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Argyll and Bute Council **Comhairle Earra Ghaidheal agus Bhoid**

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12 June 2014

SUPPLEMENTARY PACK 2

PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE - COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD on WEDNESDAY, 18 JUNE 2014 at 2:00 PM

I enclose herewith items 3g and 4 which were marked "to follow" on the Agenda for the above Meeting.

ITEMS TO FOLLOW

3. MINUTES

- (g) Planning, Protective Services and Licensing Committee 5 June 2014 (Pages 1 - 32)

4. FOOD SAFETY LAW ENFORCEMENT WORKPLAN AND ENFORCEMENT POLICY

Report by Executive Director – Development and Infrastructure Services (to follow)
(Pages 33 - 60)

PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE

Councillor David Kinniburgh (Chair)	Councillor Gordon Blair
Councillor Rory Colville	Councillor Robin Currie
Councillor Mary-Jean Devon	Councillor George Freeman
Councillor Alistair MacDougall	Councillor Robert Graham MacIntyre
Councillor Donald MacMillan	Councillor Roderick McCuish
Councillor Alex McNaughton	Councillor James McQueen
Councillor Sandy Taylor	Councillor Richard Trail

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held in the GLENBARR CHURCH HALL, GLENBARR, ARGYLL
on THURSDAY, 5 JUNE 2014**

Present: Councillor Alex McNaughton (Chair)

Councillor Gordon Blair	Councillor Donald MacMillan
Councillor Rory Colville	Councillor Roderick McCuish
Councillor Robin Currie	Councillor Sandy Taylor
Councillor George Freeman	Councillor Richard Trail
Councillor Robert G MacIntyre	

Attending: Charles Reppke, Head of Governance and Law
Richard Kerr, Major Applications Team Leader – Planning
James Ross, Roads Authority – Statutory Consultee
Colin Renfrew, Applicant
Ailsa Clark, Inspiralba Ltd, on behalf of Applicant
Sue Birnie, AMEC on behalf of Applicant
Duncan MacAlister, Supporter
Fergus Younger, Supporter
Lorraine MacPhail, Supporter
Phil Herd, Supporter
Duncan Hunter, Supporter
Peter Sinclair, Supporter
John Seddon, Objector

1. APOLOGIES FOR ABSENCE

Apologies for absence were intimated from Councillors Mary-Jean Devon, David Kinniburgh, Alistair MacDougall and James McQueen.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. FYNE FUTURES LTD: ERECTION OF 3 WIND TURBINES (100 METRES HIGH TO BLADE TIP), CONTROL BUILDING, NEW AND IMPROVED ACCESS TRACKS AND ANCILLARY DEVELOPMENT: LAND SOUTH OF AUCHADADUIE, BARR GLEN, GLENBARR, KINTYRE (REF: 11/02525/PP)

The Chair welcomed everyone to the meeting and introductions were made. The Head of Governance and Law then outlined the procedure that would be followed and identified those who wished to speak.

PLANNING

Richard Kerr presented the application on behalf of the Head of Planning and Regulatory Services. He advised that this was a local detailed application for the erection of three wind turbines 100m high to the vertical

blade tip on forestry land to the south of Barr Glen, which was an east – west aligned valley running inland from the West Kintyre coast, to the east of the settlement of Glenbarr. The application had been held in abeyance for a considerable period, primarily to allow the Applicants to undertake additional ornithological survey work to satisfy the requirements of Scottish Natural Heritage. Additional information regarding birds, landscape and access was submitted latterly, which enabled the resuscitation of the application. In addition to the main report to the April Committee meeting, he advised that there were two additional supplementary reports which detailed additional representations received since the main report was produced. He also referred to a further 5 representations of support which had been received from Mr T Burke, Ms J Blair, Miss L MacLean, Mr R MacKinnon and Mr D Hunter. He confirmed that a total of 30 individual objections were received from Kintyre addresses along with 47 representations of support. He stated that not all addresses were given for the supporters and of those that were 15 were from Kintyre addresses. For the benefit of members of the public, he confirmed that Councillors had the opportunity this morning to acquaint themselves with the application site and its surroundings and visited some of the representative viewpoints assessed by the Applicants in their application, in order to be able to appreciate these at first hand. Referring to presentation slides he highlighted the location of the application site cross-hatched in red with a proposed access route leading up from the public road along Barr Glen, up through farmland and then forestry to reach an elevated location on the land forming the southern skyline to the glen. He showed the location of the site in the context of the adopted local plan, with the turbines straddling the boundary between the light green ‘sensitive countryside’ zone and the white ‘very sensitive countryside’ zone. The access route commenced in ‘rural opportunity area’ and thence up through the light green ‘sensitive countryside’ zone. He stated that the renewables map in the local plan, which defined general areas of search and constrained areas for wind farm development, did not apply to this proposal as it was only intended to relate to schemes with a generating capacity of more than 20MW. He advised that the forthcoming local development plan, which in time would replace the adopted local plan, contained updated renewables policy, but this could be given weight at this point in the plan-making process as it had been contested by the public, some consultees and the certain parts of the wind energy industry, so would be a matter which would be reviewed by the government Reporter who will conduct the forthcoming Examination of the plan. Accordingly, he stated that the application was to be determined in the light of the 2009 adopted local plan along with other material considerations. Those included the views expressed by consultees in response to the application, views expressed for and against the proposal by supporters and objectors, central government advice in respect of renewable energy development, and guidance provided in the ‘Argyll & Bute Landscape Wind Energy Capacity Study’ which was jointly commissioned by the Council and Scottish Natural Heritage and augmented the local plan policy on wind turbines by assessing the capacity of the various landscape character types across Argyll and Bute to accommodate different height and scales of wind turbine development. He pointed out that this study did not have the same status as policy, but nonetheless it constituted an important material

consideration, as it provided a robust analysis of the capability of various landscape types to accommodate development, having regard to their particular intrinsic qualities and characteristics, and the degree to which they were already impacted upon by previously consented wind turbines. He referred to a series of photographs of Barr Glen and advised that the top of the glen was already influenced by Beinn and Tuirc windfarm and the recently completed extension to it. As mentioned previously, he confirmed that the proposal was not covered by the local plan wind farm spatial strategy due to its small size. However, for information, he stated that Barr Glen lay within the pink 'potentially constrained area' for wind farm development with the yellow 'area of search' being on the spine of Kintyre to the south of Beinn and Tuirc wind farm. This was in recognition that better opportunities to assimilate wind farm development in Kintyre would be found on the upland spine, well removed from settlement, transport routes, historic environment sites and tourism assets, all of which tended to be confined to areas associated with the coast, and with the low lying land along the glens running into the interior of the peninsula. The policy therefore sought to reinforce the established pattern of development, which was to exploit the geographical advantages of sites on the upland spine, which tended to be topographically shielded from those more sensitive landscapes, scenic locations and places where residents and visitors tended to be found. In the absence of a spatial strategy for developments of a size being considered today, he stated that this application fell to be considered on its individual merits, having regard to the criteria set out in local plan policy LP REN 1 and other relevant local plan policies. He referred to a photograph showing the application site in the context of the existing forested areas to the south, with Beinn and Tuirc wind farms both standing in more elevated locations on open moorland towards the centre of the peninsula. He advised that the application site lay much closer to the coast and to the settled glen below and that it shared some of the shortcomings of the previously refused single turbine at North Beachmore, which Members would probably recall from a previous hearing held at Tayinloan. He stated that the proposed turbines were the typical horizontal axis 3 bladed machines with a 59m hub height and an 82m rotor diameter, producing an overall height to the blade tip of 100m. Each would have a 2.3MW designed capacity providing a total installed maximum generating capacity of 6.9MW. Referring to further slides he explained that the access route included an upgrading of an existing forestry access road shown in solid red, plus an extension of 2.1 km of new track to reach the application site. The access route from the A83 was along the Barr Glen road shown in blue, which would require off site improvement works to facilitate the delivery of large scale turbine components. He advised that stretches of the public road would require improvement to accommodate abnormal loads plus the addition of passing places. The works required included widening within the road verge shown in purple, and work outside the road corridor on land available to the Applicants depicted in green. Swept path analysis had been carried out to demonstrate access feasibility with the identified improvements in place. Referring to the turbine site, he pointed out the on-site control building and the associated compound. Electricity would be exported from the site via an overhead line link to the Carradale Sub Station and this route would be the subject of a separate application to the government under the Electricity Act in the event the turbines were

to receive planning permission. As with all turbine applications, he stated that the visual impact of the development was an important material consideration in assessing the overall merits of the proposal. He confirmed that the Applicants had undertaken a Landscape and Visual Impact Assessment in accordance with Landscape Institute Guidelines, which following the submission of additional information latterly, now satisfied the requirements of Scottish Natural Heritage. Referring to a plan showing the extent of blade tip theoretical visibility in yellow he pointed out that it was noticeable that the effect of topography was to confine visibility to the length of Barr Glen, to a short stretch of the A83 and the coast in the vicinity of Glenbarr, with more distant visibility out to sea and to points on Gigha, round Machrihanish and up towards the area south of Kilberry in South Knapdale. From this, he advised that it was possible to conclude that the influence of the scheme would be predominantly localised rather than cast over a wide geographic area. He stated that this exercise had also influenced the locations of representative viewpoints requiring assessment by means of photomontages and wirelines. On a plan he pointed out the various SNH derived landscape character types in Kintyre and confirmed that the site lay within the green 'Upland Forest Moor Mosaic' Landscape Character type which was identified in the 'Argyll & Bute Landscape Wind Energy Capacity Study' as a landscape type with favourable potential for turbines up to 'large scale'. However, he advised that capacity was not to be found uniformly across this area and the study guarded against development on the edges of this character type, where it would be more likely to shed unwelcome influence over adjacent more sensitive smaller scale and settled landscape types. He explained that the 'Upland Forest Moor Mosaic' character type was widespread along the centre of the Kintyre peninsula and had already proven suitable to accommodate wind farms, four of which were cross hatched in yellow on this plan – from south to north, Tangy, Beinn an Tuirc 1 and 2 and Deucheran Hill. Importantly, he advised that Members you should note the presence of the dark green strip along the coast extending into the lower section of Barr Glen, which indicated the less elevated more settled and more scenic 'Rocky Mosaic' landscape character type. He stated that it was the unwelcome influence which the development would extend into this more sensitive coastal landscape which had led to serious concerns being expressed by Scottish Natural Heritage and had in turn led to a recommendation of refusal for the application on significant adverse visual impact grounds. A further slide showed the extent of the 'Upland Forest Moor Mosaic' landscape character type, as defined in the Wind Energy Capacity Study. He advised that the incursions into this area by glens on both the west and east Kintyre coasts was readily apparent, and the avoidance of the juxtaposition of development around the edges of this area with those glens, and with the excluded areas along the coast, was therefore an important factor in selecting appropriate locations for turbine development within this otherwise extensive area. Specifically, he explained that the study regarded the small scale landscape of Barr Glen to be sensitive to the larger scale typology i.e. turbines larger than 80m in height, if turbines were to be sited on containing hills and ridges which provided the skylines to the glen; the conclusion being that more open, remote and sparsely populated areas on the upland spine of Kintyre offered the best prospects for the largest turbine types. He confirmed

that the adjacent 'Rocky Mosaic' character type was sensitive to unwelcome influence being shed from inappropriate large scale turbines being sited too close to the edge of the otherwise more favourable 'Upland Forest Moor Mosaic'. He stated that these coastal and associated low lying areas were where transport routes, settlement, scenic and tourism assets tended to be concentrated so there was a need to guard against unwelcome influence from large scale wind turbines over these more sensitive locations. He confirmed that the application site was not the subject of any landscape designation itself, but advised that the west Kintyre coastline was designated as an 'Area of Panoramic Quality' in view of its regional significance as a scenic resource and the visual influence of the development extended into part of this APQ. On a slide he pointed out the closest residential properties to the site itself and indicated that most of those lay within 1 to 1.5km which was relatively close in terms of large scale turbines consented thus far in Argyll, most of which were further removed from habitation. Notwithstanding visual implications, he stated that the Applicants had, however, demonstrated that noise effects would be within accepted national standards as far as the occupiers of these properties were concerned. He explained that the cumulative impact of multiple sites was difficult to take in graphically but stated that Barr Glen was already influenced by the presence of Beinn an Tuirc, and that two commercial scale proposals in addition to the application proposal were being actively promoted. Therefore, he advised that there was a clear issue as to the extent to which Barr Glen could assimilate more large turbines beyond those already visible at Beinn an Tuirc, without giving rise to adverse implications for the appreciation of the character and the visual qualities of the glen. He confirmed that Planning's conclusion was that the proposal was divorced from the established pattern of wind turbine development on the spine of Kintyre, would extend an unwelcome influence of development towards the coast, and by virtue of its association with Beinn an Tuirc wind farm would give rise to unwelcome cumulative impacts upon Barr Glen, which would be compounded in the event that either or both of the other schemes in the offing at Creggans and Blary Hill were to be consented. He stated that a cumulative impact reason for refusal was therefore also recommended. He then went on to present views of the proposed turbines from various locations. One of these showed the skylining location of the turbines relative to the Glen road in the vicinity of Upper Barry. He asked Members to note the 100m high turbines on land of the order of only 200m and stated that these were disproportionately high relative to the scale of the receiving landscape and served to diminish the apparent scale of the landscape, which, he stated, was important in enclosing and defining this settled glen. Further photograph showed the distribution of historic environment sites within the glen and its surroundings and he confirmed that none were directly affected and that Historic Scotland and West of Scotland Archaeology had indicated that they were content with the impact upon the settings of these sites. A further plan highlighted the habitat survey of the site with the green indicating conifer plantation and areas of marshy and improved grassland in purple and orange respectively. Section P of the main report indicated that the final view of the Forestry Commission was outstanding at the time of writing, pending ongoing discussion with the applicants. He confirmed that their consultation response of 25th April was updated in Section D, to

state the current position, which was that the Forestry Commission did not object to the application subject to conditions. He advised that bird flights over the site had been proven to be an issue for Scottish Natural Heritage who were not content with the original survey work. Further results collected in 2012 -13 showed more Greenland White Fronted geese transiting over, or passing close to the site, when commuting between coastal feeding fields and upland roosting lochs. He stated that ultimately neither SNH nor RSPB have objected, although both have expressed residual concerns. In view of the relationship of these flights with the Kintyre Goose Roosts SPA, a designation of European importance, he stated that SNH has advised that to satisfy the Habitats Regulations obligations, the Council as the determining body, must carry out an 'appropriate assessment' in advance of reaching a decision in the matter. He confirmed that this could be found at Appendix C to the report and concluded that impact of the development would not significantly affect the integrity of the SPA in terms of its conservation objectives. He advised that all other consultees were content with the proposals subject to conditions. He confirmed receipt of a late response from the MOD which had no objection to the proposal. No comments had been received from the West Kintyre Community Council and Gigha Community Council had indicated that it did not wish to comment. He advised that the Roads Engineer had no objection in principle subject to the submission of a Traffic Management Plan and Method Statement to address component deliveries and other construction traffic. Whilst these aspects could potentially be dealt with by condition, he pointed out that the Committee's recent practice has been to require that all access measures for wind turbine developments be identified in full at the application stage, in view of experience elsewhere, where lack of achievability of off-site access requirements has frustrated the implementation of a turbine consent. In addition, he stated that there was an unresolved issue as to how abnormal loads could negotiate the junction between the A83 and the junction with the Barr Glen road and whether land would be available to the prospective developer for necessary improvements to geometry. In the absence of all aspects of transportation having been satisfied at the application stage, he confirmed that this lack of information was also cited as a recommended reason for refusal. He advised that Scottish Natural Heritage had not objected to the application on landscape or visual grounds because it did not prejudice a national designation. It was their current practice only to intervene formally in such circumstances. Accordingly, he stated that SNH had confined itself to the provision of advice to the Council on the landscape and visual merits of the proposal. He stated that the absence of an objection should not be construed as being indicative that SNH were in any way content with the proposal and advised that their opinion was that the turbines were inappropriate in height relative to the receiving landscape, and that they cast an unwelcome and adverse influence over their surroundings, and were detrimental in terms of their impact on the Rocky Mosaic coastal landscape character type, where sensitive receptors and locations with scenic qualities tended to be concentrated. They pointed out that the development did not conform to the advice given in the Wind Energy Capacity Study, which was to avoid development on land forming the skyline and landscape backdrop to lower lying settled areas, such as that found along the coast and within Barr Glen. In particular, SNH was critical

