

Special Meeting of KCC

Status of Planning Applications Related to Arisaig Farm, Gartocharn

Monday 11th November 2019 at 7.30pm

Kilmaronock Millennium Hall

Present : KCC : Gavin MacLellan (GM), Andrew Sinnott (AS), David Scott-Park (DSP) & Ivan Mavor (IM)
Councillor Sally Page (SP)

Applicants and family and members of the community totalling 14

Purpose of Meeting

This meeting was called by KCC due to the complex history of various planning applications and recent refusal of a retrospective application.

A site visit was made on 26th October 2019 by 3 members of KCC to gain a better understanding of what was granted via the approval of application 2015/0191/DET, what was done differently from that to necessitate a retrospective application (2017/0087/DET) and what remains to be done and what led to the refusal of the 2017 retrospective application in the summer of 2019.

Tonight is an opportunity to solve problems and move the issue along by discussion.

History (KCC meetings and correspondence)

Following a KCC meeting on 15th May 2017, KCC had issued an objection to the 2017 application based on, among other things, some outstanding conditions from 2015/0191/DET not having been implemented and some road safety concerns regarding access and egress from A811 to the site.

In the KCC meeting 1st July 2019 the community raised the issue of an enforcement notice being issued and then withdrawn pending the retrospective application outcome. The applicants offered to make a presentation of the status of the various issues at the next KCC meeting due in September.

KCC met with the planning authority on 5th July 2019 to get an update on the situation. The notes from that meeting were summarised in a further letter to the LLTNPA.

On 29th August 2019, the LLTNPA planning authority issued a decision notice refusing the retrospective application.

As this happened so close to the September KCC meeting the applicant's proposed presentation did not happen. A site meeting was arranged for 26th October 2019.

At the KCC meeting of 4th November 2019, it was agreed that we would hold tonight's special meeting so the applicants could make a presentation and discuss the issues openly.

Presentation by Tom Newall

Arisaig Farm, formerly known as North Tulloch farm, was split off from Tulloch in 1995 and permission for an agricultural dwelling was granted. It has had several owners over the 20 years since without any development taking place.

The present owners purchased it in 2015 after leasing it for 3 years.

The planning permission for the house is fixed and is currently going through a building warrant. A condition lies with it that the occupant must actively farm the land.

In 2013, application was made and granted for the “erection of an agricultural storage building and formation of an access track”. There was no mention of offices.

In 2015, an application was made to extend the shed and implement a business on site – drawings were displayed and explained. This too was granted. The business diversification plan was explained with the unique aspect being that the agricultural part of the business was not up and running. A farm plan was supplied on request.

Absolute was started in 2007 specialising in design, installation and maintenance of commercial renewable energy systems including agricultural customers. The Newall family own and operate the business. Examples of a variety of completed projects throughout Scotland were shown.

The business was fully described to the planners in the 2015 application and no objections were noted from any party.

The landscaping plan was explained with difficulties based on incorrect (Applicant Error) diagrams and post-application changes to the site layout. Planting of some Junipers started this year. The landscaping work, predominantly tree planting to form screening had not started, there is no fencing and no signs of intent. There is a large amount of surplus engineering material and equipment laying in fields around the main building giving the appearance of a long-term external storage yard that could evolve to become a farm dump.

In September 2016, following a complaint from neighbours about additional buildings being erected, the NP planner came on site and it was agreed that a retrospective planning application was to be submitted. Since then the NP planner, involved all the way through, left his position and the new planner had a different view in that the 2015 application should not have been approved and that the business was not suitable for the site and doubted the farming side would take place.

At the same time, the owners failed to realise (Applicant design error) that the CHP plant was too big for the proposed and approved location to the rear of the shed so was placed in 2 containers as a separate unit away from the shed. It was a mistake not to seek planning permission and a resolution is now sought – more screening being the most feasible and worst-case last resort scenario being to move it to the main shed.

The large shed does not now contain any agricultural equipment.

Between 2017 and 2019 the NP refused to determine the application requesting more and more details about the business and the farm.

The neighbouring property, Ardoch, raised objections at the KCC meeting on 17th May 2017 which had the applicants known, they would have attended to discuss. (The meeting was a routine CC meeting and Agenda was posted).

Farming – acreage dictates capacity of 200 sheep – stocking started in 2018 and by 2020 should be at capacity. NP don't accept the evidence that farming is taking place.

In conclusion, the Applicant agreed that there are many things that should have been done differently in hindsight, earlier community engagement, less errors etc. Currently he feels like the focus is on trying to

undo the 2015 decision which the business was based on not just the mistakes made throughout what is a large project.

There is an appeal deadline with the NP threatening enforcement action if appealed.

Discussions

Essentially the business wants to operate as per 2015 approved application so are seeking solutions to the 2017 issues which were essentially deviations from the 2015 plan due to circumstances outlined above.

