

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

*Customer Services*  
*Executive Director: Douglas Hendry*



*Kilmory, Lochgilphead, PA31 8RT*  
*Tel: 01546 602127 Fax: 01546 604435*  
*DX 599700 LOCHGILPHEAD*  
*e.mail –douglas.hendry@argyll-bute.gov.uk*

4 September 2012

## **NOTICE OF MEETING**

A meeting of the **ARGYLL AND BUTE LOCAL REVIEW BODY** will be held in the **COMMITTEE ROOM 1, KILMORY, LOCHGILPHEAD** on **TUESDAY, 11 SEPTEMBER 2012** at **10:30 AM**, which you are requested to attend.

Douglas Hendry  
Executive Director - Customer Services

## **BUSINESS**

- 1. APOLOGIES FOR ABSENCE**
- 2. DECLARATIONS OF INTEREST (IF ANY)**
- 3. CONSIDER NOTICE OF REVIEW REQUEST: LAND NORTH EAST OF HAYFIELD, GLENSHELLACH ROAD, OBAN, ARGYLL**
  - (a) Notice of Review and Supporting Documents (Pages 1 - 12)
  - (b) Responses from Interested Parties (Pages 13 - 32)

## **ARGYLL AND BUTE LOCAL REVIEW BODY**

Councillor Donald MacMillan  
Councillor Sandy Taylor

Councillor Alex McNaughton

Contact: Fiona McCallum Tel: 01546 604392

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Ref:  
AB1

## ARGYLL AND BUTE COUNCIL

[WWW.ARGYLL-BUTE.GOV.UK/\\*\\*](http://WWW.ARGYLL-BUTE.GOV.UK/**)

OFFICIAL USE

Date Received

## NOTICE OF REVIEW

Notice of Request for Review under Section 43(a)8  
of the Town and Country Planning (Scotland) Act 1997 and the Town and  
Country Planning (Schemes of Delegation and Local Review Procedures  
(Scotland) Regulations 2008

**Important** – Please read the notes on how to complete this form and use  
Block Capitals. Further information is available on the Council's Website.  
You should, if you wish, seek advice from a Professional Advisor on how to  
complete this form.

(1) APPLICANT FOR REVIEW	
Name	RHUGARBH LTD
Address	Per CP ARCHITECTS
	110 GEORGE STREET
	OBAN, ARGYLL.
Postcode	PA34 5NT
Tel. No.	01631 563177
Email	mail@cparchitects.net

(2) AGENT (if any)	
Name	CP ARCHITECTS
Address	110 GEORGE STREET
	OBAN
	ARGYLL
Postcode	PA34 5NT
Tel. No.	01631 563177
Email	mail@cparchitects.net

(3) Do you wish correspondence to be sent to you ☐ or your agent ☒

(4) (a) Reference Number of Planning Application

11/02514/PPP

(b) Date of Submission

19 DECEMBER 2011

(c) Date of Decision Notice (if applicable)

4 MAY 2012

(5) Address of Appeal Property

LAND NORTH EAST OF HAYFIELD,  
GLENSHELLACH ROAD, OBAN,  
ARGYLL,

(6) Description of Proposal

SITE FOR THE ERECTION OF NEW  
HOUSING DEVELOPMENT COMPRISING  
4 AFFORDABLE FLATS AND 7  
DWELLINGHOUSES.

(7)

Please set out the detailed reasons for requesting the review:-  
CONDITION 3 .

REQUIREMENT TO UPGRADE APPROX 300M OF PUBLIC ROAD :  
REFER ATTACHED SUPPLEMENTARY SHEET.

☐ If insufficient space please continue on a separate page. Is this is

**NOTICE OF REVIEW – PLANNING CONSENT 11/01514/PPP**  
**Question 7 – Detail reasons for requesting a review.**

The condition no3 Roads Improvement to Glenshellach Road has been imposed by Roads Department / Planning after the numerous pre application consultations and during the processing period of the application and after representation from adjoining landowners / developers.

This condition as it stands makes the development for private and affordable housing uneconomic and therefore this site development will not be able to address the severe shortage and demand for affordable housing in this area.

There are various reasons why this condition is unreasonable and should be reviewed :

1. Planning Policy / Previous Consents.

The site forms part of a PDA (H-AL5/4) with the Phase 1 development of 12 units already complete. The density of the PDA is limited to 23 units with 25% affordable housing quota requirement and makes no reference to wholesale upgrade of the public road.

A previous outline consent for 4 no plots Ref 07/00522/OUT was granted in September 2008 with no condition applied for upgrade of Glenshellach Road included.

The adjacent site to the North under PDA (H-AL5/3) has a much higher density designation of 40 units which has subsequently been significantly increased to 70 no total under Planning Consent Ref 09/01166/PP issued 18 December 2009. This development of 38 no units (plus 32 future provision) has significantly increased density provided to take account of any road upgrade requirements.

It is unlikely that a comparable increase in density of 75% (from 14 units to 25 units) within Phase 2 would be achievable or acceptable given the Phase 1 development layout and density already built.

2. Consultation.

There has been considerable consultation with Planning in August 2010, January 2011, March 2011 and September 2011 to finalise and agree the layout and density of the scheme including footpath links to Glenshellach Road.

At no point during this consultation period did Planning raise any issue with regard to any upgrade of the public Glenshellach Road despite the consent already granted for 38 units within land to the North under PDA (H-AL5/3) and consent Ref 09/01166/PP.