of the turbine size given that the height of the turbines was about half the height of the land on which they were to be located, diminishing the apparent scale of the landscape, contrary to their published design advice, which recommended that turbines should be no more than a third of the height of the land on which they were to be located. He confirmed that Scottish Natural Heritage's advice to the Council was that the development ought not to be considered favourably. Finally, he advised that Members would be aware of the significant support for the proposal, much of which appeared founded on the Applicants' credentials as a social enterprise company with a proven track record of project delivery in Argyll. He stated that support had been expressed for the manner in which this proposal could contribute to the funding of the Applicants' activities, helping to sustain employment and to deliver projects which would benefit local communities. The Applicants, Fyne Futures, were a development arm of Fyne Homes, which sought to promote community ventures and renewable energy. He stated that he understood that Members had been circulated by the Applicants with information which described their activities and their aspirations. He stressed that Community benefit related to wind energy development was not a material planning consideration, although local economic benefit was. In this case, he said that the identity of the Applicants indicated that the intention of the project was to be community focused, rather than utility company or developer driven, although it could not be regarded as a locally promoted community scheme in the manner which the turbines on Gigha have been, for example. Whilst therefore it was appropriate that Members give some cognisance to the Applicants' credentials and their motives, he stated that these could not be overriding considerations which would warrant the setting aside of other legitimate considerations being weighed in the balance; such a planning policy, published guidance or the views of consultees. He stated that it was necessary to consider the acceptability of the development in terms of its implications for the local environment, and the contribution which it was capable of making towards addressing the consequences of climate change. Only in the event that the development was regarded acceptable on its merits, in terms of the acceptability of its consequences for the receiving environment, should the indirect benefits which the project can bring to the Argyll economy be then weighed in the balance. Whilst the track record and the motives of the Applicants were beyond question, he stated that it should be remembered that there were a range of locations in Argyll, and indeed elsewhere, where they could promote such development to assist in the financing of their organisation. He advised that they had no established connection with this site and no other imperative to develop it which would lead them to have to discount other prospective locations. Accordingly, he advised that if Members were persuaded that this development model had merits as a means of financing the activities of Fyne Futures, they should be aware that this would not warrant the favourable consideration of a site for turbines of a size and in a location, which in other circumstances would have led them to conclude otherwise, had the identity of the Applicant been different. He confirmed that the application was recommended for refusal on the basis that the adverse local environmental effects outweighed the direct benefits which the development could make to the achievement of national renewable energy targets, and the indirect benefits which the development could

contribute through the activities of the Applicants to the support and development of the Argyll economy.

APPLICANT

Colin Renfrew

Colin Renfrew advised that on behalf of the Applicant they would like to present their case to the Councillors for the 3 turbines at Auchadaduie. He confirmed that he was the Company Secretary of Fyne Futures and Chief Executive of Fyne Homes and that he was here today to give some information on the Fyne Homes Group and the importance that this project had in relation to the wider implications for Fyne Homes and for Argyll and Bute. He indicated that he was joined by Ailsa Clark, of Inspiralba Ltd, who would speak regarding public consultation, local support for the project and community benefits, in the local context and in the wider context for the council. He advised that the third member of their team was Sue Birnie from AMEC who would be speaking about the planning and environmental considerations of the proposed wind turbine development.

Mr Renfrew stated that Fyne Homes, the parent company for Fyne Futures, was a registered Social Landlord/Housing Association which has operated in Argyll since 1936. It was also a Registered Scottish Charity. He advised that Fyne Homes was regulated by the Scottish Housing Regulator, and was classified as low risk by the regulator. He pointed out that there were a number of social housing associations operating in Argyll and Bute, and Fyne Homes were proud of the fact that they were the only association with the low risk classification in the council area. He indicated that they had an open membership and a community based approach, governed by a voluntary management committee. They had properties throughout Argyll and Bute, and 252 homes in Kintyre alone, including some in Gigha and Campbeltown. They also had an area office and staff located in Campbeltown as well as Inspiralba, where Ailsa worked, and they used several local contractors from Campbeltown such as McKinven and Colville, and Livingston and McEachran. He stated that Fyne Futures, established as a charitable subsidiary of Fyne Homes in 2005 has taken forward community regeneration and environmental activities on behalf of Fyne Homes. In 2007, Communities Scotland/ Scottish Government encouraged and supported Fyne Futures to develop the Auchadaduie community benefit pilot project. He advised that between Fyne Homes and Fyne Futures:- they were a community and locally based company that has been around a long time; they were well respected with a proven track record, known to both the Scottish Government and Argyll and Bute Council; they were not a commercial developer; and that Fyne Homes and Fyne Futures were both community based charitable organisations. He stated that all of this meant that they were not the usual wind farm developer or large scale energy provider. He stressed that the key message he would like to get across to today was that this project was of vital importance to not just the Fyne Group, but Argyll and Bute as a whole. He indicated that their company was a key player in the development of a sustainable and thriving rural community in Argyll and Bute, and wider across Scotland. He advised

that the Fyne Group had approximately 50 staff members employed throughout Argyll and Bute and that they spent approximately £5 million on new build development and maintenance each year. A spend which he advised was carried out, almost exclusively by Argyll and Bute based companies. He advised that they worked very closely in partnership with the Scottish Government and the Council to attract essential funding into Argyll and Bute to help provide much needed housing and employment. Annual Grant funding from the Scottish Government for Argyll and Bute Housing peaked at £26 million in 2009 and had now fallen to a mere £7 million. He stated that Argyll and Bute Council had to be congratulated for their innovative approach of supplying Strategic Housing Fund Grants and Rural Housing Development Fund Grants to Argyll Housing Associations to promote further development. However, he stated that they and their other Argyll RSL partners needed to try and bridge that shortfall even further if they wanted to try and maintain previous development and employment levels, never mind trying to exceed them to address the very serious and real issue of population decline in Argyll and Bute. He confirmed that they believed this project to be highly innovative, and a golden opportunity, through economic and community benefit, to generate approximately £780,000 a year into Argyll and Bute. He advised that this money could make a huge difference, if all spent on housing, it would mean 17 affordable social houses built; or all spent on employment, 31 jobs sustained each year. He urged the Councillors when considering this application to take account of the wider and very sustainable social, economic and regeneration merits of the scheme, which they believed were very much in line with the Scottish Planning system.

Ailsa Clark

Ailsa Clark advised that she worked for Inspiralba, a locally based charitable enterprise, who provided development and management support to social enterprises across Argyll and Bute. She stated that they had been engaged to support the community consultation activities alongside Fyne Futures as part of the development process for the proposed 3 Turbines at Auchadaduie. She explained that prior to the submission of the planning application, they facilitated 3 consultation events. One in July 2010, another in August 2011 and the final one in July 2012 and that these events were attended by 20-28 people each time (about 30% of the village). She advised that the purpose of each of the events was to update the community on the wind turbine project, and give people the opportunity to comment and ask questions. In addition to the consultation events, she confirmed that a question and answer session took place in May 2012 and on the back of the consultation events, together with the pressure of turbine development proposals, the local community organised an independent liaison group. This was made up of school parent Council, Toddlers Group, Church and Village Hall, Caravan Park, Shop and Plant Nursery, War Memorial Trust, Farming and Agriculture along with the Community Council. She advised that the Liaison group carried out their own questionnaire and that this survey reported in the winter of 2012. She indicated that the results identified that 37.7% were opposed to the 3 turbines, 49.2% were in favour of this scheme, and 13.1% had no opinion. She stated that the Liaison group concluded that: The Fyne Futures wind project was highlighted as the

only turbine proposal that was supported by the local community. This was

'....mostly due to the fact that it is small, the company is a registered charity and the landowner actually lives in the village, therefore the chance of extensions to the proposal is much less likely than with anonymous companies.'

Based on the independent liaison group questionnaire, which was considered to represent a good portion of the local community, she advised that it could be said, that a 'majority' of the local community were in favour of the development. She confirmed that further work would be carried out to assist the community to identify priorities and develop a financial strategy, outlining short, medium and long term investment plans should consent be granted.

Referring to the potential economic and community benefits of this scheme she advised that this project was born from the motivation that communities in Scotland could and should be able to generate income for community benefit from renewables, and was initiated by Alan Hobbet who had previously worked with Isle of Gigha Heritage Trust and was instrumental in supporting the 3 turbine development, which had significantly contributed to reinvestment in the Community of the island. She pointed out that the Scottish Government has supported the project as one of a number of pilots to enable Housing Associations to develop renewable income to generate income for reinvestment in affordable housing and community priorities. She stated that in recent years, community benefits from turbine development went from nothing, to £1000-£2000 per MW per year, to £5,000-£7,000 per MW per year at present. She advised that this development would provide £113,000 per MW per year. She stated that community renewables can and have made a significant community funded contribution such as on Gigha and Tiree and advised that these three turbines at Auchadaduie had the potential to generate a community income of £780,000 each year with the financial model estimating £15.6 million of community benefit generated for Argyll and Bute over 20 years. She explained that the income from this would be 100% of the net profit generated, which would be split: 1/3 Fyne Homes for social housing charitable objectives; 1/3 Fyne Futures - employability/environmental charitable objectives; and 1/3 local community (£260,000). She indicated that Fyne Homes and Fyne Futures have a proven track record in supporting community regeneration activities in Argyll and Bute, taking forward a number of employment training, community infrastructure, environmental and social enterprise activities across our operational area. She then with the aid of slide gave examples of some of these which had taken place. She pointed out that a large focus of their regeneration work over the past 5 years has been in relation to supporting people with barriers and Local employment and training opportunities. This was based on local community plans where employment and access to employment has been continually been highlighted as a priority for the area. She advised that their current project supported by People and Communities with match funding from Europe has supported 35 funded employment opportunities with a range of social enterprises across the area. She indicated that both Fyne Homes and Fyne Futures had a track record in leveraging in substantial

match funding to support their charitable objectives and that they would aim to use the same approach with renewable energy income, thereby maximising investment opportunity in community benefit for the area. She advised that this project offered an opportunity for Argyll and Bute Council to demonstrate their commitment to community benefit from renewables, in line with the Renewable Energy Action Plan vision. She stated that this development offered an opportunity for locally based charitable enterprises to generate significant income for reinvestment in the local community and to ensure Argyll and Bute's economic success was built on a growing and sustainable population. Providing an opportunity to lever in significant additional match funding to support these priorities.

Sue Birnie

Sue Birnie advised that she was a planner for AMEC, the consultancy employed by the Applicant. She stated that she was going to talk today about the planning and associated environmental effects of the development and set out what she considered to be the key merits and issues associated with the turbine development. Firstly, she advised that through consultation and negotiation with consultees and the planners, the proposed scheme had no statutory objections and was well supported by the public, although she recognised that some people have objected and raised concerns. She pointed out that the environmental statement and the additional information accompanying the planning application concluded that the 3 turbines would not result in any significant effects on cultural heritage assets, ecology including ornithology, on forestry, peat, hydrology, noise, shadow flicker, on TV and radio reception, aviation or on the highway and indicated that this had been achieved either through the careful design of the scheme and mitigation that could be secured by planning conditions. She advised however that some localised significant effects were predicted on some aspects of the landscape and visual amenity. In terms of ornithology she confirmed that the environmental statement and the extensive survey work concluded that would be no significant effects on Ornithology including geese and that SNH confirmed this. In addition, she confirmed that the Council carried out an appropriate assessment, and that they concluded that the proposed turbines would not have an effect on the integrity of the Kintyre Goose Roost SPA. With regard to Forestry she confirmed that the late requirements raised by the Forestry Commission regarding tree felling had been resolved by an agreement to carry out compensatory planting. She indicated that Planning conditions had been agreed between themselves and the Forestry Commission and that these had been submitted to the Council for consideration. She then focussed on highways and confirmed that the concern raised in the Officer's report regarding the access and construction arrangements for the site had been addressed by the Applicant. She advised that information had been submitted to the Council to demonstrate that the road widening required to get the turbines to site could be carried out, and that the necessary land options were in place. She added that the number and size of vehicles, and estimated construction timescales had also been provided to the Council. She advised that both Transport Scotland and the Council's own highway engineers were raising no objections to the scheme subject to planning

conditions. She stated that the concerns raised and reason for refusal regarding the need to submit a traffic management plan was considered to be premature at application stage and advised that this was because a traffic management plan would normally be written once a contractor was appointed for the project, as their input to the safe construction arrangements was vital. She stated that contractors were only appointed after planning permission was granted. She advised that should Members resolve to grant permission, a condition to submit the traffic management plan should be included. She stated that in her experience it would be difficult to defend a reason for refusal on lack of information pertaining to a traffic management plan and pointed out that this approach was agreed for the nearby Freasdale windfarm scheme. In terms of the landscape and receptors or people within it, she confirmed that no one was disputing that the turbines would result in some localised significant effects. She stated that what must be considered was whether these effects were considered acceptable when weighed in the wider planning balance. She commented that the structure plan policy REC SI 4 talked about 'reinforcing local economies' and advised that the proposed turbines were located within the area identified in the structure plan as a 'renewable focus area'. At a local plan level (policy LP REN 1) she stated that wind farms were supported in forms and scales and for sites where the technology could operate efficiently, and where access and servicing was available. She also said that the policy further stated that this was subject to not having an 'unacceptable adverse impact' on the economic, social or physical aspects of sustainable development. She advised that the landscape concerns set out in the Officer's report and one of the recommended reasons for refusal related to the impacts on the neighbouring 'Rocky Mosaic' character area. The Officer's report concluded that the turbines would result in significant impacts on this smaller scale nearby character area. In terms of visual effects, she indicated that the Officer's report raised concerns regarding impacts on visual and residential amenity. As mentioned by Alisa, she stated that Fyne Homes has made every effort to engage with the local community and statutory consultees to understand the key landscape features and visual receptors, and to reduce these effects where possible. Following initial pre-application discussions with SNH and the Council, a number of design iterations were considered. A detailed design process had been carried out, and the 3 turbines provide a balanced design. She pointed out that the visualisations submitted showed very limited visibility and therefore the potential for significant effects were reduced. She added that where the turbines would be visible, the potential significant effects would be restricted to a limited area within 2.6km. She stated that she would like to reiterate the point that the turbines would be located in the 'upland forest moor mosaic', and that SNH and the Council agree that the effects on this landscape character area would not result in unacceptable impacts. She advised that this character area was able to accommodate 'large scale' wind turbine development, however it was recognised that the more complex and smaller scale hills and occasional narrow settled glens on the fringes of the character area were more sensitive. She indicated that the turbines would be set back from the more sensitive coastline by approximately 3km on the northern slopes of part of this land mass, and located within a large block of established plantation forestry. The turbines would be at the lower end of the recommended large turbine

