



T: [REDACTED]
E: [REDACTED]

Geddes Consulting
[REDACTED]

Our ref: NA-ABC-025
4 December 2020

Dear [REDACTED]

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
THE TOWN AND COUNTRY PLANNING (NOTIFICATION OF APPLICATIONS)
(SCOTLAND) DIRECTION 2009
ERECTION OF RETAIL UNIT, VISITOR CENTRE AND SELF CATERING
ACCOMMODATION AT SITE WEST OF TAIGH SOLAIS, LEDAIG, TOBERMORY
INCLUDING REALIGNMENT OF ESCAPE STAIRS TO TAIGH SOLAIS AND
MACGOCHANS**

1. This letter contains Scottish Ministers' decision on the above application submitted to Argyll and Bute Council by Beaton + McMurchy Architects Ltd. on behalf of Argyll Properties Ltd. The application was called in for Scottish Ministers' determination on 5 May 2020.
2. The application was considered by means of written submissions and an unaccompanied site inspection which took place on 22 July 2020, by [REDACTED] a Reporter appointed for that purpose. A copy of the Reporter's report ("the report") is enclosed.

Consideration by the Reporter

3. The Reporter's conclusions and recommendations are set out in Chapter 3 of the reporter's report. The Reporter recommended that planning permission be granted subject to conditions.



Scottish Ministers' Decision

4. Scottish Ministers have carefully considered the report. They agree with the Reporter's overall conclusions and recommendation that planning permission should be granted subject to conditions, and adopt his reasoning for the purpose of their own decision, which is summarised below.

5. Ministers agree with the Reporter that the proposed development would accord with a number of policies in the development plan and would further the delivery of the policy ambitions relating to tourism development areas and the Tobermory town centre and bay area for action. Due to the site's location at medium to high risk of coastal flooding, the proposed development would be contrary to a number of policies in the development plan. Public safety is very unlikely to be compromised by the development, however. Having regard to the significant benefits of the proposal, the development is considered to represent a locally important and unique opportunity for the town centre's enhancement, its attractiveness to visitors and economic prosperity. In these specific circumstances, it is considered that a departure from the development plan's provisions, and national policy, in regard to flood avoidance, is justified. Ministers also agree with the Reporter that the proposed development would enhance the character and appearance of Tobermory Conservation Area.

6. Accordingly, for the reasons set out in the Reporter's report and as summarised above, Scottish Ministers hereby grant planning permission, subject to the conditions appended at the bottom of this letter, for erection of retail unit, visitor centre and self catering accommodation at site West of Taigh Solais, Ledaig, Tobermory including realignment of escape stairs to Taigh Solais and MacGochans.

7. This decision of Scottish Ministers is final, subject to the right conferred by Sections 237 and 239 of the Town and Country Planning (Scotland) Act 1997 of any person aggrieved by the decision to apply to the Court of Session within 6 weeks of the date of this letter. If such an appeal is made, the Court may quash the decision if satisfied that it is not within the powers of the Act, or that the appellant's interests have been substantially prejudiced by a failure to comply with any requirements of the Act, or of the Tribunals and Inquiries Act 1992, or any orders, regulations or rules made under these Acts.

8. A copy of this letter and the report has been sent to Argyll and Bute Council and SEPA. Those parties who lodged representations will be advised of the decision.

Yours faithfully

[Redacted signature]

APPENDIX – SCHEDULE OF CONDITIONS

General

1. The proposed development shall be carried out in accordance with the details specified in the application form dated 2nd May 2017 and the approved drawings numbered 1 of 4 to 4 of 4; these being:

Drawing No. 1667 04 rev. e – ‘Ground Floor Plan (Draft)’

Drawing No. 1667 06 rev. a – ‘First Floor Plan, Elevations (Draft)’

Drawing No. 1667 05 rev. b – ‘First Floor Plan, Elevations (Draft)’

Drawing No. 1667 06 – ‘Elevations – refuge area’

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

Standard Note: In terms of condition 1 above, the Council can approve minor variations to the approved plans in terms of Section 64 of the Town and Country Planning (Scotland) Act 1997 although no variations should be undertaken without obtaining the prior written approval of the Planning Authority. If you wish to seek any minor variation of the application, an application for a non-material amendment (NMA) should be made in writing which should list all the proposed changes, enclosing a copy of a plan(s) detailing these changes together with a copy of the original approved plans. Any amendments deemed by the Council to be material, would require the submission of a further application for planning permission.

Design and materials

2. Notwithstanding the effect of Condition 1, no development shall commence until written details of the type and colour of external materials to be used in the construction of the building and the flooding refuge area, including render details, cladding and roofing details, window and door details, guttering details, external stair, balustrading and hand rail details, 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 and having appropriate regard to the location of the development within a conservation area.