It is therefore deemed unreasonable that Planning apply this onerous condition at this stage.

3. Land Ownership

The condition no3 requires provision of a 6m wide road, 2m footpath and 2m verge on land outwith the development site boundary and on land under different ownership.

As a significant portion of the land is outwith our clients ownership and control this will result in extreme difficulties in seeking legal agreement and will add significant additional cost (and time delay) to obtain sufficient ground to comply with the said condition.

4. Cost

The development of Phase 2 under the previous consent Ref 07/00522/OUT granted September 2008 was not able to be progressed as a result of the changing economic climate and funding restrictions.

This required an increased density which was previously agreed through extensive consultation with Planning to 14 units total including provision of 4 units of affordable housing.

The 300m road upgrade of Glenshellach Road to 6m wide with 2m footpath and verge will result in approx. additional development costs of £1000/linear metre (£300k at present) and if rock is encountered could rise to 1M.

This results in the current scheme being economically unviable given the 14 unit scheme currently proposed.

In addition there would also be legal and ground acquisition costs to enable the road upgrade on land outwith the clients ownership. (approx. 230m)

(8) If the Local Review Body determines that it requires further information on "specified matters" please indicate which of the following procedure you would prefer to provide such information :-

- (a) Dealt with by written submission ☐
- (b) Dealt with by Local Hearing ☐
- (c) Dealt with by written submission and site inspection ☒
- (d) Dealt with by local hearing and site inspection ☒

*NB It is a matter solely for the Local Review Body to determine if further information is required and, if so, how it should be obtained.*

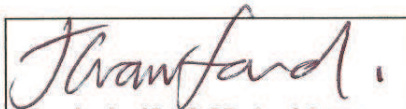
(9) Please list in the schedule all documentation submitted as part of the application for review ensuring that each document corresponds to the numbering in the sections below:-

**Schedule of documents submitted with Notice of Review (Note: 3 paper copies of each of the documents referred to in the schedule below must be attached):**

No.	Detail
1	DRAWING CP:268:L10 SITE PLAN AS PROPOSED PHASE 2
2	DRAWING CP:268;L-01 LOCATION PLAN
3	DRAWING J161/C/02 REV E ENGINEERS DRAINAGE LAYOUT
4	SUPPLEMENTARY SHEET TO QUESTION 7.
5	
6	
7	
8	
9	
10	

If insufficient space please continue on a separate page. Is this is attached? ☐ (Please tick to confirm)

Submitted by  
(Please Sign)

  
On behalf of CP Architects

Dated 2<sup>nd</sup> AUGUST 2012

**Important Notes for Guidance**

1. All matters which the applicant intends to raise in the review must be set out in or accompany this Notice of Review
2. All documents, materials and evidence which the applicant intends to rely on in the Review must accompany the Notice of Review UNLESS further information is required under Regulation 15 or by authority of the Hearing Session Rules.
3. Guidance on the procedures can be found on the Council's website – [www.argyll-bute.gov.uk/](http://www.argyll-bute.gov.uk/)
4. If in doubt how to proceed please contact 01546 604406 or email [localreviewprocess@argyll-bute.gov.uk](mailto:localreviewprocess@argyll-bute.gov.uk)
5. Once completed this form can be either emailed to [localreviewprocess@argyll-bute.gov.uk](mailto:localreviewprocess@argyll-bute.gov.uk) or returned by post to Committee Services (Local Review Board), Kilmory, Lochgilphead, Argyll, PA31 8RT
6. You will receive an acknowledgement of this form, usually by electronic mail (if applicable), within 14 days of the receipt of your form and supporting documentation.