typology in terms of height (ie up to 130m) and much smaller in terms of turbine number. She advised that the turbines would appear as part of a settled rural landscape, and behind Barr Glen. They would be viewed from within this settled landscape therefore, she stated that the effects on the neighbouring more sensitive Rocky Mosaic landscape character area, the perceived wildness of the area and the Areas of Panoramic Quality were considered to be acceptable. Furthermore, she explained that the turbines were not located within and would not result in significant effects on any national landscape designations, the coastline or other important receptors including the sea and Islands and most of the A83 tourist route. She confirmed that it was recognised that a short section of the A83 road, around the village of Glenbarr would experience some views of the turbines. She advised that when the turbines would be visible it was predicted that the focus would be towards the coast and away from the turbines. In terms of the Kintyre way, she advised that it was a long walk and there would be limited effects on the majority of the route. This was because of the distance (more than 2km at nearest point), and in part the transient nature of the users of footpaths. She referred to concerns raised regarding residential amenity and advised that the turbines were located 2.1km from the nearest settlement - Glenbarr, and all the individual properties were located in excess of 1km from the nearest turbine. She stated that the turbines took up a very limited field of view, and there were no direct views of the turbines together with the coastal landscape from the handful of properties predicted to have significant effects. She advised that this combined with the scale of the turbines, and the distance involved resulted in no property receiving an overbearing and therefore unacceptable impact from the turbines. She also referred to the concerns raised in the Officer's report regarding the potential cumulative effects of the turbines with other operational, consented and proposed wind farms, and the sequential cumulative effects through the local area, particularly along the A83 tourist road. She advised that the recent Freisdail appeal decision considered that only existing windfarms (ie those turbines that are operational or approved) should be considered when determining an application. She confirmed that further information has been submitted to the Council in terms of the cumulative effects. She stated that it was recognised that there was some cumulative effects at present, and these three turbines would inevitably contribute to these effects. However, she advised that from the ZTVs and visualisations before Members it could be seen that the in-combination cumulative effects were very limited and the sequential effects of these turbines with other visible turbines only occurred around the very local Glenbarr area. She advised that for these reasons, it was considered that the proposed turbines were located within a suitable landscape character type and the scale of the development, in terms of turbine height and number had taken account of the wider and more sensitive nearby landscape context, such that the turbines would be viewed as an acceptable scale of wind farm development. She stated that it was further considered that these turbines may fulfil the capacity of Barr Glen, and it was recognised that other large scale wind farm proposals could exceed the general recommendations of the Landscape capacity study in terms of landscape, visual amenity and cumulative development. She also addressed concerns raised regarding the potential for tourism to be adversely impacted by the proposed turbines. She advised that she understood that this area had a valued tourism and

recreational economy, and that it was in no-one's interest to put this at risk. Having said this, she stated that wind turbines were a familiar sight in Scotland, and it was likely that visitors would 'expect' to experience some views of turbines. As already mentioned, she advised that the turbines would not result in unacceptable impacts on the landscape or on people using it. She indicated that the proposed turbines would result in significant investment in the local economy and social well being of the community, and the income raised from the turbines had the opportunity to attract 'further' investment opportunity to the Kintyre area through match funding. She stated that it was recognised that by their very nature, the turbines would result in some significant effects, but these effects had to be carefully balanced in the planning process with the strong presumption in favour of renewable and sustainable development, and in this case the unique and very special community based economic and social benefits that the income from these turbines would bring. She pointed out that there were no statutory objections to the scheme, and no significant impacts other than on some parts of the local landscape and visual receptors within it as identified in the Officer's report. She stated that the concerns raised in the Officer's report in terms of access could be controlled by planning condition. As mentioned already, she stated that the landscape, visual and cumulative effects needed to be weighted in the planning balance, and it was her opinion, that whilst some localised significant effects were predicted by the three turbines, the effects diminished with distance, and care had been taken to minimise the significant effects where possible. She stated that it was considered that the effects identified would not cause such harm to the landscape or the receptors within it, either alone, or in combination with other windfarms sufficient to outweigh the local and wider environmental and particularly the community and economic benefits of the scheme. Because of these special circumstances, she advised that it was respectfully recommended that Members support this scheme.

CONSULTEES

Roads Authority

James Ross advised that when consulted on this application Roads had not objected to this proposal however they did have concerns regarding the condition of the access road to the site. He confirmed that they had advised that conditions should be attached to any consent to address the details of works required to bring the road up to a suitable standard to cope with the increased volume of traffic and the weight of the vehicles expected to use the public access road. These conditions included carriageway widening, new passing places to be provided and existing passing places to be extended where required, and that a detailed condition survey is carried out prior to any work starting on site in order to identify and rectify any weak points on the road. He advised that it was also requested that weekly inspections be carried out on the road to ensure the carriageway remained in a safe condition. He stated that his main concern was the access to the road from the A83 due to the existing geometry of the junction. He referred to the imminent upgrading to a trunk road at this part of the A83 and advised that Transport Scotland would require to be consulted on any improvements to that junction.

SUPPORTERS

Duncan MacAlistair

Duncan MacAlistair advised that as landowner he had been approached over the years by many large wind farm developers and that this was the first proposal that appealed to him due to the fact that it would be lead by an Argyll based charitable company, revenue would remain in Argyll and that he believed this small scale proposal was acceptable to this area.

Fergus Younger

Fergus Younger advised that he was from the Argyll and Bute Agricultural Forum which was a rural partnership supporting crofting and agriculture in Argyll which was in decline. He referred to a strategy set up by the Forum which had four themes and that one of those was to broaden the income stream for farmers and that they believed the renewable sector was a way to do this. He advised that he was involved in initial meetings to establish this development and that he had made the initial contact between Duncan MacAlistair and Fyne Futures. He recognised this development as a positive model that could benefit the farming community, assist to make farming more viable and benefit the local community and as a model could be replicated to benefit the agricultural sector and communities across Argyll and Bute.

Lorraine MacPhail

Lorraine MacPhail advised that Glenbarr, and in particular Barr Glen where she lived, was presently in the unenviable position of having proposals for 3 separate applications for windfarm installations. With this in mind she stated that it was with slight trepidation that she spoke in support of the Auchadaduie proposal of 3 turbines at a height of 100 metres to be sited in the glen. She said that there was a chance that Planners would take any suggestion of support to say that a precedent had been set and then allow the other proposals. She stated that her hopes were that common sense and fairness would prevail and the fact that they already had Beinn an Tuirc with its extensions at the head of the glen therefore the small Auchadaduie proposal would mean agreement that saturation had been reached for a three mile stretch of single track country road which was home to 10 families. She confirmed that in Glenbarr there were over 40 other homes. She pointed out that Auchadaduie would be sited on land belonging to a local farmer/landowner who was born and raised in Glenbarr. She said that he was well aware of local opinion regarding the larger applications and it was extremely unlikely that this windfarm would be extended. She stated that there had been in the past, as with the other Applicants, some discussion as to community benefit. She advised that Fyne Futures was a subsidiary of Fyne Homes which was a charity housing association and at these meetings they proposed that the profits of one turbine would come directly to the Glenbarr community. At the height of all the local discussions with all three of the companies relating to windfarm applications she advised that there was a survey of the 52 households

that were in Glenbarr. The results were collated and sent to the Scottish Government and the local planning office in August 2012. 104 forms were distributed to every adult in these 52 homes. 61 forms were returned giving a return of 58.65%. She stated that these forms related to all three applications, however, the application being discussed today was Auchadaduie so the results relating to this application showed 49.18% in favour, 37.7% against and 13.11% with no given opinion. In respect of Creggans she advised that 91.8% were against, 1.63% in favour, 4.91% with no comment and 1.63% who could not comment. In respect of Blary Hill she advised that 83.6% were against, 16.39% with no opinion and no one in favour.

Other than these figures which represented the views of the villagers at that time, she stated that she spoke only to her opinion today. She advised that she believed that given that the Scottish Government policy was that Scotland was aiming for 100% renewable energy by 2020 that by accepting the Auchadaduie proposal and already having Beinn an Tuirc at the head of the glen that Glenbarr more than met their quota for such a small rural community. She confirmed that she would support this application as she believed it would have relatively less visual impact with only three turbines, the company proposing was a charity based organisation and the local landowner would take cognisance of local opinion and would not increase the number of turbines. She stated that she was aware of differing opinion relating to community benefit and appreciated that this was not a consideration within the planning proposal, however, she said that she felt that the community benefit proposed would enable this small community to enhance their area and support local organisations and projects.

Phil Herd

Phil Herd advised that he saw this proposal having a minimal effect on the surroundings of Glenbarr. He stated that it would be very good and would pay well. He advised that the proposed three wind turbines would generate more power than twelve turbines further up the glen. He advised that there was a need to get power and that this was the way to do it.

Duncan Hunter

Duncan Hunter advised that he lived in Edinburgh, had a farm at Dalkeith and that he was familiar with this area. He stated that up till now wind turbines have been dominated by very large companies and advised that there should be opportunities for smaller turbine developers. He referred to the off shore structure at Wigtownshire and stated that this was massive and intrusive in view and a sign of what to expect in the future. He stated that this proposal would only provide a fraction of the views that you would get from other turbines. He advised that he would like to encourage small wind farm production.

Peter Sinclair

Peter Sinclair advised that he was the owner of the Glenbarr store and nursery and that he has lived in the shop flat for 58 years, right at the very

centre of the community. He stated that his family went back for generations. He advised that he has always been passionate about Glenbarr and he referred to the woodland areas and network of pathways which included bridges and other structures which had falling into decline. He also referred to the war memorial and the cemetery which was also in need of repair. He advised that the repair, reinstatement and renewal of these areas of the glen would be possible if this proposal went ahead due to the community fund which would be delivered through this project and he stated that this was a great opportunity. He pointed out that Gigha, Ardrishaig and Orkney all had wind farms which were of great benefit to their communities. He asked the Planners to consider what could be achieved from a positive outcome and what could be lost from a negative outcome. He advised that the positives far outweighed the negatives.

OBJECTORS

John Seddon

John Seddon advised that he has lived in Glenbarr for 14 years and that he objected to the application. He stated that the overriding reason for his objection was the visual impact on the glen. He pointed out that the Barr Glen road was one of only two in Kintyre giving easy access to the central area of the peninsular. He stated that it was regularly used by hikers, joggers, cyclists and motorists, both local and from further afield, especially during the holiday season. He stated that they already had the Beinn an Tuirc windfarm at the head of the glen and that these turbines at 60m tall had been sympathetically sited, filling an undulation in the hilltop and continuing the contour at either side. Travelling up the glen road he advised that they all but disappeared behind the hill. He added that from Glenbarr village to Beinn an Tuirc there were no man-made structures along the whole of the curve of the hillside. He stressed that the three proposed turbines at 100m high would be the dominant feature, completely incongruous and visible from the glen road from one end to the other altering the whole characteristic of such a peaceful place. Being so close to the coast he stated that the Zone of Theoretical Visibility maps also showed them visible for miles out to sea to Gigha and Islay. He advised that it had also been estimated in the environmental study that there would be 3196 HGV journeys through Glenbarr village to complete the project. He added that he would also point out that if the turbines were built, there would also have to be the infrastructure to take the power from Glenbarr to the sub-station in Carradale, but that would be a separate planning issue at a later date and that this would be a major undertaking for three turbines. He advised that he also had concerns, together with the RSPB, over the roosting population of Greenland White Fronted Geese on Loch Arnicle. He commented that the RSPB said there was no real assessment as to how the turbines would affect the Glenbarr population of geese. He stated that not only was there the possibility of turbine collision, but if the roost as a whole went elsewhere because of disturbance, the glen would be a poorer place. He stressed that Greenland White Fronted Geese were so rare as to be on the EU Birds Directive List, Annex 1, which gave them the highest protection and that we should be encouraging them to the area, not putting obstacles in their way. He stated that if it were White Tailed Sea Eagles rather than

geese roosting near Loch Arnicle, he was sure we would not even be considering erecting 100m turbines in the area. He advised that although he applauded Fyne Futures for their work building affordable housing, he stated that he believed none of these were planned for Glenbarr. He commented that as the power produced by the turbines was not to be directly used by any local property, but fed into the grid, it was primarily a profit-making scheme with the power produced being secondary. He stated that as Fyne Futures funding appeared to be non-area specific, there must be more suitable, less visible places than Auchadaduie to have such large, industrial turbines and siting them in any less sensitive area would produce the same financial benefits. He stated that the turbines did not have to be in Glenbarr and that we should not be pressurised into accepting such an ill-sighted scheme, whatever the good cause. He advised that as more wind turbines appeared in Kintyre we were in danger of not realising how they were changing, and had already changed the landscape. He acknowledged that change was inevitable, but advised that the rapid increase of turbines across the peninsular in inappropriate places had to be kept in check. He stressed that what were once scenic views, were now dotted with turbines which, by their very nature, being tall, usually white, and spinning, immediately grabbed the attention. He commented that turbines had their uses, but only in the right places and that the top of a Glenbarr hillside was not one of them. He stated that he was not alone in thinking the Kintyre countryside must be protected and that it was more important than the promise of community benefit monies from badly sited turbines to fund local projects that have yet to be thought of and which we have managed without so far. He referred to the community survey and stated that to accept this on the basis that there would be less chance of other two proposals going ahead was not a good enough reason to recommend acceptance of this proposal.

MEMBERS' QUESTIONS

Councillor Trail asked the Applicant if he was correct to assume that a solution to the problem regarding access from the A83 had still to be found. Sue Bernie referred to the swept path analysis which had been carried out and which showed how the turbines would be transported. She explained that the finer details regarding how much wider the road would need to be were still to be submitted. She confirmed that the Applicant with the landowner had control of the land and the investment of money to enable these works to be carried out.

Councillor Trail sought and received clarification from Sue Birnie that if planning permission was granted a contractor would be appointed to work out the finer details. She advised that it was not in the Applicant's interest to appoint a contractor at this stage.

Councillor McNaughton sought and received clarification from Ailsa Clark that the land was available to the Applicant.

Councillor Colville referred to the maps showing the visual impact of the development and stated his surprise at how small the area was that would be impacted on. He asked the Planners if they would agree that the

views from Machrihanish would be very distant. Richard Kerr confirmed this to be the case. He stated that there would be very long distant viewpoints from Gigha, Machrihanish and the Sound of Gigha and that they would be sufficiently distant from the proposal not to be a serious concern. He agreed that the visual envelope of the scheme was small but stated that it was the sensitivity of the area which would be impacted on rather than the geographical spread of the development that was of concern. He stated that these were very large scale turbines for the area.

Councillor Colville referred to travelling up and down the A83 and asked the Planners if they would agree people would need to take their eye off the road and specifically look for the turbines in order to view them. Richard Kerr confirmed that when travelling north there would be a limited view of them. He stated that when travelling south people would be aware of them from the war memorial for about 100m.

Councillor McCuish referred to SNH not objecting to this proposal and to their comment about the significant visual impact of the turbines and asked that given the fact that there were already wind turbines in the area would it not be fair to say that there would just be medium or even a neutral impact on the area. Richard Kerr confirmed that SNH have concerns with this proposal but they did not submit a formal objection on landscape or visual grounds as it does not prejudice a national designation. Accordingly he advised that SNH has confined itself to the provision of advice to the Council on the landscape and visual merits of the proposal. He explained that if it is advice that is provided this can either be taken or ignored but if a formal objection is made and this is ignored this would require a notification to the Scottish Government. He advised that this was the reason why a decision has been taken nationally by SNH that they would only make objections when national designations were prejudiced. He stated that the response from SNH was very similar to a lot of responses from them regarding wind turbines; they don't object but give their reasons why they consider development to be inappropriate. In this case it is their view that the sensitivity of this area was such that the impact of the development on it would be significant. If the development was proposed for a less populated, less sensitive area it would not raise the same issues.

