
NORTH AYRSHIRE COUNCIL

22 May 2019

Planning Committee

Title:	Enforcement Procedures under Section 127 of the Town and Country Planning (Scotland) Act 1997: Land to North East of Birchbrae, Corrie, Isle of Arran KA27 8JP
Purpose:	To advise committee of a site investigation of land to the north east of Birchbrae, Corrie, Isle Of Arran KA27 8JP and to provide an update of a previous committee item
Recommendation:	That the committee note the findings of the site visit report and agree that the serving of an enforcement notice is no longer needed in relation to the site

1. Executive Summary

1.1 A report was presented to the planning committee on 24th April 2019 which sought approval to serve a Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997, as amended, (an "Enforcement Notice"). The notice was to seek the removal of a quantity (c.50-60m³) of spoil material (soil and aggregate) from a nearby approved development site which had been deposited on an area of wild hillside to the north east of Birchbrae, Corrie.

1.2 The unauthorized operational development was held to be contrary to the following LDP policies: HE1(b) (Development adjacent to Conservation Areas); ENV7 (Special Landscape Areas); and criterion (c) (Landscape Character) of the General Policy.

1.3 The owner of the adjacent site had indicated, prior to the committee being convened, that the material had been removed from the site.

1.4 The planning committee, having considered the report, photographs and subsequent update information agreed to continue consideration of the item pending an inspection of the site.

2. Background

2.1 Planning permission (17/00364/PP) was granted subject to conditions on 1st June 2017 for the erection of a replacement house on a site at Birchbrae, some 20m to the south west. The 'pre-start' planning conditions were discharged and the development commenced on site.

2.2 Planning Services then received a complaint from a neighbour in July 2018 that soil from the site had been ‘dumped’ on land downhill. An enforcement investigation (18/00104/NONCOMM) was opened.

2.3 A site visit by Planning Officers confirmed the situation at that time and the developer of Birchbrae acknowledged that the material was ‘cut and fill’ spoil from his site which had been deposited on the land outwith his site boundary due to a ‘misunderstanding’ by his groundworks contractor. He advised that the intention was to move the material back up to the site to backfill areas following initial construction of foundations and walls, which was then ongoing. Ownership of the land in question was confirmed by Mr Charles Fforde of Arran Estates.

2.4 Various interim discussions have been undertaken between the developer and Planning Services regarding potential changes to the approved development in order to address ongoing issues with the hillside site, which is accessed only from a steep, narrow, single track road causing difficulties with transportation of materials to and from the development, and the unauthorized breach of planning control had not yet been resolved.

2.3 Following the last meeting of the Planning Committee, a site visit was conducted by Planning Officers on 29th April 2019. It was found that the spoil material which had previously been mounded on the site had been removed back uphill to the single house development site at Birchbrae where it is to be used as backfill behind a retaining wall of the new construction.

2.4 The contours of the downhill site appear to have been restored to the previous wild hillside state. Whilst large parts of the ground are now bare soil, this would be expected to naturally regenerate vegetation back to its previous wild unmanaged condition.

2.5 The site is not readily visible from any public areas and, given the actions which have been taken, it is no longer considered to have a significant adverse visual or environmental impact on the landscape character of the North Arran National Scenic Area, within which it is located.

2.6 Given the above, it is no longer considered necessary to serve an enforcement notice on either the land owner, Arran Estates, or the operators, Mr Barry Mochan c/o Arena Architects or Murchie Sand and Gravel Ltd of Market Road, Brodick.

3. Proposals

3.1 It is recommended that the committee: (i) note the outcome of the site visit conducted following the previous committee meeting; (ii) agree that an enforcement notice is no longer required; and (iii) agree that the enforcement investigation can be closed.