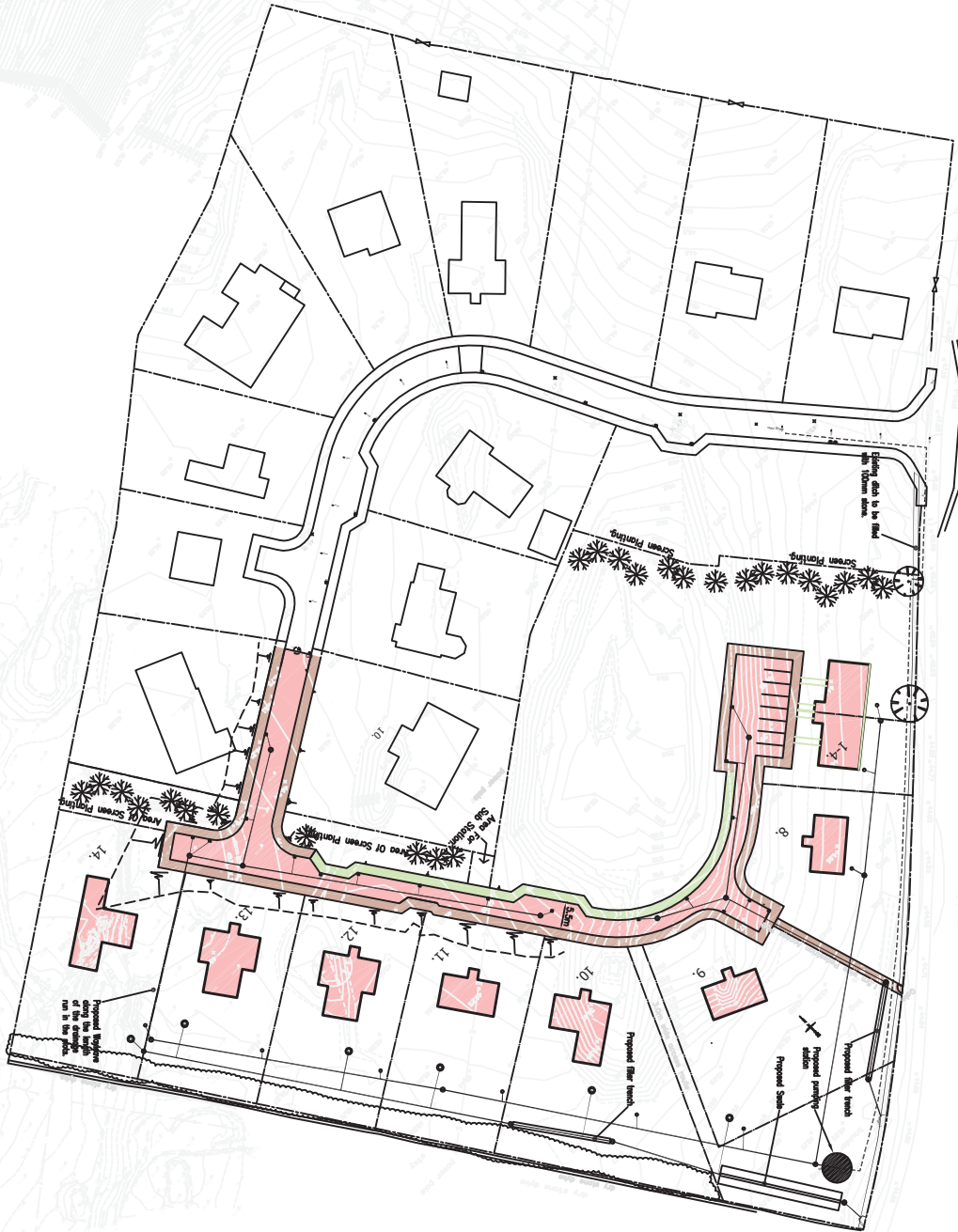
If you have any queries relating to the completion of this form please contact Committee Services on 01546 604406 or email [localreviewprocess@argyll-bute.gov.uk](mailto:localreviewprocess@argyll-bute.gov.uk)

**For official use only**

Date form issued

Issued by (please sign)

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LEGEND	
PROPOSED ST. SEWER	—●—
PROPOSED FOL. SEWER	—○—
EXISTING FOL. SEWER	—○—
PROPOSED STORM MAIN	—●—
PROPOSED DRAIN	—●—
PROPOSED FOL. PROTECTION CHAMBER	—●—
PROPOSED FOL. PROTECTION CHAMBER	—●—
PROPOSED FOL. PROTECTION CHAMBER	—●—

PROPOSED DEVELOPMENT	
Hayfield	
PROPOSED DRAINAGE LAYOUT	
Scale 1:1	
1/100	1/100
21/04/11	21/04/11
21/04/11	21/04/11
21/04/11	21/04/11
CIVIL DESIGN CONSULTANTS LTD	
Civil & Structural Engineering & Development Services	
10A, Market Street	
Tel: 01299 270982	
Fax: 01299 270983	
Email: info@civildesign.co.uk	
Web: www.civildesign.co.uk	
For Approval	
Drawn: J161/C02	Rev: E

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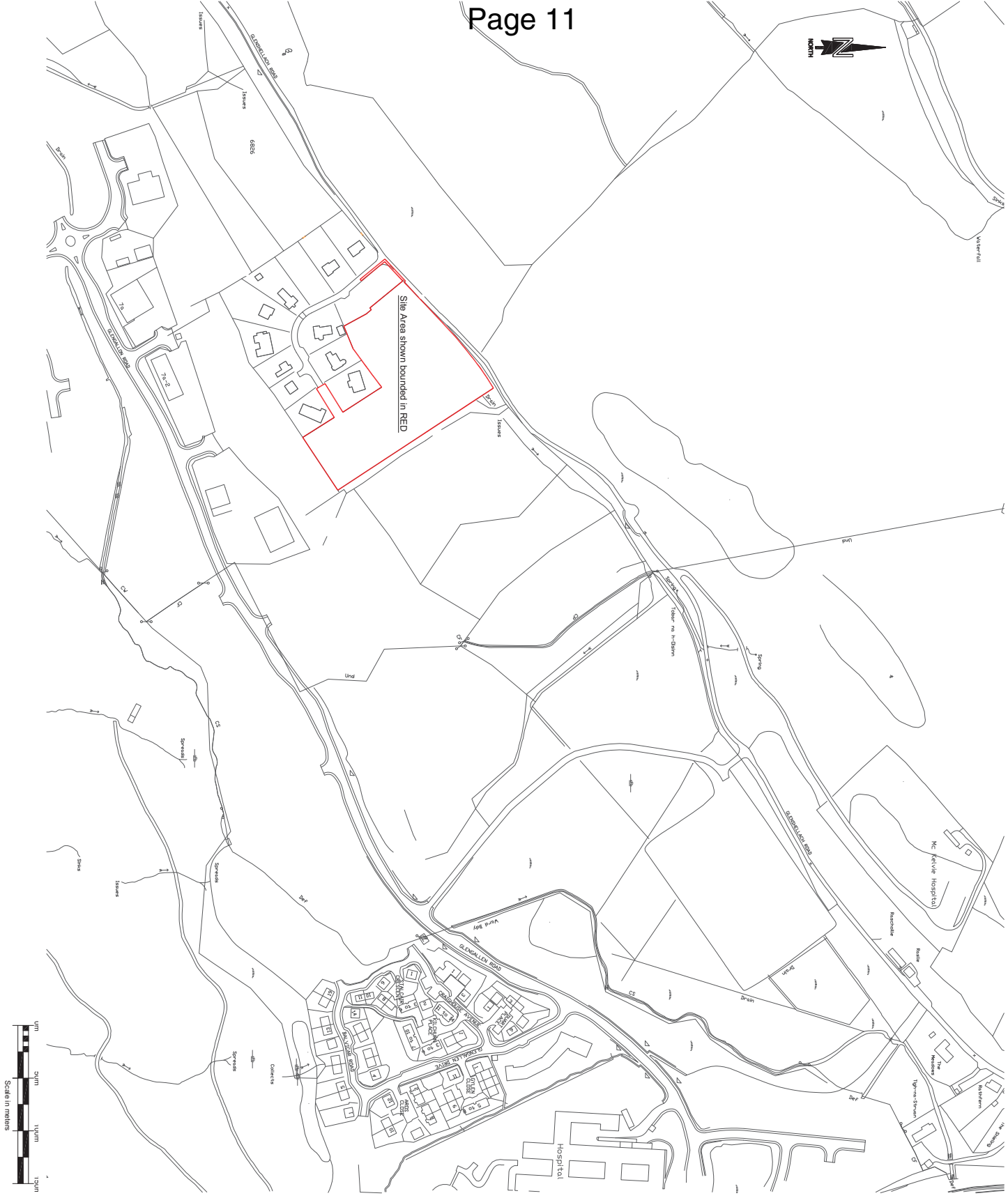