Councillor McCuish sought clarification from Planning on the impact already in the area. Richard Kerr advised that this was difficult to answer. He confirmed that Barr Glen was a renewables hot spot at the moment. He referred to the two operational wind farms at Beinn an Tuirc, the proposal for a very large wind farm submitted to the Scottish Government at the other side of the glen and to the application expected in relation to Blary Hill. He advised that determining the implications of one for another was difficult to deal with. He stated that the straight answer was that in planning there was no precedent and that each application should be assessed on its own merits. However, he advised that in respect of wind farms there was a need to take account of cumulative impact. He confirmed that when considering cumulative impact there was a need to take account of operational developments, consented development not yet implemented and proposed developments. He advised that it would depend on your view whether or not the granting of this planning

permission would advantage or disadvantage other schemes. He advised that the decision taken on this proposal would have implications for what may follow and may turn out to be good or may turn out to be bad in respect of the Creggans proposal which would be a Scottish Government decision.

Councillor McCuish sought and received clarification from Planning that SNH have not objected to this proposal. Richard Kerr advised that they gave relatively strong advice to the Council. He stated that the scale of the turbines did not meet good practice guidelines and did not comply with the Wind Energy Capacity Study commissioned jointly by the Council and SNH.

The Chair ruled and the Committee agreed to adjourn the meeting at 1.05 pm for lunch.

The Committee reconvened at 1.30 pm.

MEMBERS' QUESTIONS

Councillor Currie referred to the access from the A83 and asked the Applicant who owned the ground between the access onto the A83 and the access onto the Barr Glen road and also asked if this was part of the application. Ailsa Clark referred to the swept path from the A83 and confirmed that Duncan MacAlistair owned the land. Sue Bernie advised that the landowner had confirmed that the land would be available to the Applicant in order to create a suitable access. She advised that these works were not part of the planning application but if a condition was attached to any consent requesting details of the works required in respect of upgrade of the junction then this would be come part of the development.

Councillor Currie referred to the statement made by the Scottish Government Reporter regarding the Freasdail development which stated that it was not right for the Council to refuse an application because the details of access requirements were not known as this could be dealt with by condition and sought clarification from Planning on this. Richard Kerr advised that two things needed to be taken account of, the physical works on the land and the means of how you would go about deliveries and construction. He confirmed that in respect of the Freasdail application all the access arrangements and details of work at the junction had been provided but what was missing was the method statement for the actual traffic itself. He explained that the number of vehicles, the size and type of vehicles to be used and the number of movements were not known. He advised that the SG Reporter took the view that this additional information would be dealt with by way of condition. He stated that in this case the information provided was for the application site itself and the access to it from the Barr Glen road. He referred to the swept path analysis and road widening required along this road which was within the Applicant's control as shown in the plan. He advised that the access from the A83 on the Barr Glen road was beyond the blue line boundary and therefore outwith the Applicant's control. He confirmed that whatever happened there would require to be a separate planning application which may involve the

trunk road authority. He stated that there was no guarantee that the land would be available for the works required at this junction.

Councillor Currie noted that Planning had stated that the land beyond the road end at Barr Glen was not in the application and the Applicant said that it was and he sought clarification on this. Sue Bernie confirmed that the application site was the area outlined in red and the boundary of the land controlled by the Applicant marked in blue. She confirmed that the access point from the main road was not included in the application but the landowner owned the land on either side therefore the junction work could be carried out in terms of land ownership. She stated that it was the Applicant's opinion that the need for a separate planning application for these works was only required for a new junction and not the upgrade of an existing junction. She stated that provided the Applicant came up with the money for the works, the land was available so the works could be delivered.

Councillor McNaughton sought and received clarification from Richard Kerr that whether a new junction or upgrade to the existing junction was required this would require a separate planning application to be submitted.

Councillor Currie asked Planning if the works at the A83 junction should have been included in the application. Richard Kerr advised that it could not have been easily included as it would not have been known what works would have been required. He advised that you would have expected two applications, one for the development and one for enabling works at the junction.

Councillor Freeman sought and received clarification from Planning that cumulative impact was one of their reasons for recommending refusal of this application.

Councillor Freeman asked if the volume and weight of the aggregate required to be taken on to the site was known and also where it would come from. Richard Kerr confirmed that the quantities were given as part of the application and he confirmed that these were quite extensive for a development of this scale given the absence of intended borrow pits. He confirmed that all aggregate would be transported to the site as well as the turbine components themselves but the details in respect of how much, weight or origin were not known as a method statement had not been submitted.

Councillor Freeman asked if this detail was not known how could it be determined what works were required along the Barr Glen road. Richard Kerr advised that the total number of vehicle movements expected would be just over 3,000. James Ross stated that this was a narrow single track road and that he had asked that a condition survey be carried prior to the commencement of any works in order to identify and rectify any weak points on the road.

Councillor Freeman commented that taking account of the number of vehicle movements and the tonnage of the vehicles this could mean up to

60,000 tonnes on average travelling along this road. James Ross confirmed that this would be the case and stated that they had asked for the construction of new additional passing places and longer ones to accommodate these heavier vehicles. Richard Kerr read out the detail in the Environmental Statement which detailed the different types of loads and number of loads expected to be carried along the road.

Councillor Blair asked was it not normal that when a condition was attached to any consent a timescale was given for executing the condition. Richard Kerr advised that it was certainly open for Planning to do this when access was not contentious. He advised that when you have an unusual access arrangement like here the precautionary position was to get this up front to prevent development with permission that was unachievable. He stated that most wind turbine applications took access from main roads or forestry roads rather than minor roads such as this.

Councillor Blair advised that he had noted that sensitive countryside had been referred to by the Planners 15 times and only 3 or 4 times by the Applicant. He asked how the definition of sensitivity was quantified. Richard Kerr advised that the forest area was not sensitive and confirmed that this was not a pristine landscape and that was why that they had not included a reason for refusal in respect of the impact on the Landscape Character Type (LCT) of this area. He stated that the issue with the development was that because it was on the edge of the LCT it would throw its influence on to adjacent areas which were more sensitive by definition. He referred to the proposed Kilchattan wind farm site at Southend which was dismissed on Appeal. The view taken in that case was that due to the location of the development being at the edge of a LCT it would throw its influence on to the adjacent more sensitive area.

Councillor Blair asked if Roads would insist that the Barr Glen road be taken back to its existing state at the end of the project. James Ross confirmed this was only the case in respect of the sections of temporary carriageway widening which would need to be soiled and seeded on completion of construction works.

Councillor Colville asked if there was any weight restriction on the C20 road and James Ross advised not at the moment. Councillor Colville referred to the number of farm vehicle movements on the road at the moment and stated that these needed to be born in mind.

Councillor Colville referred to the assessment and summary of determining issues and material considerations section of the report of handling which stated "The application site is located on the southern ridge line of Barr Glen and would be highly visible from in and around the settlement of Glenbarr". He then referred to reason for refusal number 1 which stated "The application site is located on the southern ridge of Barr Glen which constitutes one of the 'hidden glens' of the Kintyre peninsula". He commented that there appeared to be a conflict between these two statements and sought clarification. He also referred to comment on P18 of the agenda pack "As well as casting an immediate effect over the small scale sensitive hills of Kintyre and Gigha". Richard Kerr referred to the statement made about hidden glens and also to the geography of Kintyre.

He advised they were neither prominent nor heavily frequented but this did not mean they did not have inherent landscape qualities of their own. He pointed out that there were not many of them and that they ought to be protected. He advised that they shared the same Landscape Character Type as the coast in this area and as such needed to be protected in much the same way as the coast.

Councillor Colville referred to the Gigha wind turbines and asked was he not correct to say that when Gigha was granted planning permission a material consideration was the community benefit that would be generated. He asked what the difference was between that application and this application. Richard Kerr advised that the Gigha application was a homespun proposal to enable the Gigha community to pay back a loan. The development was located on the community's own land and that it was a community venture supported by everyone bar one. He advised that this was a different proposal promoted by a Social Enterprise Company with no associated intrinsic connection to the site and which could be located on a more favourable site. He advised that it did not have the same associations as the homespun scheme.

Councillor Colville referred to the reasons for refusal including cumulative impact. He referred to the Creggans application submitted to the Scottish Government and asked why it was necessary to take account of something which may or may not happen in the future. Richard Kerr advised that it was up to the Committee to decide what they considered amounted to cumulative impact. He stated that SNH advice in respect of the assessment of cumulative impact was published and very specific. They stated that account should be taken of not only operational developments and consented developments not yet implemented but also ones that were in the planning system. He explained that this was why reference was made to the Creggan windfarm in the reasons for refusal as this application has been submitted to the Scottish Government. He stated that the Blary Hill application was not referred to in the reasons for refusal as this application had not been submitted yet.

Councillor Colville stated that if the Committee were minded to grant this planning application then the Scottish Government would need to take this into consideration when determining the Creggans application.

Councillor Colville sought and received clarification from Planning that if a traffic management plan and method statement were submitted by the Applicant this would no longer be a reason for refusal.

Councillor McCuish commented that this was an application for three wind turbines and not for access which was the developer's risk. He referred to the comparison made between this application and the Gigha development. He stated that if Fyne Futures did not develop here then the 1/3 of the community benefit money would not stay in Argyll. He asked James Ross to confirm that Roads did not have an objection to this proposal and to also confirm that the access situation would be difficult but would not be impossible and could be dealt with by way of a suspensive condition. James Ross confirmed that Roads had no objection. He also confirmed that the access works were not impossible

but would be a risk to the Applicant.

Councillor McCuish asked if it was fair to say that the Committee did not need to consider this risk and James Ross replied yes but normally this information would be provided up front. He advised that any works required at the junction could have an implication for adjacent road works.

Councillor MacIntyre asked Planning to confirm whether or not they had received the additional information requested regarding access to the site. Richard Kerr confirmed that they received the information regarding access onto the site but this did not include the entrance from the A83.

Councillor MacIntyre sought and received clarification from Colin Renfrew that the projected community benefit figure of £780,000 was total net profit after all costs and that the community of Glenbarr would receive 1/3 of that.

Councillor Taylor sought clarification on the stance taken by the Forestry Commission. Richard Kerr advised that this application was submitted in 2011 and at that time the Forestry Commission were not interested in wind farm proposals. He advised that the Forestry Commission were now more aware and that it was in their interest to ensure that forestry operations were not impacted on and that they now asked for compensatory planting to be identified to satisfy the National Forestry Strategy. He advised that they were happy with the measures proposed to be put in place by the Applicant if this development was to go ahead.

Councillor Trail advised that he had heard today that the problem of access could be overcome by way of condition yet this was a reason for recommending refusal of the application. He asked Planning to explain why they were concerned if the access arrangements could not be achieved. Richard Kerr stated that having access to the development site was fundamental. He advised that if planning permission were granted you could end up with a permission which was in effect not implementable. He commented that to be dependent on another planning permission coming forward was not good customer care and ideally they would have liked to have seen the two planning applications submitted hand in hand.

Councillor McCuish sought and received clarification from Planning that the upgrading of the existing junction with the public road as detailed at section A of the report of handling referred to the junction of the forestry road going onto the C20 Barr Glen road and not the junction on to the A83 road.

SUMMING UP

Planning

Richard Kerr advised that Barr Glen was one of the hidden glens of Kintyre which ran at right angles to the coast and intruded into the upland interior of the spine of the peninsula. He stated that these glens were of

a markedly different character to the more expansive upland moorland, being agricultural in character and settled in nature. He added that they shared some of the visual and landscape characteristics of the more scenic and sensitive locations along the Kintyre coast, which was why SNH in landscape analysis of Argyll had included both the west Kintyre coast and Barr Glen with the 'Rocky Mosaic' landscape character type (LCT). He advised that the most promising opportunities for large scale wind Turbine development in Kintyre lay within the upland forest moor mosaic landscape character type as evidenced by consented wind farms such as Beinn an Tuirc. He pointed out that whilst the application site lay within this LCT it was on its extremities where it would shed influence over the adjacent and more sensitive 'Rocky Mosaic'. He advised that the Council's Landscape Wind Energy Capacity Study (LWECS) was at pains to point out that capacity for turbine development was not to be found unfairly across the Upland Forest Moor Mosaic and that, in particular, it directed development to the expansive Moorland and forested areas of the interior of the spine. He stated that it recognised that development towards the edge of this area would impinge on more settled and sensitive landscape by being imposing on the skylines which formed the landscape margins defining the glen. He pointed out that this presence was particularly unwelcome where the scale of the turbine was disproportionate to the elevation of the receiving landscape, giving rise to an apparent diminution in the scale landscape, to the detriment of the character and the setting of Barr Glen. He confirmed that it was both the view of SNH and Officers that the location and the size of the turbine proposed were inappropriate in this case. He stated that given the pressure of operational wind farms in Kintyre and having regard to the undetermined application at Creggan, the cumulative impact of multiple sites was an important consideration in this case. He advised that Beinn an Tuirc wind farms already expressed an influence along the length of Barr Glen despite the turbine size being smaller and the location of the site being further removed from the glen than the current proposal. He confirmed that Planning's conclusion was that the glen did not have residual capacity to accommodate turbine development of the size proposed, a position which was endorsed by SNH, and which was specifically guarded against by the Council's LWECS. He stated that the proposal would not share the topographic and geographic advantages of the established pattern of commercial turbine development which was on the spine of Kintyre and which benefitted from greater separation from habitation, transport routes, and the more scenic and sensitive landscape associated with the coast and glens of Kintyre. He advised that in addition to concerns relating to the visual and cumulative impact of such large turbines at relatively low elevation, there were also issues concerning access to the development site. He pointed out that access was required from the A83, along the Barr Glen Road, before forestry roads and access tracks extension could achieve a means of access to the site. He explained that this would entail intensive vehicle usage and large scale components transiting the Barr Glen Road, which was lightly constructed and narrow and therefore to be regarded as a fragile route. He stated that whilst the Applicants have provided certain details in relation to anticipated access requirements Planning considered these to be deficient in terms of the details of the means of access from the A83 and lack of traffic management plan and a detailed method statement,

which would provide reassurance that access would be practicable and the land necessary for improvements would be available. He pointed out that Members would be aware that it had become the practice of the Committee to require access and transport matters to be addressed in full at the application stage so as to avoid the situation where matters expected to be addressed by way of planning conditions proved to be unviable or incapable of resolution, effectively frustrating the implementation of any consent. He advised that in this case it had not been demonstrated beyond doubt that access was practicable or affordable, and it would be imprudent to approve the application in these circumstances. He stated that much had been made today of the sustainable development model being proposed here with local benefits which would not otherwise accrue with a utility company promoted proposal. Additionally he stated that the social enterprise credentials and the community focused aspirations of the developer had been advanced as a reason for giving the application more formidable consideration had the identity of the application and the development model proposed been different. He stated that he was sure Members were all aware of the track record of the Fyne Group and also the benefits to be devised from community based energy schemes which provided better prospect in retaining finance generated within Argyll and Bute and he advised that these were not in dispute. However he pointed out that the focus of Members' consideration should be on the local environmental merits of the proposals not the merits of the project as a business model to help fund the Fyne Group and the indirect benefits which would accrue to the local community as a result. He advised that this development model could achieve the same benefits in a less sensitive and more appropriate location elsewhere, as identified in the LWECS and there was therefore no overriding imperative to develop this particular site. Accordingly he stated that in the event that Members were persuaded that the development model had merit as a means of finalising the activities of Fyne Futures they should be aware that this would not warrant feasible consideration for turbines of a size and location which, had the Applicant been different, would have led them to conclude otherwise. He commended to Members the three reasons to refuse set out in the request before them.

