accordance with the duly approved details.

Reason: In the interest of visual amenity, in order to integrate the proposed dwelling house with its surrounds and, no such details having been submitted.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order(s) 1992, (or any Order revoking and re-enacting that Order(s) with or without modifications), nothing in Article 3 of or Schedule 1 to that Order, shall operate so as to permit, within the area subject of this permission, any development referred to in Parts 1 and Classes 1 and 3, and in Part 2 and Classes 7 and 9 of the aforementioned Schedule 1, as summarised below:

PART 1: DEVELOPMENT WITHIN THE CURTILAGE OF A DWELLINGHOUSE

Class 1: The enlargement, improvement or other alteration of a dwelling house.

Class 3: The provision of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwelling house or the maintenance, improvement or other alteration of such a building or enclosure.

PART 2: MINOR OPERATIONS

Class 7: Gates, fences, walls and other means of enclosures.

Class 9: Stone cleaning and exterior painting of any building work.

No such development shall be carried out at any time within these Parts and Classes without the prior written approval of the Planning Authority.

Reason: To protect the area and the setting of the proposed dwelling house, in the interest of visual amenity, from unsympathetic siting and design of developments normally carried out without planning permission; these normally being permitted under Article 3 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992.

6. No development shall commence until a full appraisal to demonstrate the wholesomeness and sufficiency of the private water supply to serve the development shall be submitted to and approved by the Planning Authority. This assessment shall be carried out by a qualified and competent person(s). Such appraisal shall include a risk assessment having regard to the requirements of Schedule 4 of the Private Water Supplies (Scotland) Regulations 2006 and shall on the basis of such risk assessment specify the means by which a wholesome and sufficient water supply shall be provided and thereafter maintained to the development. Such appraisal shall also demonstrate that the wholesomeness and sufficiency of any other supply in the vicinity of the development, or any other person utilising the same source or supply, shall not be compromised by the proposed development. Furthermore, the development itself shall not be brought into use or occupied until the required supply has been installed in accordance with the agreed specification.

Reason: In the interests of public health and in order to ensure that an adequate private water supply in terms of both wholesomeness and sufficiency can be provided to meet the requirements of the

proposed development and without compromising the interests of other users of the same or nearby private water supplies.

7. No development shall commence until details of the proposed foul drainage arrangements to serve the development have been submitted to and approved by the Planning Authority. Thereafter the duly approved details shall be implemented prior to the first occupation of the dwelling house.

Reason: In the interest of public health, to ensure that the development is served by an appropriate means of foul drainage commensurate to the scale of the development and, no such details having been submitted.

8. No development shall commence until details of the means of vehicular access and parking turning provision to serve the development shall be submitted to and approved by the Planning Authority. Such details shall show:
 - i) The access onto the public highway to be formed in accordance with the Council's Highway Drawing No. G300 & TM197, TM377 type C construction, with the bellmouth area surfaced in dense bitumen macadam for a distance of 5m back from the existing carriageway edge and dropped kerbs formed;
 - ii) Formation and ongoing maintenance of visibility splays measuring 160.0m x 2.0m from the centreline of the proposed access within which there is no obstruction to visibility over 1.05m in height above the adjoining carriageway;
 - iii) That the gradient of the driveway shall not exceed 1 in 15 within 4.5m of the existing carriageway and shall thereafter not be steeper than 1 in 7.
 - iv) The provision of parking and turning in accordance with the requirements of policy LP TRAN 6 and Appendix C of the Argyll and Bute Local Plan 2009

Thereafter the required access, parking and turning arrangements shall be fully implemented in accordance with the duly approved details prior to the occupation of the dwelling house.

Reason: In the interests of road safety.

Appendix A

ARGYLL AND BUTE LOCAL REVIEW BODY

NOTE OF MEETING OF SITE INSPECTION RE CASE 10/0010/LRB PLOT 4, ARDNACROSS FARM, PENINVER – FRIDAY 8 OCTOBER 2010

In attendance: Councillor Roderick McCuish, Argyll & Bute LRB
(Chair)

Councillor Robin Currie, Argyll & Bute LRB
Councillor Alister MacAlister, Argyll & Bute LRB
Iain Jackson, Governance and Risk Manager
(Advisor)
Fiona McCallum, Committee Services Officer (Minute
taker)
Mr and D Mrs Watson, Applicant
Mr R Pullen, Interested Party

Also Present: Councillor Donald Kelly, Interested Party

The Argyll and Bute LRB (ABLRB) agreed on 31 August 2010 to conduct a site inspection in order to determine what the impact of further development at this site would have on the landscape in the context of policy designations in the Local Plan.

The ABLRB convened on 8 October 2010 at Plot 4, Ardnacross Farm, Peninver at 10.00 am.

Councillor McCuish welcomed all parties to the site inspection and introductions were made.

Mr Jackson advised the participants on the procedure that would be followed. He advised that there would be no debate at this meeting and also no opportunity for parties to state their case.

From the inspection the ABLRB noted:-

- a. The exact location of the proposed dwelling which had been marked on site.
- b. The location of a further 2 plots of land which have been granted planning permission (plot 2 – planning permission in principle and plot 3 – outline planning permission).
- c. The location of plot 1 which was granted outline planning permission and the reasons for this being voluntarily revoked.
- d. The locations where Archaeological studies had been undertaken.
- e. The location of an area of land at Ardnacross Farm which the Landscape Capacity Assessment Consultants identified as

deemed suitable for development but which would require a further Archaeology Study to be undertaken before any planning permission could be granted and would also require services.

- f. That, although the site would be viewed from the road it would not detract from the views of the sea.