**PHASE 2 DEVELOPMENT**  
OUTLINED IN RED  
DEVELOPMENT COMPRISING :  
4 NO 2 BED FLATS  
7 NO BUILDING PLOTS.  
HOUSE SIZE INDICATIVE TO PLOTS 5 - 11.



REV	DESCRIPTION	DATE
PROJECT TITLE		
PH1 GARE LTD.		
PROPOSED PHASE 2 DEVELOPMENT AT :		
HAYFIELD, GLENFELACH, ORAN, ARGYL.		
JOB NUMBER		
CP-268	DRAWING NUMBER	REV
	L-10	( )
DRAWING TITLE		
SITE LAYOUT		
PHASE 2		
SCALE		
1:500 @ A1	DATE	SEPT 2011
CP architects		
Chartered Architects and Planning Supervisors		
110 George Street, Glasgow, G2 7HT		
e-mail: info@cparchitects.net website: www.cparchitects.net		

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THIS DRAWING IS TO BE USED IN CONJUNCTION WITH THE  
CONDITIONS OF SALE AND THE ARCHITECT'S SPECIFICATION.  
ANY DISCREPANCIES TO BE REFERRED TO THE ARCHITECT

NOTES

REV.	DATE	DESCRIPTION
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CLIENT  
**RHUGARVE LTD**

PROJECT TITLE  
**Proposed Phase 2 Development  
Hayfield, Glenshellach Road,  
Oban, Argyll.**

JOB NUMBER	DRAWING NUMBER	REV.
CP:268	L-01	

DRAWING TITLE  
**Location Plan**

SCALE	DRAWN	DATE
1:2500 @ A2		Dec '11.

**CP**architects  
Chartered Architects and Planning Supervisors  
110 George Street, Oban, Argyll, PA34 5NF  
T. 01631 563 177 F. 01631 563 234  
e-mail: [mail@cparchitects.net](mailto:mail@cparchitects.net) website: [www.cparchitects.net](http://www.cparchitects.net)

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16 Gordon Street  
Glasgow G1 3PT

Our ref: DXC/AB/154623/J023503/L005

T +44 (0)141 226 8200  
F +44 (0)141 226 8210  
glhearn.com

Argyll and Bute Council  
Customer Services  
Kilmory  
Lochgilphead  
Argyll  
PA31 8RT  
**Fao Fiona McCallum**

14 August 2012

Dear Fiona

**Local Review Body Reference: 12/0011/LRB**  
**Planning Application Reference: 11/02514/PPP**  
**Land North East of Hayfield, Glenshellach Road, Oban**

I refer to your letter of 3 August 2012 notifying me of the Notice of Review that has been submitted relative to the above, and with particular reference to condition no. 3 of the permission that was granted under delegated powers. I now write on behalf of my clients, M&K MacLeod, to reiterate their views on this matter, as previously expressed in my letter of 31 January 2012 relative to the planning application.

Condition no. 3 of 11/02514/PP establishes that:

'no development shall commence or is hereby authorised until the existing single track Glenshellach Road is upgraded to the Council's adoptive standards, including widening to 6 metres wide with a 2 metre wide footway and a 2 metre wide verge between the existing access junction into Hayfield for a distance of 300 metres to the north-east where it can link in with the widened public road approved under planning permission 09/01166/PP, enabling access connections via the adjacent housing developments at McKelvie Road'.

The reason for this condition is then given as:

'in the interests of road safety, to accord with Policy LP TRAN4, on the advice of the Area Roads Engineer and to integrate with the wider road improvement and investments being made in conjunction with incremental housing development in the area'.