Applicant

Colin Renfrew advised that Fyne Homes and Fyne Futures were an award winning well respected locally based company with a proven track record of delivering quality and investing in communities, and that they have been around a long time. He stated that they were community based charitable organisations and not a commercial developer. He confirmed that extensive consultation had been carried out, and the independent survey carried out by the local liaison group concluded that:- The Fyne Futures wind project was highlighted as the only turbine proposal that was supported by the local community; that this project was unique and highly innovative; it had the potential to generate approximately £780,000 a year into Argyll and Bute alone - this was £15.6 million over the life of the development; and furthermore, this money had the ability to generate far more through match funding. He stated that this 780,000 could make a huge difference, 17 affordable social houses built; or 31 jobs each year for

20 years. He confirmed that it was recognised that by their very nature, the turbines would result in some significant effects, but these effects had to be carefully balanced in the planning process with the strong presumption in favour of renewable and sustainable development, and in this case the unique and very special community based economic and social benefits that the significant income from these turbines would bring. He advised that it was further considered that this small scale turbine development may fulfil the capacity of Barr Glen and therefore other large scale wind farm proposals could exceed the landscape capacity around the Glen. He pointed out that there were no statutory objections to the scheme, and it was considered that the effects identified would not cause such harm to the landscape or the users of it, either alone, or in combination with other windfarms sufficient to outweigh the local and wider environmental and particularly the significant community and economic benefits of the scheme. He advised that in their opinion the concerns raised in the Officer's report had been addressed. He stated that because of these special circumstances, this wind turbine project would enable development of much needed social affordable housing and employment opportunities; therefore it was respectfully recommended that Members support this scheme.

Consultees

Roads Authority

James Ross confirmed that the road improvements could all be dealt with by condition and that they would need to be accepted by the Roads Authority. He noted that the Applicant had advised that they had control of all the land and stated that he did not know how they could know that without doing a swept path analysis at that A83 junction. He pointed out that shortly this junction would be outwith Argyll and Bute Council as it would be part of the Scottish Government's trunk road. He stated that the SG may accept a temporary access. In terms of land ownership he referred to there being two options open to the Applicant. They could move the junction further south or they may be able to take a corner away at the junction. He advised that it would have been good if this had been included as part of the application. He stated that other issues he had highlighted could be dealt with by condition but may have cost implications for the Applicant.

Supporters

Duncan MacAlister

Duncan MacAlister advised that what the Applicant had said about land ownership was correct.

Duncan Hunter

Duncan Hunter advised that there would be massive community benefit if planning permission was granted which would be shared with the Glenbarr community.

Peter Sinclair

Peter Sinclair advised that the problems were not as big as they were being made out to be.

Objectors

John Seddon referred to the local survey carried out by Fyne Futures and advised that 30 people were in favour of the development and 23 were against it which was not a landslide. He also advised that to accept this on the basis that there would be less chance of the other two proposals going ahead was not a good enough reason to recommend acceptance of this proposal.

The Chair asked all those present to confirm if they had received a fair hearing and they all but one confirmed this to be the case.

John Seddon advised that he had noticed that during the proceedings a Member of the Committee had fallen asleep and asked how they could be certain of reaching a decision if their full attention had not been given. When asked he identified Councillor Donald MacMillan as the Member. It was noted that Councillor MacMillan did not accept this to be true and it was agreed that this would be recorded in the Minute.

DEBATE

Councillor Freeman advised that he was sympathetic with the proposal and noted that some of the issues raised today were not simple or straightforward and that some could be dealt with by condition. He asked if the Committee were minded to support the application would it be possible to continue consideration of the application to allow time for the Planners to recommend appropriate conditions and reasons.

Charles Reppke confirmed that this was a matter for the Committee to decide and that they could do if they so wished.

Councillor Colville advised that he travelled up and down the Kintyre road on a regular basis and that he could see the Gigha windfarm which he advised did not cause him particular harm. He stated that he had no doubt in his mind that the only reason those turbines were there was because of the community benefit. He took the point that Planning had made that the land and the turbines were owned by the community in that case. He stated that he has lived in the Kintyre area all his life and that he knew Barr Glen well and that it used to be a well populated area. He also noted that this was a highly motivated community. He advised that this local community landscape had a proliferation of wind turbines. He stated that there was a need to grab every opportunity for the local communities and that he was minded to support Councillor Freeman's suggestion of continuing the application.

Councillor McCuish stated that he was supportive of this application. He referred to the turbine on the Island of Tiree which stood proudly

generating money for the community. He pointed out that the Wind Energy Capacity Study was a guidance document only. He commented that SNH had given a long list of concerns but did not feel they were strong enough to enable them to make an objection. He pointed out that Roads also had no objection. He stated that this was a community trying to help itself and that there were only 3 reasons for refusal which he believed they could get round.

Councillor Blair commented that they had received a very good presentation from the Applicant and that he was minded to support the application. He stated that there was a need to not only look to the past but to look to the future and where you want to go. He referred to generating money to benefit people and stated again that he was minded to support this application.

Councillor Currie advised that to support the application was not good enough and that there was a need for someone to come forward with a competent Motion for approval and that was where it was difficult. He referred to the three reasons for refusal and advised that these were in relation to visual impact, cumulative impact and access. He stated that he believed they could deal with two but one of these would be more difficult but hoped that he had a competent Motion that would be able to address this. He referred to the three turbines and stated that it was not a question of community benefit or commercial benefit. He referred to the two Kelpies on the M9 and stated that these huge structures stood out but were attractive. He also commented that the Gigha turbines looked good. On the other hand he also stated that you seen some wind farms which were just ugly. He commented that these three turbines standing on their own could be seen as a feature of the landscape.

Councillor Trail advised that he took a slightly different view from Councillor Currie. He advised that he believed these three turbines would be out of scale and that the visual impact would be quite considerable on Barr Glen. Against that, he said, was the issue of how the money would benefit the community if the application was granted. He stated that this was an emotional thing and not a material planning consideration. He stated that he was concerned about the issues raised regarding the access though noted that the Applicant had given assurance that it could be achieved. He commented that a decent drawing showing the access arrangements would have been helpful and convincing and the fact that this had not been forthcoming raised suspicions for him. He advised that he would support the Planner's recommendation to refuse the application.

Councillor Taylor expressed his dismay that the Community Council had chosen not to respond when consulted on this application. He advised that he was concerned about the cumulative impact and that the scale of the turbines was important too and referred to the SNH providing advice on what was acceptable in terms of the scale of turbines in relation to the height of the hill. He noted that SNH had advised the Council that their scale was unacceptable. He noted that SNH had not objected and that the reason for this was known. He advised that he was content to give weight to what SNH said in respect of cumulative impact and scale and confirmed that he would support the Officer's recommendation to refuse

the application.

Councillor MacMillan stated that he had listened to all that had been said and advised that he thought it would be difficult to come up with a competent Motion to approve this application as there were too many black spots. He advised that he would support the Planners.

Councillor MacIntyre referred to the issue of community benefit which would be nice to get round. He advised that he was minded to support the application and would like to hear the detail of Councillor Currie's Motion.

Councillor McNaughton stated that he found this a difficult application to deal with. He advised that his head said one thing and his heart the other. He confirmed that he would move to support the Planner's recommendation to refuse the application.

Motion

To agree to refuse planning permission for the reasons stated in the report of handling.

Moved by Councillor Alex McNaughton, seconded by Councillor Sandy Taylor

Amendment

Weight is given to the fact that the application site does not lie within, or immediately adjacent to any landscape designation. Impact on the nearest site would be minimal. The landscape character type (LCT) within which the proposal is situated (Upland Forest Moor Mosaic) is of 'medium' sensitivity; therefore the development can be absorbed without overall detriment to the LCT, despite the existing level of wind farm development on the peninsula. While noting the concerns of the impact on the Coastal Rocky Mosaic LCT it is concluded that this would not be significantly adverse. Due to the relatively small number of turbines (3), the visual impacts of the scheme will be within acceptable limits.

In cumulative impact terms, since it is only 3 turbines the application would not unacceptably affect landscape character or visual scenic interests. The scheme would be the only wind farm in Barr Glen with only partial visibility of neighbouring Beinn an Tuirc. The principle cumulative impact raised by Planners is regarding visual effects of multiple developments, therefore in this application the cumulative impact is minor. As the scheme would not impinge unacceptably on neighbouring landscape character types or key views there is not agreement with the conclusions of the Council and SNH that the "Argyll and Bute Landscape Wind Energy Capacity Study" justifies a refusal in this case. Whilst there would be impacts on road users, these would be transitory and localised and would not be unacceptable. With separation of at least 2.1 km from the nearest property, no house would experience impacts which would justify withholding consent in terms of visual impacts.

It is not uncommon for wind farm access arrangements to be dealt with by means of condition and this would be appropriate in this case. Therefore a suspensive condition should be attached requiring the submission of a traffic management plan.

Local economic benefit of the scheme is important and a material consideration.

The application should be approved.

Moved by Councillor Robin Currie, seconded by Councillor Rory Colville

When asked Richard Kerr confirmed that this could be a competent Amendment as long as Councillor Currie included consideration of Local Plan Policy LP REN 1 and confirmed whether the proposal was consistent with this Policy or a departure from the Policy. He advised further that if Councillor Currie therefore considered the proposal to be consistent with this Policy then yes the Amendment would be competent.

Councillor Currie confirmed that it was his opinion that the proposal was consistent with this Policy for the reasons already advised.

Councillor Taylor commented that Councillor Currie had advised that the nearest property to the site was 2.1 km away and pointed out that this was not correct. Richard Kerr confirmed that the settlement of Glenbarr was 2.1 km from the site but that the nearest property was 1.1 km away from the site.

Councillor Currie, with agreement of his seconder and the Committee adjusted the wording of his Amendment as detailed below which he stated remained unaffected by this change.

Adjusted Amendment

Weight is given to the fact that the application site does not lie within, or immediately adjacent to any landscape designation. Impact on the nearest site would be minimal. The landscape character type (LCT) within which the proposal is situated (Upland Forest Moor Mosaic) is of 'medium' sensitivity, therefore the development can be absorbed without overall detriment to the LCT, despite the existing level of wind farm development on the peninsula. While noting the concerns of the impact on the Coastal Rocky Mosaic LCT it is concluded that this would not be significantly adverse. Due to the relatively small number of turbines (3), the visual impacts of the scheme will be within acceptable limits.

In cumulative impact terms, since it is only 3 turbines the application would not unacceptably affect landscape character or visual scenic interests. The scheme would be the only wind farm in Barr Glen with only partial visibility of neighbouring Beinn an Tuirc. The principle cumulative impact raised by Planners is regarding visual effects of multiple developments, therefore in this application the cumulative impact is minor. As the scheme would not impinge unacceptably on neighbouring landscape character types or key views there is not agreement with the

conclusions of the Council and SNH that the “Argyll and Bute Landscape Wind Energy Capacity Study” justifies a refusal in this case. Whilst there would be impacts on road users, these would be transitory and localised and would not be unacceptable. With separation of at least 1.1 km from the nearest property, no house would experience impacts which would justify withholding consent in terms of visual impacts.

It is not uncommon for wind farm access arrangements to be dealt with by means of condition and this would be appropriate in this case. Therefore a suspensive condition should be attached requiring the submission of a traffic management plan.

Local economic benefit of the scheme is important and a material consideration.

The application should therefore be approved as he considered it to be consistent with Local Plan Policy REN 1 for the reasons detailed above.

Moved by Councillor Robin Currie, seconded by Councillor Rory Colville

A vote was taken by a show of hands and the Amendment was carried by 6 votes to 4 and the Committee resolved accordingly.

DECISION

Agreed to grant planning permission and to delegate authority to the Head of Planning and Regulatory Services in consultation with Councillor McNaughton and Councillor Currie to determine appropriate conditions and reasons and any necessary legal agreements to attach to this consent.

(Reference: Report by Head of Planning and Regulatory Services dated 1 April 2014, supplementary planning report number 1 dated 22 April 2014 and supplementary planning report number 2 dated 3 June 2014, submitted)

ARGYLL AND BUTE COUNCIL**Planning, Protective Services and
Licensing Committee****Development & Infrastructure Services****18th June 2014**

FOOD SAFETY LAW ENFORCEMENT WORKPLAN AND ENFORCEMENT POLICY

1.0 EXECUTIVE SUMMARY**1.1 Purpose**

This report presents the Food Law Enforcement Workplan 14/15 and our enforcement policy for member's formal endorsement. The plan details the arrangements which are in place to deliver the Council's strategy duty as a 'food authority' under the Food Safety Act 1990 and as a "competent authority" under EU Food and Feed Law, in the areas of food hygiene, food standards and feed.

1.2 Financial Implications/Risks

1.2.1 This work will be delivered within the existing budgets for Regulatory Services.

1.2.2 The Food Safety Law Enforcement Workplan 14/15 details our key priorities and arrangements to meet the National Food Law Code of Practice and the Framework Agreement which create statutory duties for the Council in relation to EU treaties. It should be noted that we do not have sufficient resources to meet the full requirements of the Framework Agreement and the Code of Practice. As a result, we adopt a risk based approach, targeting resources at the highest risk establishments and processes; reactive workload and emerging food safety issues

1.3 Recommendations

Members are asked to:-

1.3.1 Endorse the Food Safety Law Enforcement Plan 2014/15 and the enforcement policy which is attached to this report.

1.3.2 Affirm the statutory appointments of the Council's Head of Food Safety, Lead Officer (Food Hygiene & Food Standard) and Lead Officer (Feed), the status of authorised officers within the Council, and the external appointments of Public Analyst, Agricultural Analyst and Food Examiners.

FOOD SAFETY LAW ENFORCEMENT WORKPLAN 2014/15 AND ENFORCEMENT POLICY

2.0 INTRODUCTION

- 2.1** The Council is required, as a “food authority” in terms of the Food Safety Act 1990 and a “competent authority” under EU Food and Feed law, to produce and review an annual food safety law enforcement plan and enforcement policies which are endorsed by elected members.
- 2.2** Food Safety comprises of the area of food hygiene (how food is produced and the condition of premises, staff, etc.), and food standards (traceability, composition, labelling and quality) which is undertaken by environmental health qualified inspectors. There is also another component, namely feeding stuffs, and this is undertaken by trading standards staff.
- 2.3** In terms of food safety terms, Regulatory Services objectives are to protect public health and promote the production and provision onto the market, of safe food. These are consistent with the Councils Single Outcome Agreement in terms of promoting a sustainable economy (given the importance of the food and drinks sector to Argyll and Bute) and protecting communities and public health. It also fulfils a statutory duty placed on the Council.

3.0 RECOMMENDATIONS

- 3.1** Members are asked to:-
 - 3.1.1** Endorse the Food Safety Law Enforcement Plan 2014/15 and the associated Enforcement Policies.
 - 3.1.2** Affirm the statutory appointments of the Council’s Head of Food Safety, Lead Officer (Food Hygiene & Food Standard) and Lead Officer (Feed), the status of authorised officers within the Council, and the external appointments of Public Analyst, Agricultural Analyst and Food Examiners.

4.0 DETAIL

- 4.1** We are working within a changing food safety landscape, which are impacted by the national VTEC/E.COLI 0157 Working Group recommendations, the implementation of the E-coli cross contamination strategy, and increasing levels of scrutiny from national bodies and the European Commission and other countries who import our food. This is further compounded with increasing consumer awareness; national events/incidents (e.g. horsemeat) and additional demands placed on local authorities and the food sector.