Issues raised

Size of shed not conforming to plan.

The plans were shown again and the only difference between plan and built shed is the SE extension has shifted but not enlarged. There were some errors on the drawing as some details were missing for a fuel store and a fan housing. None of which significantly altered the building footprint.

Landscaping/Screening

4-6 years behind schedule – many reasons given by Applicant. Multiple applications 2011 for house, 2013 for shed then 2015 for business use. Wrong drawings submitted by Applicant in 2015 with wrong location of access track. The approved plan from 2015 incorporates the outstanding planting from the 2013 approved plan. The approved landscaping plan could have been implemented but there are a couple of areas blocked by variations to the 2015 approval awaiting approval in the retrospective plan that was subsequently refused, though these could have been implemented after 2015 approval. In particular, the CHP plant's current unapproved location and a stand-alone solar powered electric vehicle charging installation/car port (part of refused 2017 plan).

Extract from 2013/0137/DET Delegated Report

“The applicant was requested to consider the likely impacts of the agricultural building and track from the following potential public viewpoints – Ardoch, Duncryne, Ross Loan and to consider the best site and orientation for the building, taking account of the context of the contours of the rolling farmland, existing riparian tree cover and any existing and proposed buildings. This was duly carried out and viewpoint photographs submitted for assessment. Having considered this information, it is accepted that the building would not be visible from Ross Loan or from the Millennium Hall. The photograph and view taken from the private road leading to Ardoch confirms that the proposed building would be largely hidden within a dip, behind the crest of the slope, and to the rear of the proposed house (approved most recently under 2011/0200/DET) which would be more visible in the foreground. In addition, from this viewpoint the existing tree cover would provide a backdrop to the agricultural building. Given this context, it is considered that new tree planting should be provided to assist in integrating and screening the proposed building with its surroundings and will also augment the existing tree cover. Well planned and positioned planting will tie in with the existing groups of trees and shelter belts and will help soften the horizontal emphasis of building.”

Conditions:

- 1 **Landscaping:** Notwithstanding the approved plans, no development shall commence on the erection of the proposed agricultural building, until further specifications (including the number,

locations, species, densities, sizes and tree protection measures) of trees and hedgerow planting within the vicinity of the building and the track hereby approved shall have been submitted to, and approved in writing by, the Local Planning Authority.

A site visit to Ardoch confirms that the developments at Arisaig are very visible from Ardoch House and is not hidden within a dip. The photograph submitted with the application was not taken from Ardoch House but the track leading to it.

Proposals for alterations to the landscaping plan would still screen the new location of the CHP plant if allowed to stay where it is. Additional suggestions from neighbours are welcome.

GM enquired as to the reasons preventing this work and strongly advised applicants to start planting ASAP – start with already agreed plan and the extra proposed hedge around the shed and hardstanding.

The applicant stated that they were happy to remove the pod.

NP and Business versus Farming

The 2015 plan fully described the business part of the operation. Subsequent to the 2017 plan, the NP expressed doubt over the farming element.

No further development is needed for the sheep farming business as they winter and lamb outdoors.

The shed has never been used for agricultural purposes and it appears it is not required for the agricultural part of the business.

CHP

In the 2015 plan, the plant was supposed to be installed in the rear extension to the shed adjacent to the chip drying area but it didn't fit so was housed in two containers instead. This resulted from not checking the dimensions when it was purchased – the fuel supply system for the plant was not taken into account. Should it be absolutely necessary it has been checked and could just about fit in the shed itself although it would be very expensive to do so.

If there is a way of keeping it where it is and screen it to neighbour satisfaction then any compromises would be looked at.

KCC's original objection noted no community including neighbours objection to the CHP plant if it was screened, was not noisy and did not contaminate any water sources. These ought to be where solutions need to be agreed.

The nearest property has experienced low humming noises and noted it was noisier at first than it is now. It is not visible though. Road traffic to and from the site passes close to the property and lights in winter can be bothersome. Screening along the road as 2015 Approval, would be beneficial.

The other affected neighbouring property although further away has unrestricted sightlines to the CHP and site. Substantial screening would be needed to mitigate that but would be possible. KCC are invited to view for themselves. Ardoch views the gable and front elevation of the CHP installation.

GM - There is an opportunity to please all parties of this detail if Arisaig accelerated the screening by planting mature trees for example. The Applicant appreciates that to keep the CHP plant in its present position it needs to be screened. Furthermore, the neighbours would benefit from additional planting to screen the main building, car park and access roads. A good start would be for the applicants to look at

the landscaping plan from an external perspective and send an updated proposal to neighbours for them to look at.

Relationship of business to applicants

The majority (85%) of Absolute is owned by the applicants and family.