My clients are supportive of condition no. 3 being imposed on permission 11/02514/PP, and reiterate the view expressed in our earlier letter, particularly that this requirement is consistent with their experience of the same being imposed on permissions that they have secured for residential development in this area. This has been accepted by my client as being necessary to facilitate the proper planning of the area, to ensure that development here is afforded appropriate and safe vehicular and pedestrian access routes, and that road safety considerations and Council policy requirements are satisfied. This requirement has been appropriately designed into my client's developments, with consequent impact on developable area and project viability, and it is imperative

for all of these reasons that all equivalent developments in this area are affected by the same requirement.

The Notice of Review that has been submitted on behalf of Rhugarbh Ltd presents the case that condition no. 3 makes the proposed development 'uneconomic' and that Glenshellach Road is 'outwith the development site boundary'. The question of whether any condition makes a proposal 'uneconomic' is not material to the determination of the application where that condition is considered necessary to make the development acceptable relative to planning and other material considerations, and that is the case in this instance. Thereafter, if Glenshellach Road falls beyond the ownership of Rhugarbh Ltd then the onus falls on the applicant to secure control of that land in order to then be able to comply with the terms of the condition or alternatively re-design their proposals and apply for another permission within the confines of land that does fall within their ownership.

We commend the terms of condition no. 3 of permission 11/02514/PP, as this is consistent with previous Council decisions and is imposed in the interests of road safety and to comply with the Council's established policy requirements. In light of the foregoing we would strongly urge the Local Review Body to dismiss this application and to maintain the condition in its current form. I trust that the terms of this letter will be afforded due consideration and I would request written confirmation of receipt of this letter and then subsequently of the Local Review Body decision.

Regards.

Yours sincerely



**David Campbell**  
Planning Director

david.campbell@glhearn.com

c.c. Murdo MacLeod

Local Review Body Ref 12/0011/LRB

Planning Ref 11/02514/PPP

Land North East of Hayfield, Glenshellach Road, Oban, Argyll

The original application for planning permission for Hayfield (01/01825/OUT) was recommended for refusal by Roads due to the need to upgrade Glenshellach Road to two lanes to accommodate the increase in vehicular traffic as a result of the development.

This was overruled on appeal and, rather than widen out the road, the applicant had to make improvements to Glenshellach Road commensurate with the size of the original development (05/00304/REM).

The applicant now wishes to extend the Hayfield development. Roads have no objections subject to conditions. The main condition is that the applicant widens out Glenshellach Road to two lanes between M&K MacLeod's development and the existing access to Hayfield. This is a standard condition which has been applied to several developments in the area. The existing road is unsuitable to further support the level of proposed increase in development

On Friday 6<sup>th</sup> July a meeting was held at The Municipal Buildings, Oban. The meeting was attended by representatives from Roads, Planning, the applicant and his agent. It was suggested by Roads and Planning at this meeting that the extension to the Hayfield development could have a new access onto Glenshellach Road, which would reduce the length of Glenshellach Road to be widened by approximately 50%. The meeting ended with the applicant and his agent leaving to consider their options.

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**STATEMENT OF CASE**

**FOR**

**ARGYLL AND BUTE COUNCIL  
LOCAL REVIEW BODY**

**12/0011/LRB**

**PLANNING PERMISSION SUBJECT TO CONDITIONS  
FOR 4 AFFORDABLE FLATS AND  
7 DWELLINGHOUSES**

**LAND NORTH EAST OF HAYFIELD, GLENSHELLACH  
ROAD, OBAN**

**PLANNING PERMISSION REFERENCE NUMBER  
11/02514/PPP**

**17 AUGUST 2012**

## **STATEMENT OF CASE**

The Planning Authority is Argyll and Bute Council ('the Council'). The appellant is Rhugarbh Ltd ('the appellant').

Planning Permission in Principle Reference Number 11/02514/PPP for site for 4 affordable flats and 7 dwellinghouses on land north east of Hayfield, Glenshellach Road, Oban ("the appeal site") was granted subject to conditions under delegated powers on 4 May 2012.

Condition 3 of the planning permission has been challenged and is subject of review by the Local Review Body.

### **DESCRIPTION OF SITE**

The site is generally gently sloping grassland with a large raised knoll near the centre and a low lying wetter area at the northern extremity. A single track road bounds the site to the north providing access to and from Oban town centre, and phase 1 housing lies to the south-west. Rising hillside lies across the single track road to the north-west and an approved housing development site lies to the north-east. Open, falling fields separate the site from the Glenshellach Business Park at a lower level to the south.

### **SITE HISTORY**

*The following two items relate to phase 1 housing:*

01/01825/OUT – Formation of 12 house plots and access road – Approved (19/08/03)

05/00304/REM - Formation of access road, services, formation of 12 No. house plots inclusive of landscaping and play area – Approved (10/05/05)

*The following item covers part of the current review site:*

07/00522/OUT – Extension to access road, services and formation of 4 house plots – lapsed 05/09/10

### **STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED**

Section 25 of the Town & Country Planning (Scotland) Act 1997 provides that where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise. This is the test for this application.