There is also significant change likely with the creation of the new Scottish body, Food Standards Scotland (1st April 2015) and the pending revision of the Food Law Code of Practice, which defines the service design to be met by local authorities, which are imminent.

4.2 In 2013/14, we targeted our resources on delivering our Food Law Service work plan, focusing on implementing our E.coli strategy. We have also been actively involved in the national discussion on the arrangements for the new Food Body, which will impact on the work of the local authorities. Key highlights for 2013/14 have been:-

- (i) Implementation of our E-coli Strategy and the national cross examination guidance. As a result of resource limitations, the timescales have been revised but work is ongoing.
- (ii) We achieved 100% of our high risk programmed food implications.
- (iii) We continue to support business with the provision of advice and support, and this has included 102 requests for Service from Local manufactures in relation to modifying their approvals under EU law .The Council is the later stages of granting Approval to 6 new local manufacturers
- (iv) Continue to support the national Eatsafe and the Food Hygiene Information Scheme (FHIS) which recognise compliant business (those with good standards of food safety) and provides consumers with information (via the website and posters displayed in premises) to make an 'influenced' choice where they consume or purchase food. Of the 1095 awards across Scotland, 121 are for premises in Argyll and Bute.
- (v) Supported the shellfish sector through our shellfish monitoring work, ensure quality shellfish is marketed, and to take measures to close sites where microbiological or biotoxin standards are unsatisfactory (7 TCN's and 4 voluntary closures in 13/14)
- (vi) We have targeted resources at food fraud, but this has identified further work. In 2013/14, working with Police Scotland and other agencies, we seized razor shellfish with a value of £45,000 as they were fished from unclassified water. The Council continues to react to further intelligence.
- (vii) Investigated and successfully controlled an outbreak of salmonella Hofit, at a private school. This is reported as the largest outbreak in the UK of this rare strain of salmonella.
- (viii) A major enforcement action and a series of national trade withdrawals relating to locally manufactured products including cheese with dangerously contaminated with *Listeria monocytogenes* bacteria, and the *C.botulium* risk from inadequately processed smoked fish
- (ix) Responding to the demands of our support business, undertaken work to approve the consignment and export of fish and shellfish across the world. We issued 3318 export licenses and 3215 Shellfish registration documents which are essential to consumer protection and to allow local food manufactures to export internationally. This work poses significant demands on resources

4.3 Our ability to meet our planned work was several affected by reactive/unplanned workload whereby resources are redirected to deal with the imminent food safety issues. This has allowed us to respond to a range of other demands (see ace) but as a result, we were unable to meet the following in 2013-14:

- (i) We did not have sufficient resources to deliver the Food Safety Plan or meet the Code of Practice.
- (ii) Did not meet our anticipated milestones for our E.coli strategy
- (iii) We were audited by the FSA for shellfish monitoring, and this identified the need to improve our internal procedures, and review procedures and policies. An action plan is underway to address these issues.
- (iv) We were unable to reduce the number of unrated food businesses' which was identified by the Food Standards Agency and the Audit Scotland

Report “Protecting Consumers”, which were one of the local authorities, with the highest percentage of unrated premises.

5.0 Workplan 2014/15

5.1 The 2014/15 work plan has been developed to ensure the delivery of our key food safety duties and priorities. It seeks to utilise our limited resource to its full potential, and continues with the focus on risk-based enforcement. We have taken steps to recruit a temporary resource (1FTE EHO) for 12 months to complete the unrated premises project and support the E.coli strategy.

5.2 The plan does not meet the full requirements of the Code of Practice and Framework Agreement as we do not have sufficient resource to do so, but our approach is pragmatic and risk based, targeted at higher risk priorities at the expenses of lower risk. Section 5 of the Food and Feed Plan details our priorities which include:

- (i) Continue to deliver our E.coli cross contamination strategy, which implements national guidance into the food sector and associated sectors. This includes providing advice and support to the management of the Council’s various catering operations
- (ii) Undertake the interventions programme for food hygiene, food standards; feed and primary production, which includes alternative enforcement interventions targeted at low risk businesses
- (iii) Building upon the work undertaken in 2013/2014, by continuing an investigation into the wider extent of non-compliance and Food Fraud within the wild shellfish sector,
- (iv) Improving our performance in meeting the Code of Practice (COP).
- (v) To review update and revise our food safety plans, policies and procedures, in accordance with our plan, to reflect emerging operational realities, new service delivery arrangements; pending audits and changes to the Food Law Code of Practice or internal service issues
- (vi) Improving our performance in meeting the COP. To review update and revise our food safety plans, policies and procedures, in accordance with our plan, to reflect emerging operational realities, new service delivery arrangements; pending audits and changes to the Food Law Code of Practice or internal service issues
- (vii) Complete the work to rate the “unrated” food hygiene businesses
- (viii) Implement and close Action Plan agreed with FSAS following audit of shellfish sampling activities in 2013Continue to deliver the shellfish monitoring programme and existing contract with the FSA for shellfish monitoring and seek an extension to the contract for a further period of 2015-17
- (ix) Continued commitment to staff development and workforce planning to ensure a competent and authorised workforce. This will be delivered through our training plan; performance development review and targeted training/mentoring and coaching

5.3 We recognise that the food service plan will require to be reviewed in the course of the year, depending on the requirements of the new Code of Practice and the creation of the new Food Body. This has been built into the plan, and any significant revisions will be brought back to Committee for members considerations.

6. Enforcement Policies

- 6.1** Our Enforcement Policies across Regulatory Services, and in particular food safety, are predicted on targeted, risk-based, proportionate enforcement, and the principle of working with business to secure compliance. Formal enforcement action is used where there are sufficient risks to food safety, or where management is uncooperative. This policy works well, and we have 93% of business 'broadly compliant' and in 13/14, reported only one case to the Procurator Fiscal, where they pled guilty to food hygiene contraventions.

The enforcement policy is consistent with the principles of better regulation and the draft Scottish Governments Regulations Strategic Code.

- 6.2** We have enforcement policies in place for food safety, food standards and feed and these are reviewed annually and endorsed by Members when approving the Food Safety Law Service Plan. They were last endorsed on the 19th May 2013.

These policies have been reviewed and I do not propose that we make any significant changes, other than to detail our policies in the event of actions to be taken in the event of non-compliance and in respect of the emerging issues of food crime and food fraud. These are detailed in chapters 3 and 4 of the enforcement policy, and are as follows:

- (i) Non-compliance - It is the policy of Argyll and Bute Council, when it identifies non-compliance, to take action to ensure that the Food Business Operator remedies the situation. When deciding which action to take, the Council shall take account of the nature of the non-compliance and that operator's past record with regard to non-compliance.
- (ii) Food Crime/Food Fraud - It is the policy of the Argyll and Bute Council that when it establishes, on the basis of objective evidence, that there is a deliberate breach of food law relating to food crime and food fraud, to adopt a more immediate and appropriate enforcement action or intervention, rather than the graduated and hierarchical approach to selecting interventions and enforcement action.
- (iii) Shellfish Provenance- that it be our policy of Argyll and Bute Council to consider the provenance of shellfish as critical to food safety, and to comply with Article 5 of Regulation (EC) 852/2004.

A summary of the Enforcement Policies is attached to this report (appendix 2) and copies of the full policies are available in Committee Room 1 on the day. Members are asked to endorse these policies

7.0 CONCLUSIONS

- 7.1** The Service Plan and enforcement policies satisfies the duty on the Council, as "food authority" to approve annually the Food Safety Law Enforcement Plan and Enforcement Policy.
- 7.2** There will be a need to review the plan and policy as a result of the new Code of Practice, the Food Standards Scotland, and the publication of the Scottish Government's Regulations Strategic Code.
- 7.3** The Food Safety Law Enforcement Plan 14/15 does not meet the full requirements of the Framework Agreement and Code of Practice, but advocates a risk-based, targeted use of resources, focusing on high risk premises and priorities at the expense of low risks.
- 7.4** As the Councils Head of Food Safety, I believe that this approach allows us to

manage these risks, although it is likely that future audits by the Food Standards Agency will identify that the Council are not meeting its statutory duties (as previous audits have done). This will continue without additional resources and we will examine this further in light of the forthcoming changes.

8.0 IMPLICATIONS

- | | |
|-----------------------------|--|
| 8.1 Policy | The service is consistent with the Council's statutory duty as a food authority and the Single Outcome Agreement. |
| 8.2 Financial | The existing budget is insufficient to meet the full requirements of the Code of Practice, but the work in the service plans will be borne with the existing budget. |
| 8.4 Legal | Meets the Council's strategy duty as a 'Food Authority' under the Food Safety Act 1990. |
| 8.5 Equalities | None. |
| 8.6 Risks | <p>We attempt to manage the risks through our work, but the main risks to the Council are:</p> <ul style="list-style-type: none">(i) That the Council is identified by the FSA, on audit, as not having sufficient resources to meet the requirements of the Framework Agreement & Code of Practice.(ii) That the resources targeted at delivering the service plan providers, are diverted onto other reactive and unplanned work across the service, including communicable disease authorities, increasing service requests and demands of external audits etc.; or due to sickness absence and vacancies. |
| 8.7 Customer Service | The food safety law enforcement plan provides a service to business and consumers. |

Executive Director of Development & Infrastructure Services

Policy Lead David Kinniburgh

11th June 2014

For further information contact:

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APPENDICES

Appendix 1 – Food Safety Law Enforcement Plan 2014/15

Appendix 2 – Enforcement Policies Summary



Food Safety Law Enforcement Plan 2014/15

**Appendix 1 to Committee Report
PPSL Committee 18th June 2014**

1. SERVICE AIMS AND OBJECTIVES

1.1 Aims and Objectives

The Council's Regulatory Services is **committed to the protection of the public.**

As a competent authority under Regulation (EC) 882/2004 and a statutory food authority under the Food Safety Act 1990, the Official Feed and Food Controls (Scotland) Regulations 2009 the Council seeks to ensure that all food and drink intended for sale for human consumption or for animal consumption which is produced, stored, distributed, handled or consumed within Argyll and Bute is without risk to the health or safety of the consumer. Food, for the purposes of this plan, includes feed.

Regulatory Services achieve this through the following aims and objectives:-

- Undertaking the statutory enforcement role of the "Food and Feed Authority", working with and in accordance with service standards and specific requirements and guidance from the Food Standards Agency Scotland. This includes the Framework Agreement which outlines the responsibilities of the "food authority", the Food Law Code of Practice and the Feed Law (Enforcement Code of Practice (Scotland & Wales)).
- Provision of an effective, quality food and feed service focusing resources on a risk-based approach and ensuring that all enforcement activity is proportionate, consistent and undertaken by competent and authorised officers.
- Developing, and working to a service plan, which will describe the work to be undertaken and identify the resources available to the service.
- Working with local businesses in an open and transparent manner, to improve the safety of food and feed and the level of compliance with relevant legislation, in line with the Service's Food and Feed Safety Enforcement Policy, and the draft Scottish Regulators Statutory Code.
- Provision of food safety and feed advice and respond appropriately to requests from the public, voluntary groups and businesses.
- Ensuring the effective management of the Council's food and feed safety law enforcement service through effective performance management and reporting.
- Contributing as a participant where it is relevant and appropriate having regards to local and national food and feed safety issues as a member of a range of national and regional working groups recognising their role in the promotion of consistency and best practice among local authorities.
- Maintaining adequate systems including a computer-based inspection and reporting system, designed to improve the quality of food and feed law enforcement activity data, management information and reporting.

1.2 Links to Corporate Objectives

This plan links to the Council's Single Outcome Agreement and the outcomes of promoting a sustainable economy; protecting the vulnerable in our communities and the wider health protection agenda. It also links into the Councils Corporate plans via the departmental, or specific Regulatory Services, Environmental Health, Animal Health and Welfare and Trading Standards service plans for 2014-15.

2. BACKGROUND

2.1 Profile of the Local Authority

Argyll and Bute Council is a unitary authority, with a resident population of 89,590 and a geographical area of 690,889 hectares, including 23 inhabited islands, located within the west highlands of Scotland.

2.2 Organisational Structure

Regulatory Services delivers the Council's statutory food safety law enforcement role in a team which provides the range of services within environmental health, animal health, trading standards and licensing standards. This service is located within the Development and Infrastructure Directorate in a Planning and Regulatory Service.

Regulatory Services is managed at a third tier level through the Regulatory Services Manager with operational management being provided by the Environmental Health Manager (East); Environmental Health Manager (West) and the Trading Standards Manager. There is no specific food or feed safety law enforcement team as officers undertake generic work relating to their profession, although management lead for food safety is taken by the Environmental Health Manager (West) supported by the Environmental Health Officer (Food Control and Service Support) and the management lead for feed safety is taken by the Trading Standards Manager.

The work of Regulatory Services can be directed to the Planning, Regulatory Services and Licensing Committee or the full Council as determined by the nature of the report. In addition, the service has access to the Area Committees and the Argyll and Bute Licensing Boards.

The statutory appointments required under Regulation (EC) 882 2004 and the Food Safety Act 1990 are:-

Head of Food Safety	Regulatory Services Manager
Lead Officer Food Hygiene and Standards	Environmental Health Officer (Food Control and Service Support)
Lead Officer- Feed	Trading Standards Manager

2.3 The Scope of the Food and Feed Service

Food safety law enforcement is undertaken principally by authorised Environmental Health staff, although some work is undertaken by Animal Health and the feed aspects by Trading Standards professionals. We have been, and continue to, review roles and responsibilities in respect of food and feed, as far as the code allows, to integrate work across disciplines so we can make better use of the wider service resource.

- Environmental Health professionals are responsible for the Council's food safety law enforcement work, which encompasses food hygiene, food standards and control, (which includes food premises inspection, food quality, composition and labelling inspection and certification). In the event of systems failures, the team will respond by investigating and controlling communicable disease, investigating complaints and reports and withdrawing unsafe/unsound food.
- Trading Standards staff undertake work in relation to animal feeding-stuffs controls although there are links into food standards through misleading claims.
- Animal Health Officers undertake primary production activities which include integrating food hygiene and feed into the animal health inspection for targeted businesses.

The service priorities detailed in the Food Safety Law Enforcement Service Plan, which are determined through statutory activities; the Food Law Code of Practice; national, local and service priorities. The Council's Enforcement Policies, food safety procedures and internal monitoring and standards inform the standards for this work.

2.4 Laboratory Arrangements

The Council has a formal Service Level Agreement with Glasgow Scientific Services (GSS) for the provision of laboratory services, including the microbiological examination of foodstuff including feed. We are required to provide specialist support services and this plan seeks approval of Glasgow Scientific Services and named staff to meet the requirements for a public analyst; food examiner and agricultural analyst. Formal arrangements are in place for 2014-15 and these appointments (Appendix II) form part of the formal endorsement of this plan

2.5 Professional Support Network

The service works closely with the Food Standards Agency Scotland, the Scottish Food Law Enforcement Liaison Committee, the Crown Office (Procurators Fiscal) and NHS Highland. The service benefits from the support of the Royal Environmental Health Institute of Scotland, the Society of Chief Officers of Environmental Health in Scotland, and the Society of Chief Officers of Trading Standards in Scotland.

The service values and participates as is appropriate and relevant to do so, within established inter-authority liaison and professional network mechanisms operating within Environmental Health and Trading Standards in Scotland. Of specific note are the FSA Shellfish Enforcement Group, the SFELC Approved business Inspection Working Group, the Food Hygiene Information Scheme Working Group, West of Scotland Food Liaison Group; Environmental Health/ NHS Highland Liaison Group; the Scottish Fish and Shellfish Hygiene Working Group and SCOTSS Animal Feedstuff Group. The Service is also a subscribing member of Camden BRI.