4. Implications/Socio-economic Duty

Financial:	N/A
Human Resources:	N/A

Legal:	N/A
Equality/Socio-economic Duty:	N/A
Children and Young People:	N/A
Environmental & Sustainability:	N/A
Key Priorities:	N/A
Community Benefits:	N/A

5. Consultation

5.1 None



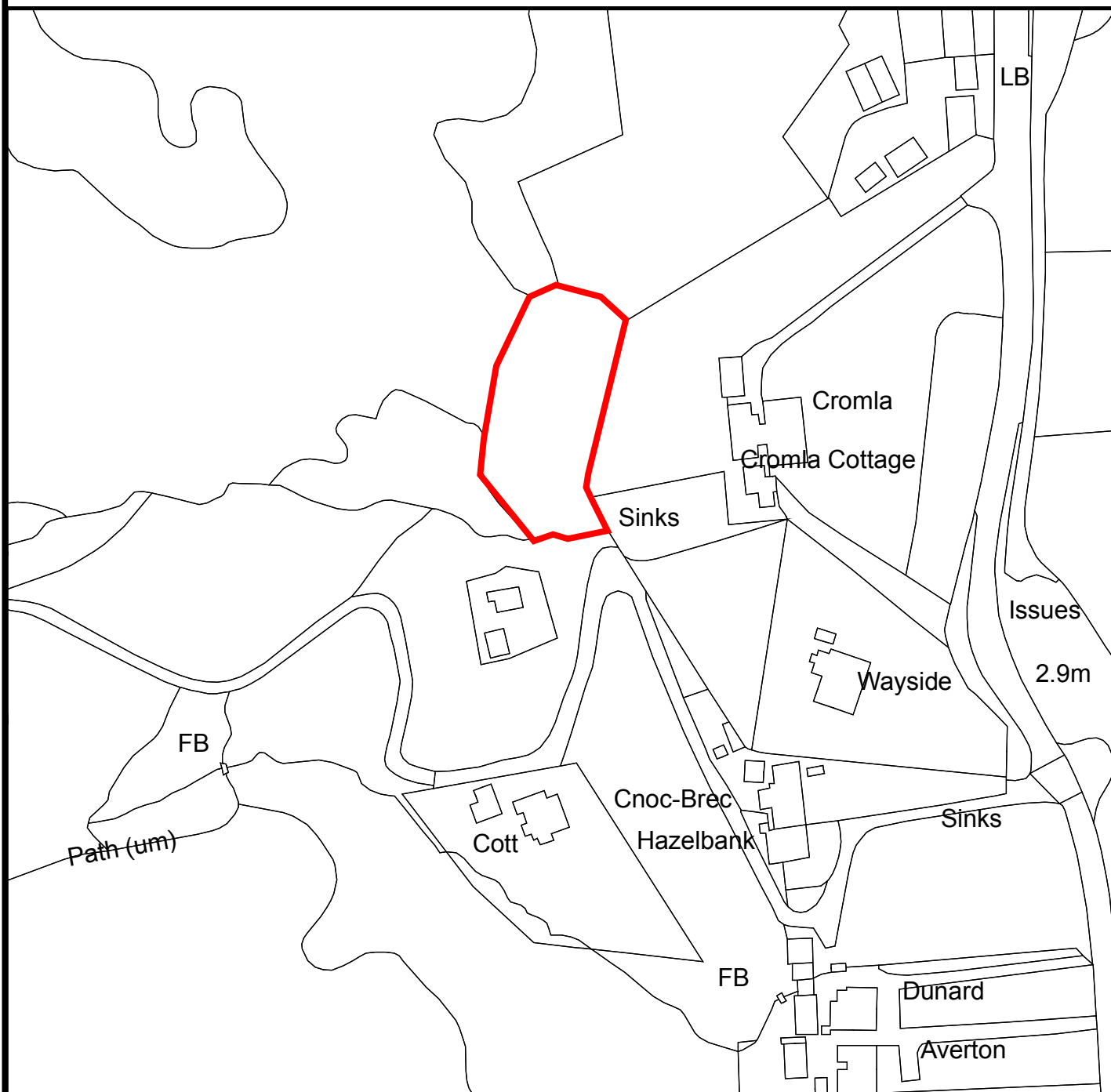
Karen Yeomans
Executive Director Economy and Communities

For further information please contact **Neil McAteer, Planning Officer**, on **01294 324 316**.

Background Papers

None

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Arran



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

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