### **STATEMENT OF CASE**

Argyll and Bute Council considers the determining issues in relation to the case are as follows:-

- Whether the planning condition is necessary to restrict the development from commencing until a commensurate road upgrade is completed on the adjacent public road in accordance with Policy LP TRAN 4; OR if the deletion of the condition would allow for a development to proceed which is served by a sub-

standard access arrangement with consequent adverse impacts on road safety. It is important to consider these issues in terms of fairness compared to adjacent developments and the wider context of ongoing incremental housing in this area of Oban and the long term aim for an improved public road network.

The Report of Handling (Appendix 1) sets out the Council's assessment of the application in terms of Development Plan policy and other material considerations.

### **REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING**

It is not considered that any additional information is required in light of the appellant's submission. The issues raised are either covered in the Report of Handling (Appendix 1); responded to in the following section of this statement; or can be supported by further written input from the Roads Authority. As such it is considered that Members have all the information they need to determine the case. Given the above and that the proposal has no overly complex or challenging issues and has not been the subject of significant public representation, it is not considered that a Hearing is required.

### **COMMENT ON APPELLANTS' SUBMISSION**

The appellants submit a range of reasons for requesting the review. These are responded to in turn.

#### **Planning policy/previous consents:**

The site lies within Housing Allocation H-AL5/4 (23 units), which abuts allocation H-AL5/3 (40 units), which in turn abuts allocation H-AL5/2 (100 units), within which there is a Traffic Management Action point highlighted in the Argyll and Bute Local Plan (ma booklet page 73). The additional road link from Glengallon to Glenshellach Road supports the development of these three housing allocation sites, and the densities proposed represent a deliberate town structuring for this expansion area of Oban. Allocation H-AL5/4 lies at the edge of the current expansion area provided for by the Argyll and Bute Local Plan 2009.

Phase 1 development at Hayfield provides for 12 detached houses granted outline consent in 2003, then reserved matters approval in 2005. This phase is complete (with one house near completion and all others occupied). Planning application 11/02514/PP proposes the addition of 11 units between the existing phase 1 housing and the neighbouring undeveloped allocation site H-AL5/3. The review site currently relates more visually to the existing lower density housing at Hayfield phase 1, but in the longer term will also have a visual relationship to a housing development on site H-AL5/3, which may propose a higher density development (as indicated in plans attached to approval 09/01166/PP) but has yet to be the subject of a planning application.

The Housing Allocation Schedules attached to the Local Plan at Appendix E do not refer to whether road upgrade works will be required. Rather, the relevant policies of primacy in housing allocations are LP HOU 1 – General Housing Development, LP HOU 2 – Provision of Housing to meet Local Needs including Affordable Housing Provision, LP TRAN 4 – New and Existing, Public Roads and Private Access Regimes, and LP TRAN 5 – Off-site Highway Improvements.

A previous outline consent (07/00522/OUT) was granted without a requirement to upgrade the wider public road network. That consent pre-dated the current Local Plan and lapsed in September 2010.

By contrast, the Roads Authority advice on this project for 11 houses was that an upgrade to the existing single track public road was necessary to facilitate the development. The upgrade requires to be to adoptive standards to comply with the above policies. The extent of upgrade required is limited to the stretch between a point already to be upgraded under an adjacent consent (09/01166/PP) and the review site entrance.

The densities of development on adjacent sites are noted. In the event that a higher density proposal was made on the review site, it would need to be fully evaluated.

### **Consultation:**

There was pre-application discussion with planning officers on the development of this site, including a range of indicative layouts for discussion leading to the proposal for 11 units as granted planning permission in principle. At no time did these pre-application discussions involve the Roads Authority and so Roads input was late in the process, as a formal consultation response to the planning application. Whilst regrettable, this does not make the condition unreasonable.

### **Land ownership:**

It is noted and understood that the majority of the land required to enable the road upgrade is beyond the ownership of the applicant. This does not make the condition unreasonable.

It is a common, well established and lawful practice for planning authorities to impose suspensive planning conditions where they consider that a development must not proceed until an off-site factor, such as a road upgrade, occurs or is implemented. The case law surrounding the use of "Grampian" conditions is well known and the wording of the condition is robust. In the event that the adjacent road upgrade does not occur, then the planning permission can not be implemented.

The matter for determination here should be limited to simply whether the road upgrade is necessary before the development is allowed to progress. The validity of the use of a suspensive condition, including the different land ownership involved, should not be open to challenge.

No evidence has been supplied to confirm that any "extreme difficulties" have been experienced by the applicant in negotiating the rights to upgrade the road on the adjacent landowners property. No evidence has been submitted confirming that any approach has in fact been made as yet. The adjacent landowner is understood to be an established house builder, who submitted a representation against planning application 11/02514/PPP to the effect that a road upgrade should be required as part of any approval that is granted. There is no evidence to suggest that the adjacent landowner is unwilling to allow rights to upgrade the road should such rights be sought. Indeed, as the adjacent owner has wider land interests it is conceivable that they may stand to benefit from any road upgrade that does occur, and it is therefore possible that the cost might not be as significant as the appellant fears.

### **Cost:**

Whilst cost and viability will inevitably affect whether a development actually progresses or not, it is not the main determining factor on this request for review, nor is it a deciding factor on planning applications.

Albeit not relevant to the current review, there are alternative solutions to the issue of cost in the event that the review is dismissed and the condition remains. The developer could devise alternative proposals on the site that would reduce or spread the actual cost of the road upgrade. Such alternatives could be to provide a site entrance to the north edge of the site, reducing the length of road upgrade by 90 – 100m. Higher density development might be acceptable on this site, as it has been on the adjacent housing allocations H-AL5/2 and H-AL5/3. The internal site layout could also be subject to amendment during detailed design to reduce costs of internal infrastructure which could be used to secure the upgrade to the main road instead.