2.6 Food and Feed Safety in Argyll and Bute

The nature, type and scale of food and feed businesses in Argyll and Bute are influenced by its geography and infrastructure and these factors can create some difficulties in delivering the statutory work. Examples of these are:-

- A high number of incidents and trade withdrawals with a regional and international scope. This also has a significant impact on the work of the service.
- An atypical high number of approved manufacturing and processing food establishments, utilising specialist processing techniques and technology and Home Authority requests for assistance and advice.
- A significant seafood industry, which has a significant impact on the work of the service and includes a separate shellfish team, which delivers the monitoring programmes for biotoxin and classification of shellfish harvesting waters through a contract with the Food Standards Agency.
- Decentralised area offices pose specific challenges to ensure that there is adequate support provided to field staff and to ensure and promote consistency. This support includes training, specialist support, quality auditing and the management and direction of staff within the decentralised area offices.
- There is a significant officer time spent travelling as part of their operational work. The service is seeking to reduce this through the flexible and mobile working, through integrating roles where practical with other officers, and the improved use of information technology, with the objective of improving productivity.

2.7 Uniqueness of Argyll and Bute Council as a “food authority”

- 2.7.1** The Service has responsibility for 2020 food premises and an estimated 1500 feed premises in Argyll and Bute excluding the businesses which operate on a temporary or ad-hoc basis. The premises are divided into risk inspection bands.

Food

Category	Minimum Inspection Frequency	Number of Establishments
A	Every 6 months	14
B	Every 12 months	107
C	Every 18 months	583
D	Every 2 years	261
E	Use other intervention strategies	717
Unrated		338

Feed

Category	Minimum Inspection Frequency	Number of Establishments
A	Yearly	7
B1	2 yearly	29
B2	5 yearly	251
C	Use other intervention strategies	32 recorded, but true figure expected to be in excess of 1200

- 2.7.2** We have a strategy in place to deliver the national E.coli 0157 cross contamination guidance. To allow us to meet this with our limited resource, we have an exemption from the Food Standards Agency from the programmed inspections for category C and D premises which enable us to visit these premises when our strategy specifies, rather than using the Code of Practice. High risk premises are visited in accordance with the Code of Practice.
- 2.7.3** There are 64 approved establishments (smokeries, shellfish processors and harvesters etc) compared to other Scottish local authorities, this amounts to the third highest number in Scotland. These operate processes that potentially pose a higher risk to food safety and fall to be inspected by the service more frequently and in greater depth. A significant proportion of them use critical ingredients within traditional 'artisan' style products. The technical challenge in approving such processes, together with the ongoing verification of safety, during inspections is significant. These establishments also embody increased political risks for the Council and commercial risks and opportunities for the local economy, in that they distribute high risk products throughout the UK and in fact globally.

Fish processing	Shellfish Processing	Dairy	Meat / meat products
28	23	7	6

Consistent with council policy in Argyll and Bute, the service will continue to work with these businesses to promote food safety standards.

- 2.7.3** Argyll and Bute Council has 54 shellfish classified sites and 7 being considered. These waters are classified for the growing and harvesting of shellfish and there may be restriction in their use due to the microbiological quality of water or shellfish flesh. The service undertakes a monitoring programme which is designed to ensure that shellfish being harvested are safe in food safety terms. These also require businesses to continue trading, as there is a requirement for all waters to have a minimum of six samples annually to maintain their classification. This work is undertaken by a dedicated team of four officers who also carry out the shellfish biotoxin sampling work which is funded directly by the Food Standards Agency Scotland.

2.7.4 Recognising Good Business

We participate in the national awards relating to the Food Hygiene Information Scheme and the EatSafe Awards which are run by the Food Standards Agency Scotland. Both recognise good businesses in terms of food hygiene and provide information to allow the consumer to make an informed choice. In Argyll and Bute, we have 121 awards out of a total of 1095 in Scotland.

3. SERVICE PLANNING PROCESS

3.1 Service Plan

The Food and Feed Safety Service Plan is submitted to the Planning, Regulatory Services and Licensing Committee for approval. The plan represents the recommendations of the Regulatory Services Manager as to the level of service and scope of work required to meet the statutory obligations placed on the Council.

It should be noted that the service does not have adequate resources in place to undertake the full requirements of the Food and Feed Safety Codes. We therefore adopt a risk based approach focussing resources to areas of highest risk. This approach allows us to focus on high and medium risk activities, service requests, food alerts and incidents where there are suspected or confirmed risks to food or feed safety or health. A key aspect of our work is alternative enforcement where we provide support to low risk businesses to allow them to make the right decisions in how they manage their businesses; and to consumers to allow them to make “informed choices”. Examples of the latter are the Food Hygiene Information Scheme and the EatSafe awards which are in place in Argyll and Bute

This approach to managing risk through the effective targeting of resources is wholly appropriate although the risk is that the Food Standards Agency are likely, through formal audit, to raise a major non-conformance that the Council do not have significant resources to deliver the Food Safety Code or the full feed safety intervention role or record-keeping requirements.

3.2 Review

The service plan is reviewed annually and otherwise in light of indicated need having regard to many issues including performance standards, service management and auditing; areas identified for improvement and emerging or new demands specific tasks and targets.

4. SERVICE REVIEW – PAST YEAR (2013-14)

4.1 Summary Food Service Plan Review 2013-2014

The main achievements in 2013-14 were:

1. The service has met its programmed interventions target of 100% for high risk premises and we have implemented the E.coli 0157 cross contamination strategy 2014-2017
2. We have undertaken a range of alternative enforcement activities which are designed to support businesses who may not be the subject to formal inspection in the course of the year, and to provide more informed advice to consumers.
3. Our focus on developing our own staff and ensuring competency and currency continues. We have delivered the food training plan.

4. We continue to support the national Food Hygiene Information Scheme and the EatSafe award schemes, which reward businesses with good food safety systems in place and provide information to the consumer on food hygiene standards so they can make an informed choice where they eat.
5. We have supported the economy of Argyll and Bute thorough our regulatory work and in particular, we continue to certify consignments of food to China, Russia and other markets. This is significantly increased our workload, but is significant in assisting business develop into new markets.
6. Of significance operationally, has been a number of service related issues which have had an impact locally and nationally. These include:
 - Investigation of an outbreak of salmonella in a private school, which was food related. This is the largest outbreak of Salmonella. Hofit reported in the UK (rare strain) and the measures implemented through our public health incident plan, assisted in preventing wider spread of the illness within the wider community.
 - Working with other agencies, we are working to combat shellfish fraud and the placing of shellfish from unclassified waters onto the market. This included a successful seizure of razors with a value of £45,000 in Oban.
 - A major enforcement action and a series of national trade withdrawals relating to locally manufactured products including cheese with dangerously contaminated with *Listeria monocytogenes* bacteria, and the C.botulium risk from inadequately processed smoked fish.
 - Six new applications by prospective new local manufactures of high risk food products purified razor fish and vacuum packaged fin fish).
 - Support and monitor the Loch Fyne Oyster Company as it transitioned to ISI22000 accreditation.
 - Participation within a number of international 'Food Crime' investigations coordinated by the EU.
7. We successfully renegotiated the shellfish monitoring contract with the Food Standards Agency and met all the performance targets stipulated in the contract. This work supports the shellfish sector in Argyll and Bute, as well as protecting food safety.
8. We identified the feed premises currently recorded on our Uniform Trading Standards database & successfully updated the relevant risk ratings from the 2003 Lacors scheme to the 2013 NTSB scheme.
9. We undertook and completed a limited feed sampling programme at local feed transporters.

4.2 There has also been unplanned or reactive work which we have had to respond to, and in some cases this redeploys resources from our planned activities. These tend to be high priority as they may relate to national alerts; the need for formal enforcement action, and are necessary to protect food safety and public health. Some examples of this work include:

- Supported local manufacturing and processing in meeting a significantly increased demand for approval applications.
- Implemented our E.coli 0157 strategy.
- Represented the Council's interests in the development of the 'New Scottish Food Body', which will replace the FSA in 2014/15 which is a significant demand on resources.
- FSA audit of shellfish.
- Tackling shellfish fraud.
- Met significant service requests from the FSA in relation to resource questionnaires on food hygiene, food standards and shellfish as well as enforcement activity and further requests by the FSA to contribute to technical and professional fora.

4.3 Areas which we did not deliver as planned are detailed below and where appropriate, they are carried forward into the 13-14 service plan:

1. We have a total of 342 unrated food businesses and we have been unable to make significant progress in rating them and bring them into our intervention programme. We believe that many are low risk businesses which do not require formal programmed inspections under the code, although they require to be rated. This has been raised at FSA board level and the recent report by Audit Scotland "Protecting Consumers" highlights this failing. A strategy is in place and this will be delivered in 2014/15. We have recruited a temporary EHO to undertake this work in 2014.
2. We were unable to meet all our anticipated milestones for our E.coli or food standards work as insufficient resources in terms of the Food Law Code of Practice results in the focus on hygiene.
3. We have a significant number of low risk feed premises that are not recorded or registered upon either our Trading Standards Uniform database or upon our Feed Registration Access database. As above, we believe that the vast majority are low risk businesses which do not require formal programmed inspections under the code, although they require to be rated.

4.3 Food Monitoring

The focus of the monitoring was on locally produced high risk produce. This includes smoked produce and dairy produce manufactured locally and sold to national and international markets. Formal action, as appropriate, was initiated where the results were unsatisfactory. The table indicates that there was an increase in microbiological samples taken in 2013-14 but compliance levels were above 92%

FOOD SAMPLES	2010/2011		2011/2012		2012/2013		2014-15	
	No. Taken	No. satisfactory	No. Taken	No. satisfactory	No. Taken	No. satisfactory	No. Taken	No. satisfactory
Food – Composition	68	64	21	18	43	40	91	88
Food- Microbiological	199	187	65	52	97	93	98	91

Shellfish

The shellfish biotoxin and classification of shellfish harvesting areas continues. This work has been funded by the Food Standards Agency Scotland and there is a team of four dedicated staff which has implemented and delivered this programme working in conjunction with the shellfish industry. The work undertaken in 2013-2014 was as follows:-

	Number of sampling sites	Number of samples taken	Number of satisfactory samples
Shellfish Biotoxins/ Classification of shellfish waters	62	1469	35
Narrative Shellfish is an important sector in the food industry in Argyll and Bute Council. Of the 1060 samples taken, 98% met the required standards for biotoxins and water classification. Of the samples which failed to meet the standards, action was taken by the service in conjunction with the harvesters or operators to ensure that the shellfish did not enter the food chain. This resulted in the service of 7 temporary closure notices (biotoxins) and 10 voluntary closure agreements. These sites remained closed until standards had improved and the shellfish did not pose a risk to food safety.			

4.4 Food Complaints Investigations

The service received 21 food related complaints which required action, a reduction of 38 from 12/13. These complaints ranged from the sale of out of date food to foreign bodies in food.

4.5 Communicable Disease Investigations/Food Alerts

The service continued to respond to suspected or confirmed cases of food-borne disease and also to the formal food alerts issued by the Food Standards Agency.

4.6 External Audit and Internal Monitoring

An audit of our shellfish monitoring contract was undertaken by the Food Standards Agency in August 2013. The audit was generally positive but highlighted a number of areas for improvement. An action plan was developed and approved by the Councils PPSL Committee. The action plan is now complete and we are in the process of reporting this to the Food Standards Agency.

4.7 Enforcement Action

The Service seeks to achieve statutory compliance and protect food safety through the ethos of supporting business. In the period 2013-14, this work entailed –

	2010-11	2011-12	2012-13	2013-14
Total number of visits:-				
Programmed inspections	794	779	726	489
Other inspections	64	42	16	105
Revisits	47	44	55	35
% of premises broadly complaint (excludes unrated)	90.3%	90.7%	91.6%	91.4%
Number of Hygiene Improvement Notices served	34	13	12	8
Number of Hygiene Prohibition Notices served	0	0	0	0
Number of Remedial Action Notices served	1	3	10	6
Number of prosecutions	1	0	0	1

As a result of the E.coli strategy, our programmed inspections based on the code of practice have decreased as we have an exemption for medium risk (C and D) premises.

5. SERVICE PRIORITIES AND WORKPLAN 2014-15

- 5.1 This service plan details the planned activities and priorities for 2014-15 although these are likely to change with the implementation of a new code of practice, which is anticipated in June and by the formation of the new Scottish Food Body, Food Standards Scotland. These will require us to review the Food and Feed Service Plan.

Notwithstanding this, there are a number of key priorities that our Food Safety Service Plan is founded upon:

- The principal food safety enforcement activity undertaken by the Council is that done by Officers in carrying out planned food hygiene and food standards inspections. This work is influenced by the codes of practice and the Councils E.coli cross contamination strategy.
- Monitoring of food and shellfish.
- Investigating of reactive work. This arises from a range of sources and may include communicable disease and food related illness, significant enforcement activity; national and local; food withdrawals and emerging issues.

These reactive demands will be assessed based on risk, and adequately resourced. Generally this work will be undertaken at the expense of planned activity.

- 5.2 The design of this service is based on the Council's statutory duties that devolve from Regulation (EC) 882/2004, the Food Safety Act, 1990, and the Official Feed and Food Controls (Scotland) Regulations 2009 to monitor and ensure minimum standards of food and feed safety within Argyll and Bute.
- 5.3 It is our intention to meet the requirements of the code of practice for high and medium risk food and feed safety work and that low risk premises will be subject to an alternative enforcement strategy. The implications of the E.coli guidance are likely to increase our workload although the implications of this are still to be determined. Where we have limited resources, we aim to deliver this service plan and to take a risk-based approach focussing resources of the higher risk priorities.

This approach does not, however, meet the requirements of the Framework Agreement and the Food Law Code of Practice from the Food Standards Agency. The targets set by the service for Members approval to be met as of 31st March 2015, are:-

- High risk visits 100%
- 70% completion of the alternative enforcement workplan
- 50% of the E.coli 0157 interventions plan (2014-17)
- Complete the rating of 338 unrated food hygiene

5.4 The priorities for the food service plan for 2014-15, including 5.3 above, are:-

1	Continue to deliver our E.coli cross contamination strategy, which implements national guidance into the food sector and associated sectors.					
2.	Undertake the interventions programme for food hygiene, food standards; feed and primary production, which includes alternative enforcement targeted at low risk businesses					
		A	B	C	D	E
	Food Hygiene	13	54	234	114	52
	Food Standards	5	18			
	Feed	7	B1 – 15 B2 – 50	7		
3.	Build upon the work undertaken in 2013 and 2014, by continuing an investigation into the wider extent of non-compliance and Food Fraud within the wild shellfish sector,					
4.	Provide advice and support to the management of the Council's various catering operations, in relation to protection of the Councils customers and compliance with the FSA's Cross Contamination Guidance, in relation to the refurbishment of Council kitchens and the central validation of cleaning and disinfection regimes.					
5.	Improving our performance in meeting the COP. To review update and revise our food safety plans, policies and procedures, in accordance with our plan, to reflect emerging operational realities, new service delivery arrangements; pending audits and changes to the Food Law Code of Practice or internal service issues					
6.	Complete the work to rate the "unrated" food hygiene businesses					
7.	Seek to extend the contract with the FSA and continue to deliver the shellfish monitoring programme, developing working relationships with the sector.					
8.	Continued promotion of EatSafe and the Food Hygiene Information Scheme					
9.	Undertake a 'GAP Analysis' with the intention of developing a report and recommendations, in relation to the position of the Service in relation to the requirements of the revised Codes of Practice and the new Food Body for Scotland.					
10	Continued commitment to staff development and workforce planning to ensure a competent and authorised workforce. This will be delivered through our training plan; performance development review and targeted training/mentoring and coaching					
11	Implement and close Action Plan agreed with FSAS following audit of shellfish sampling activities in 2013.					
12	Participation within 'Operation Tacana' – The FSA/Police response to Food Fraud and Food Crime within the razor fish sector.					
13	Participate within and cooperate with the food safety arrangements supporting the Commonwealth Games 2014.					