The access road and the junction with A811

There are two issues. One is the unmade estate road from the A811 to Arisaig Farm passing two properties and an equestrian centre and the other is the junction from that road directly on to the A811. The applicants pointed out that in the 2015 application they stated there would be a significant increase in traffic including larger commercial vehicles. WDC responded approving the plan with a condition of installing junction ID bollards. However, despite the information in the application WDC referred to only a 'slight' increase in traffic. Some interpreted this as a conditional limitation on amount of traffic. Another interpretation was that it was only slight increase to existing A811 traffic.

KCC can only comment on the safety aspect of the junction on the A811 and have lobbied for improved signage and reduced speed limits. The latter was rejected but the signage will be improved (as part of a recent review unconnected to this specific case).

Regarding the WDC contribution to the 2017 application, Councillor Page met with Raymond Walsh (Head of Roads dept. WDC) and he explained that he feels he was mis-led by the planning officer during the 2017 application process about a significant increase in traffic compared to the 2015 application as the 2017 application was not for an expansion of 2015 plan. Thus no material change to traffic volume outlined in the 2015 business plan. Further, the current junction is typical of farm entrances all along major roads and can't be treated differently from the others.

He is now waiting on the NP to provide him with evidence of their claim. Councillor Page has suggested that the best way to move things forward is for a meeting on site of WDC roads and NP to point out what the remaining concerns are and what would be needed to resolve them. Nothing has been agreed so far.

Effectively, there is a risk at the A811 junction but it is the same with other such junctions. In particular, the risk is increased when a vehicle turning into Tulloch from the A811 conflicts with a large vehicle coming out as there is nowhere to go other than reverse back on to a major road.

DSP proposed that creating a passing place on the private road, to allow incoming traffic to pass outgoing traffic, would improve road safety. The passing place should be of sufficient size for a car and trailer.

The applicants replied that they are actually already looking into a solution like this for the first 12m or so and costings are being worked up.

Another concern on the access track is the movement of HGV vehicles through the busy riding stables area. Perhaps more signage could be looked at.

Some of the driver behaviour is below standard.

Any health and safety issues on Tulloch property are under the responsibility of the landowners so they have a big part to play in how they manage it. The applicants are happy to work with them to reduce any perceived risks and cooperate on managing traffic passing though on their business.

No-one should be subject to abuse or anti-social behaviour and while the applicants can control their staff via company policies, irregular 3rd party delivery drivers are unfortunately outside their control.

Future Plans

The history of development here both incremental and retrospective from an unused field to a house, then a shed then an extension and a new business leads to a natural question of whether there is more to come. The applicants confirm that there are no current plans for any expansions. They have achieved an optimum stock level sufficient to be a small livestock farm alongside a renewable energy business which has actually contracted since 2015 leaving some office space available. Should the business expand to fill that space and beyond then it is likely that the whole business would need to move off site completely.

Summary

There appears to be a change in position of NP between 2015 and 2017. There was a different planning officer unsympathetic to the 2015 approval. By not conforming fully to the 2015 plan for reasons outlined above, complaints were sent to the NP and in 2016 a site visit led to an agreement that the best way forward to deal with the changes was to put in a retrospective application. This was done in 2017 and in turn led to objections being submitted as described above.

At this point a change in planning officer brought about a change in heart regarding the business plan submitted and approved in 2015. However, since that is approved the business can as such carry on. The changes made that led to the need for the 2017 plan need to be mitigated or reversed/removed.

The decision to appeal has not yet been made but if it were then the mitigations would all need to be supported by neighbours before NP.

At this stage, the applicants wish to operate to the 2015 plan and are willing to work with anyone to resolve issues with the 2017 retrospective changes.

- Screening of the site needs to be implemented ASAP and should have started following completion of the agricultural shed. 2013/0137/DET. There does not seem to be any reason for this delay. Neighbours' concerns might be accommodated by sharing of plans and successful and timely implementation. The Applicant confirmed that planting is imminent.
- Safety matters regarding access to A811 – WDC roads indicate they will roll back to the 2015 conditions rather than the 2017 ones. The applicants are looking at widening the access point of the track at the A811 junction. The owners of the track and land need to agree.
- Traffic management on the access track needs to be better managed – speed, directions and behaviour of drivers.
- Maintenance of unmade track – agreement ought to be reached on road surface upkeep, drainage and passing places. This is the owners' responsibility to work with the major users to a satisfactory outcome.
- Dialogue with NP and WDC roads to look at acceptable solutions to evidence based issues.

Further actions :

KCC will review the information gained tonight and compare with the letters written in the past. We will reissue an updated document reflecting where we are now and promoting positive solutions.

KCC will attend the meeting suggested by Councillor Page between Stuart Mearns, Bob Cook and Raymond Walsh, if it can be arranged.