### **CONCLUSION**

Section 25 of the Town and Country Planning Act 1997 requires that all decisions be made in accordance with the development plan unless material considerations indicate otherwise.

This is a development site near the edge of an ongoing expansion area of Oban, where traffic management action is required to ensure that suitable standard infrastructure is provided along with the incremental developments that are occurring.

The essence of this request for review is whether the requirement for an upgrade of the existing single track public road to double track width is necessary before this housing development occurs or not. If it is, then the planning condition should stand. If it is not, then the planning condition should be deleted.

## APPENDIX 1

Argyll and Bute Council  
Development Services

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

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**Reference No:** 11/02514/PPP

**Planning Hierarchy:** Local Development

**Applicant:** Rhugarbh Ltd

**Proposal:** Site for the erection of new housing development comprising of 4 affordable flats and 7 dwellinghouses

**Site Address:** Land North East of 1 Hayfield, Glenshellach Road, Oban, Argyll and Bute

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### DECISION ROUTE

(i) **Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997 (as amended)**

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#### (A) THE APPLICATION

##### (i) Development Requiring Express Planning Permission

- Planning Permission in Principle (PPP) for 4 affordable flats and 7 dwelling houses
- New road formation
- Connection to public services
- Installation of SuDS

##### (ii) Other specified operations

- Planting proposals
  - Diversion of existing electricity cables to run underground
- 

#### (B) RECOMMENDATION:

It is recommended that the application is approved subject to the conditions and reasons below.

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#### (C) HISTORY:

01/01825/OUT – Formation of 12 house plots and access road – Approved (19/08/03)  
05/00304/REM - Formation of access road, services, formation of 12 No. house plots inclusive of landscaping and play area – Approved (10/05/05)  
07/00522/OUT – Extension to access road, services and formation of 4 house plots – approved (05/09/07)

*Note: History relates to adjacent housing site also within allocation area as detailed below.*

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**(D) CONSULTATIONS:**

Area Roads Manager

Report dated 5/1/12

No objection subject to the following requirements being attached as conditions to any issued consent:

- Access at junction of public road to be a continuation of existing road construction and type of Hayfield. Existing Glenshellach Road to be widened to 6m with 2m wide footway and 2m wide verge between existing access at Hayfield and MacLeod's new site within Glenshellach.
- No walls, hedges, fences etc will be permitted within 2m from the channel line of the public road. Visibility splays measuring 35m x 2.4m to be cleared and maintained.
- Road width to be 5.5m.
- Footways of 2m on both sides to be provided.
- Minimum alignment as per Development Guidelines.
- Turning facilities required at both ends of development road.
- Minimum radii to be as per Guidelines for development.
- Provision for PU services to be as per Development Guidelines.
- A system of surface water drainage is required to prevent water from passing onto public road.
- Parking for vehicles commensurate with size of dwelling to be provided.

Scottish Water

Letter dated 16/1/12

No objection.

Scottish Natural Heritage

Email dated 6/1/12

No comment.

West of Scotland Archaeology Services (WoSAS)

Letter dated 16/1/12

This area has already been cleared of archaeological remains by Scotia Archaeology in 2004, 2007 and 2008.

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**(E) PUBLICITY:**

The proposal has been advertised in terms of regulation 20, closing date 2/2/12.

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**(F) REPRESENTATIONS:**

GL Hearn, 16 Gordon Street, Glasgow, G1 3PT (on behalf of M&K MacLeod's Ltd)

**Issues Raised:**

Road improvements should be as those stipulated to M&K MacLeod's during recent developments, i.e. 6m wide road with 2m wide footpath, as being propose by the Area Roads Engineer.

Comment: Conditions are attached that require road improvements as per the Area Road Manager's response, as they are suitable commensurate upgrades that are consistent with practice on adjacent development sites and find backing under LP TRAN 4.

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**(G) SUPPORTING INFORMATION**

**Has the application been the subject of:**

- |       |  |            |
|-------|--|------------|
| (i)   | <b>Environmental Statement:</b>  | <b>No</b>  |
| (ii)  | <b>An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:</b>   | <b>No</b>  |
| (iii) | <b>A design or design/access statement:</b><br><br>Design Statement  | <b>Yes</b> |
| (iv)  | <b>A report on the impact of the proposed development e.g. retail impact, transport impact, noise impact, flood risk, drainage impact etc:</b> | <b>No</b>  |

**(H) PLANNING OBLIGATIONS**

- |     |  |           |
|-----|--|-----------|
| (i) | <b>Is a Section 75 agreement required:</b> | <b>No</b> |
|-----|--|-----------|

- |     |   |           |
|-----|---|-----------|
| (I) | <b>Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:</b> | <b>No</b> |
|-----|---|-----------|

- (J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application**

- (i) List of all Development Plan Policy considerations taken into account in assessment of the application.**