3. Notwithstanding the effect of Condition 1, no development shall commence until detailed sections and a written specification showing the existing and the proposed levels of the site have been submitted to and approved in writing by the Planning Authority. These details shall clearly show the extent and method of the proposed site recontouring required to accommodate the development and, specifically, the approved ‘flooding refuge area’ and shall include a detailed specification of any required retaining wall or other means of slope stabilisation/retention. The development shall thereafter be completed in accordance with the approved details and methodology or such alternatives as may be agreed in writing with the Planning Authority.

Reason: In order to allow for a detailed assessment of these elements of the proposed development and, in particular, their impact upon the character and

appearance of the site and its wider surroundings and no such detailed information having been submitted with this planning application.

Flood risk mitigation, strategy and details

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.

Reason: To ensure the provision of an adequate surface water drainage system and to prevent flooding in accordance with Policy LDP DM 10 of the adopted Argyll and Bute Local Development Plan 2015.

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

5. Notwithstanding the effect of Condition 1, the finished ground floor level of the approved tourist information, retail and self-catering holiday residential units building shall be 3.92 metres AOD and the approved 'flooding refuge area' shall have a finished floor level of 5.4 metres AOD, in accordance with the developer's specification and proposed flood risk mitigation strategy as contained within the report dated 15th August 2019 by Kaya Consulting Limited (document reference number KC1706).

Reason: In order to ensure that the development is constructed in accordance with the specific flood risk mitigation strategy proposed by the developer and subsequently approved; such a strategy being assessed by the Planning Authority as essential to underpin the reasons for departing from national and local flood risk planning policy and the advice of SEPA.

6. No development shall commence until full details of the following flood risk mitigation strategies and 'protection by design' techniques have been submitted to and approved in writing by the Planning Authority:

- Full written details of the proposed 'flood warning' scheme, including how such a scheme will operate and who will be responsible for its implementation and continued operation; such a scheme as proposed by the developer within the report dated 15th August 2019 by Kaya Consulting Limited (document reference number KC1706).
- Full written details of the proposed 'briefing and guidance for guests' flood management system for the approved first floor self-catering holiday accommodation, including how such a scheme will operate and who will be responsible for its implementation and continued operation; such a scheme as proposed by the developer within the report dated 15th August 2019 by Kaya Consulting Limited (document reference number KC1706). These required details shall also include the proposed means of recording and maintaining a detailed written log of these 'briefings'; the resulting log to be made available, at all reasonable times, for inspection by the planning authority if so required.
- Full written details of the proposed 'property level flood protection measures' for the approved ground floor tourist information facility and shop(s). These details shall include a full specification of any proposed 'stop logs',

'demountable barriers', 'flood proof doors' and any other proposed 'protection by design' measures to be incorporated into the development, as proposed by the developer within the report dated 15th August 2019 by Kaya Consulting Limited (document reference number KC1706).

- Full written details of the size, type and precise permanent location of the 'emergency boat/dinghy fixed to the wall of a nearby building' as proposed by the developer within the report dated 15th August 2019 by Kaya Consulting Limited (document reference number KC1706). These details shall also detail how such a scheme will operate and who will be responsible for its implementation and continued operation together with the responsibility for any required maintenance/replacement of the proposed emergency boat/dinghy.

All of the subsequently approved details shall be implemented in full and shall be operational before the development hereby approved is first brought into use and in perpetuity thereafter.

Reason: In order to ensure that the development is constructed and operated in accordance with the specific flood risk mitigation strategy proposed by the developer and subsequently approved; such a strategy being assessed by the Planning Authority as essential to underpin the reasons for departing from national and local flood risk planning policy and the advice of SEPA.

Implementation, phasing and restriction

7. The approved 'flooding refuge area' shall be implemented in full and shall be operational before any part of the remainder of the development hereby approved is first brought into use/occupied. The 'flooding refuge area' shall, thence after, remain available for its designated purpose.

Reason: In order to secure an appropriate phasing of development and to ensure that the development is constructed and operated in accordance with the specific flood risk mitigation strategy proposed by the developer and subsequently approved; such a strategy being assessed by the Planning Authority as essential to underpin the reasons for departing from national and local flood risk planning policy and the advice of SEPA.

8. The 'visitor centre' as annotated upon the approved drawings shall provide a tourist information resource which shall be operational within three months of the first occupation/use of any other part of the development hereby approved and shall thereafter be retained in perpetuity unless otherwise agreed in writing by the Planning Authority.

Reason: In order to secure and maintain the provision of a permanent tourist information centre for Tobermory and its surrounding area, such provision being assessed by the Planning Authority as essential to underpin the reasons for departing from national and local flood risk planning policy and the advice of SEPA.

9. 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 and control the permitted occupancy and use of this part of the approved development, having regard to the fact that the premises are unsuitable for occupation as a permanent dwelling due to their location within the 1 in 200 year (0.5%) coastal floodplain and an area of medium to high flood risk. The specific short-term holiday occupation of the approved residential accommodation was assessed by the Planning Authority as essential to underpin the reasons for departing from national and local flood risk planning policy and the advice of SEPA.

NOTE TO APPLICANT

- The length of the permission: 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 Section 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.
- 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.