5.5 Interim – Forecasting

The longer term horizon is currently unclear, pending a number of significant developments, including the issue of a New Food Law Code of Practice, and a succeeding version of the Code, the advent of the Food Standards Scotland (superseding the Food Standards Agency Scotland) and the emergence of the Food Crime agenda, However a number of key new priorities can be anticipated for the Food Service plan

which will be considered in the course of this year. These are likely to include:

1	The emergence of 'Food Crime'. This is significant emerging operational agenda and is characterised by criminal intent, frequently on the part of international organised crime as well as criminal intent on the part of established Food business Operators.
2.	Revise Enforcement Policy and Procedure and also provide Officer training in preparation for the implementation of the Food Law Code of Practice 2014.
3.	Influence, develop and participate within new working relationships and new operational delivery models with Food Standards Scotland.
4.	Revise Enforcement Policy and Procedure and also provide Officer training in preparation for the implementation of enhanced enforcement powers, including statutory notices for Food Standards and possible the spot fines.
5.	Continue to participate within the Working Group developing the succeeding Food Law Code of Practice.
6.	Revise Enforcement Policy and Procedure and also provide Officer training in preparation for enforcement in relation to Food Crime and Food Fraud.
7.	Revise Enforcement Policy and Procedure and also provide Officer training in preparation for the enforcement of the Food Information Regulations.
8	Consider and prepare & report on the likely impact of the amalgamation of Food Hygiene and Food Standards into overarching concept of Food Control.
9	Consider and prepare a report on the anticipated impact of the Regulators Strategic Code in Scotland

5.6 Other service issues

We will continue to:-

- i. Works in partnership with NHS Highland in the investigation of reports of food communicable disease, and more specifically food-borne illness
- ii. Focus our sampling activity on high-risk locally produced goods
- iii. Work with partners including other local authorities, the business sector and the Food Standards Agency
- iv. Provide for an effective and appropriate response to Food Alerts and Food incidents issued by the Food Standards Agency Scotland where all alerts are considered immediately and appropriate action is taken.

6. RESOURCES

6.1 Financial Resources

The table below provides an indication of the Food Safety Law Enforcement budget for 2014-2015 and illustrates an increase of 8%. This excludes the shellfish biotoxin project which is wholly funded through a contract with the FSAS to the 31st March 2015

	FOOD	FEED
Employee costs	415,000	7,500
Training & Resource Materials	2000	500
Transport & Carriage Costs	Included in laboratory costs	Included in laboratory costs
IT & communications	1,000	
Laboratory costs	66,700	2000
Total	£484,700	£10,000

6.2 Staffing Allocation

All Enforcement Officers hold the qualifications described in the Food Safety Codes of Practice for Food Safety; Food Standards and Feed under the Council's Scheme of Delegation. The Service has an established procedure for the Authorisation of Enforcement Officers and Appendix II details the specific authorisations for Officers. These fall to be reviewed on a regular basis depending, and may change in the course of the period of the Service Plan.

6.3 Staff Development Plan

The Council operates a Performance Review Development scheme, designed to identify and progress training and development opportunities for its employees. To maintain the currency and competency of authorised officers, we meet the requirements within the COP in relation to Food specific CPD (minimum of 10 hours annually).

7. MANAGEMENT

7.1 Quality Management

Regulatory Services is committed to the provision of a quality service founded upon plans policies, procedures, training, education, mentoring and other support mechanisms allied with performance management and auditing.

8. SUMMARY

8.1 Key Priorities for 2014-15

- Work with Scottish Government and the Food Standards Agency Scotland on the introduction of the new Scottish Food Safety Body 'Food Standards Scotland'. The current proposals are for Food Standards Scotland to be established in April 2015.
- Continue to deliver our E.coli 0157 cross contamination strategy.
- Engage with FSA on the EC review of official controls in 2014/15 and review our service plan accordingly.
- Conclude review of unrated premises.
- Conclude review of export certification procedures and charges in line with proposed national guidance that will be issued in 2014.
- Tackling reported shellfish fraud, including participating in 'Operation Tacana' with police and other partner agencies
- Implement and close action plan agreed with FSAS following audit of shellfish sampling activities in 2013.

8.2 The service aims to meet the following inspection targets for food hygiene; food standards and feed for 31st March 2015 are:

- High risk visits 100%
- Medium risk visits 90%
- 70% completion of the alternative enforcement work plan
- 50% of the E.coli 0157 interventions
- Complete the rating of 342 unrated food hygiene

Approved	Regulatory Services Manager	
Endorsed by Council	PPSL Committee	

Regulatory Services Manager

REGULATORY SERVICES SERVICE CONTACT ARRANGEMENTS

Contact arrangements and details

Regulatory Services are accessible at offices of the Council located in all larger towns within the Council area. Service requests can be initiated by telephone, fax, video conference, e-mail or in person. The various office locations are as follows:

Offices where staff are based:

EAST	Dunoon Service Point, Hill Street, Dunoon
	Blairvadach, Shandon, Helensburgh
	Eaglesham House, Mount Pleasant Road, Rothsay (Environmental Health only)
WEST	Municipal Buildings, Albany Street, Oban
	Area Office, Manse Brae, Lochgilphead

Regulatory Services can be contacted by telephone on **01546 605519**.

Regulatory Services staff can also be seen by appointment at any location within Argyll and Bute or at the Council's other Customer Service points:

Islay Service Point, Jamieson Street, **Bowmore**, Isle of Islay, PA43 7HL

Campbeltown Service Point, Burnet Building, St John Street, **Campbeltown**, PA28 6BJ

Mull Service Point, Breadalbane Street, **Tobermory**, Isle of Mull, PA72 6NZ

Tiree Service Point, The Business Centre, **Crossapol**, Isle of Tiree, PA77 6UP

Colonsay Service Point, **Scalasaig**, Isle of Colonsay, PA61 7YW

Jura Service Point, Schoolhouse, **Craighouse**, Isle of Jura, PA60 7XG

Regulatory Services management can be contacted at Kilmory, **Lochgilphead**, PA31 8RT, telephone 01546 605519, fax 01546 604410.

The service can be contacted by email .

Advice and information on occupational health and safety is published on the Council's website www.argyll-bute.gov.uk.

FORMAL AUTHORISATIONS AND APPOINTMENTS**PUBLIC ANALYST, FOOD EXAMINERS, AGRICULTURAL ANALYSTS**

In terms of the Food Safety (Sampling and Qualifications) Regulations 1990, the following staff members hold the Mastership in Chemical Analysis qualifications awarded by the Royal Society of Chemistry and are eligible for appointment as Public Analysts:

Gary Walker	Scientific Services Manager
Jane White	Public Analyst

Food Examiners

In terms of the Food Safety (Sampling and Qualifications) Regulations 1990, the following staff members hold academic qualifications listed in Part 1 of Schedule 2 and have attained the minimum three year experience requirement in the laboratory listed in Part II of the Schedule:

Gary Walker	Scientific Services Manager
Jane White	Public Analyst
Karen Platt	Microbiologist
Dawn Neeson	Microbiologist
Alison Laird	Microbiologist

Agricultural Analyst

Under the terms of the Feeding Stuffs (Sampling and Analysis) Regulations 1999, the following staff members, holding the Mastership in Chemical Analysis awarded by the Royal Society of Chemistry and whose practical experience as agricultural analyst, has been attested, are eligible for appointment as Agricultural Analyst or Deputy Agricultural Analyst.

Gary Walker	(Agricultural Analyst) Scientific Services Manager
Jane White	(Deputy Agricultural Analyst) Public Analyst

Continuing Professional Competence

For information. In keeping with the requirement that these appointees meet all relevant legal requirements and Food Safety Act Codes of Practice shall be satisfied, the Scientific Services Manager, Gary Walker, reports that the following holders of the Mastership in Chemical Analysis qualification have successfully satisfied the audits of the scheme operated by the Association of Public Analysts during the calendar year to December 2010.

Gary Walker	Scientific Services Manager
Jane White	Public Analyst

ARGYLL AND BUTE COUNCILS AUTHORISED OFFICERS UNDER FOOD SAFETY ACT 1990

The following Officers are appointed under the Food Safety Act 1990 as “authorised food officer”. Their powers of authorisation vary depending upon qualifications, experience, post and competency. The undernoted details the specific authorisation levels for Authorised Officers.

Food Hygiene and Food Standards

Powers	Visit, access and inspection	Sampling		Seizure and detention		Service of Hygiene Improvement Notice		Service of Temporary Closure Notice		Service of Remedial Action Notice		Service of Emergency Prohibition Notice		Approval of Businesses Regulation (EC) 853/2004
		Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	
Alan Morrison	✓	✓	✓	✓	✓			✓				✓		
Andy MacLeod	✓	✓	✓	✓	✓			✓				✓		
Environmental Health Manager														
Jo Rains	✓	✓	✓	✓	✓	✓		✓						
Vacant														
Richard Gorman	✓	✓	✓	✓	✓	✓		✓						
Jacqui Middleton	✓	✓	✓											

Powers		Visit, access and inspection		Sampling		Seizure and detention		Service of Hygiene Improvement Notice		Service of Temporary Closure Notice		Service of Remedial Action Notice		Service of Emergency Prohibition Notice	
		Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards
		✓	✓	✓	✓					✓					
Christine McLachlan	Regulatory Services Officer	✓	✓	✓	✓	✓	✓	✓		✓					
Marci Gillan	Regulatory Services Officer	✓	✓	✓	✓	✓	✓	✓		✓					
Mary Watt	Environmental Health Officer	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓			
Dave Chapman	Regulatory Services Officer	✓	✓	✓	✓	✓	✓	✓	✓	✓					
Patrick Mackie	Environmental Health Officer	✓	✓	✓	✓	✓	✓	✓	✓	✓					
Andrew Hill	Environmental Health Officer	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓				
Zaheer Qamar	Environmental Health Officer	✓	✓	✓	✓			✓		✓					
Ailleachd Vernon	Environmental Health Officer	✓	✓	✓	✓			✓	✓	✓					
Wendy Lilico	Environmental Health Officer	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓			
Iain MacKinnon	Environmental Health Manager – West	✓	✓	✓	✓	✓	✓	✓	✓	✓					

Powers		Visit, access and inspection		Sampling		Seizure and detention		Service of Hygiene Improvement Notice		Service of Temporary Closure Notice		Service of Remedial Action Notice		Service of Emergency Prohibition Notice	
		Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards
Paul Reynolds	Environmental Health Officer	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓			
Sue Stefek	Environmental Health Officer	✓	✓	✓	✓	✓	✓	✓	✓	✓					
Karen MacLeod	Regulatory Services Officer	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓			
Ian Campbell	Technical Officer	✓	✓	✓	✓	✓	✓	✓	✓	✓					
Willie Macquarrie	Shellfish Sampling Officer	✓	✓	✓	✓	✓	✓	✓	✓	✓					
Ewan McDougall	Shellfish Sampling Officer	✓	✓	✓	✓	✓	✓	✓	✓	✓					
Allison Hardie	Shellfish Sampling Officer														
Karen Goodchild	Technical Officer	✓	✓	✓	✓	✓	✓	✓	✓	✓					
David Kerr	Senior Animal Health and Welfare Officer	✓	✓	✓	✓	✓	✓	✓	✓	✓					
William Young	Animal Health and Welfare Officer	✓	✓	✓	✓	✓	✓	✓	✓	✓					
Mark Parry	Environmental Health Officer	✓	✓	✓	✓	✓	✓	✓	✓	✓					

Authorised Feed Officers

Powers			Level of Authorisation		
			No formal qualification – internal training only	Level 1	Level 2
Lee Roberts		Trading Standards Manager			✓
Colin Sutcliffe		Trading Standards Officer (Fraud and Service Support)			✓
Matthew Corns		Trading Standards Officer		✓	
Kathleen Munro		Trading Standards Officer	✓		
James Howard		Trading Standards Officer		✓	
Francis McNutt		Trading Standards Officer		✓	
Val Turnbull		Regulatory Services Officer	✓		
Louise Potter		Regulatory Services' Officer	✓		

Argyll and Bute Council
Food Law Enforcement Policy 2014-15
Extract and Summary

1 Purpose

- 1.1 The Council Food Law Enforcement Policy falls to be approved by Council annually in accordance with the Food Framework Agreement. The purpose of this briefing is to obtain Members approval for revisions to the Enforcement Policies on Food Safety ; Food Standards and Feed which were approved at the Protective Services and Licensing Committee on the 22nd May 2013

2 Recommendations

- 2.1 That Members formally endorse these enforcement policy for Food Safety Law Enforcement and require the Regulatory Services Manager to implement this policy

3 Enforcement Policy

- 3.1 The service ethos to enforcement remains unchanged. It seeks to :-
- Ensure that all enforcement activity is proportionate, consistent to the risks to food safety; statutory requirements and public health
 - Provide an effective food law enforcement service by focusing resources on a risk-based approach
 - That enforcement staff are competent and authorised officers.
 - To protect food safety through working with businesses and the public. As appropriate
 - To support the concept of the "informed consumer".
- 3.2 A revision to current policies has been undertaken against 'emerging regulatory landscape' and our service delivery arrangements. The policy is predicated on proportionate risk-based, enforcement action designed to protect food safety and public health, whilst also avoiding placing undue regulatory burdens upon business. This is consistent with the national better regulation agenda and the pending Scottish Governments Regulators Strategic Code.
- 3.3 The revision has identified that there is no need to significantly amend the enforcement policy although we will review this in the course of this year, once the revised Food Safety Code of Practice and the Scottish Governments Regulators Strategic Code are published.

We have made some changes to the Food Safety Enforcement Policy to detail our policy in the event of actions to be taken in the event of non-compliance and our policy in respect of the emerging issues of food crime nad food fraud. These are detailed in chapters 3 and 4 of the enforcement policy, and are as follows:

- (i) Non-compliance - It is the policy of Argyll and Bute Council, when it identifies non-compliance, to take action to ensure that the Food Business Operator remedies the situation. When deciding which action to take, the

Council shall take account of the nature of the non-compliance and that operator's past record with regard to non-compliance.

- (ii) Food Crime/Food Fraud - It is the policy of the Argyll and Bute Council that when it establishes, on the basis of objective evidence, that there is a deliberate breach of food law relating to food crime and food fraud, to adopt a more immediate and appropriate enforcement action or intervention, rather than the graduated and hierarchical approach to selecting interventions and enforcement action.
- (iii) Shellfish Provenance- that it be our policy of Argyll and Bute Council to consider the provenance of shellfish as critical to food safety, and to comply with Article 5 of Regulation (EC) 852/2004.

- 3.4 The enforcement policy relates to the areas of food hygiene, food standards and feed.

4 **Conclusions**

- 4.1 The existing policies have been reviewed by the service and in my opinion, are sufficient to enable Argyll and Bute Council to meet its duties as "the food authority",

- 4.2 Through this Policy, the Council will continue to provide appropriate food law enforcement designed to protect food safety and public health. There is a programme to review our enforcement procedures in the course of 2013-14. These will be approved by the Regulatory Services Manager, working with the nominated Lead Officers, who will ensure they are consistent with this Policy and national Frameworks.



Regulatory Services Manager; 11th June 2014