Argyll and Bute Structure Plan 2002

STRAT DC 1 – Development within the Settlements

Argyll and Bute Local Plan 2009

LP ENV 1 – Impact on the General Environment  
 LP ENV 17 – Impact on Sites of Archaeological Importance  
 LP ENV 19 – Development Setting, Layout and Design  
 LP HOU 1 – General Housing Development  
 LP HOU 2 – Provision of Housing to Meet Local Needs including Affordable Housing Provision  
 LP HOU 4 – Housing Green-Space  
 LP SERV 1 – Private Sewage Treatment Plants and Wastewater Systems  
 LP SERV 2 – Incorporation of Natural Features/Sustainable Drainage Systems  
 LP SERV 4 – Water Supply  
 LP TRAN 4 – New and Existing Public Roads and Private Access Regimes  
 LP TRAN 5 – Off-site Highway Improvements  
 LP TRAN 6 – Vehicle Parking Provision  
 Appendix A – Sustainable Siting and Design Principles  
 Appendix C – Access and Parking Standards  
 Appendix E – Allocations, Potential Development Area Schedules and Area for Action Schedules

- (ii) List of all other material planning considerations taken into account in**

**the assessment of the application, having due regard to Annex A of Circular 4/2009.**

Argyll & Bute Sustainable Design Guidance (2006)  
The Town & Country Planning Act (Scotland) 1997  
The Planning etc. (Scotland) Act, 2006  
SPP, Scottish Planning Policy, 2010

<b>(K)</b>	<b>Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:</b>	<b>No</b>
<b>(L)</b>	<b>Has the application been the subject of statutory pre-application consultation (PAC):</b>	<b>No</b>
<b>(M)</b>	<b>Has a sustainability check list been submitted:</b>	<b>No</b>
<b>(N)</b>	<b>Does the Council have an interest in the site:</b>	<b>No</b>
<b>(O)</b>	<b>Requirement for a hearing:</b>	<b>No</b>

**(P) Assessment and summary of determining issues and material considerations**

The proposal is located within the settlement zone for Oban at Hayfield to the south west of the town adjacent to the on-going Glenshellach housing development as per the adopted local plan. The development is subject to structure plan policy STRAT DC1 which supports general development within the identified settlement zone on suitable sites. This is further reinforced by adopted local plan policy LP HOU1.

The site forms part of housing allocation H-AL 5/4 which outlines a requirement of 23 units with 25% affordable housing. This policy came into force after the phase 1 units received consent; therefore the applicant is only required to provide the affordable housing on phase 2, not the total unit numbers at Hayfield. The proposal is for 7 dwelling houses and 4 affordable flats. The flats are intended to serve as the affordable housing contribution, which is satisfactory. The applicant has detailed that the flats will be retained and rented out at 20% below mid-market rental values as set by the district valuer for a period of 7 years minimum in accordance with the Council's technical note on Affordable Housing.

The site is generally gently sloping grassland with a large raised knoll near the centre and a low lying wetter area at the northern extremity. A single track road bounds the site to the north providing access to and from Oban town centre, and phase 1 housing lies to the south-west. Rising hillside lies across the single track road to the north-west and an approved housing development site lies to the north-east. Open, falling fields separate the site from the Glenshellach Business Park at a lower level to the south.

The site is adjacent to an existing housing development which received the benefit of planning consent for housing previously, which made provision for future expansion into phase 2. There are 12 dwellings on the adjacent site with one plot (3 Hayfield) having recently been granted detailed consent. The houses are a mixture of modern styles ranging from bungalows to 2-storey units with a mix of detached and attached garages. There is no set style within the site but a general cohesion in external materials and the use of pitched roofs provides some recognisable overall character.

The application is for PPP therefore no design details have been provided but it is envisaged that the site could be developed as per the adjacent site i.e. each plot sold separately and developed by individuals. There has been no detail provided as to the timing of the delivery of the affordable units nor the building scale or design. Prior to development of any plot the applicant will be required to submit details of how and when these affordable units will be delivered (within some prescribed parameters), which may back up the current intention for private reduced rental for 7 years, or may in fact opt for a Section 75 Agreement as an alternative mechanism for control over this aspect. It is envisaged that a cottage flat style would readily fit the site, with a maximum building height of two storeys.

Due to the existing range of styles of the houses already at Hayfield, and the future relationship of the site to the housing development approved to the north-east, the proposed plots will need to integrate with both developments. Dormer windows are encouraged and buildings should be no more than 2-storey in height. The applicant is maintaining the existing mounded area as an informal open space. According to policy LP HOU4 there is no need for the applicant to provide communal playspace which only applies to new developments of 20 units or more. In this instance the current developed part of the site has been built prior to the implementation of this policy.

The site has been known to previously be of archaeological importance but WoSAS has confirmed that the site has been subject to excavations and survey work by Scotia Archaeology previously. With this in mind it is not necessary to attach a watching brief condition to any issued consent.

The council's Area Roads Engineer has not raised any objection subject to road widening improvements along the single track road down toward the Glenshellach housing development. This involves a 6m widening of the road with a 2m footpath installed. Additionally, the applicant should maintain the quality of the road within the adjacent housing site throughout the proposed site. The applicant should also provide visibility splays of 53m x 2.4m to be cleared and maintained in perpetuity. The improvement works are not entirely within the public road corridor or the applicants' ownership and therefore these aspects require to be controlled through a suspensive condition, preventing housing development from proceeding before the road upgrade outside the site occurs. The extent of upgrade is around 300m, running from the existing Hayfield site entrance, heading north-east as far as the proposed upgraded road already forming part of planning permission 09/01166/PP, which will itself provide for all road users to have a direct link on a higher standard twin lane road to Oban, via Glengallan. The applicant should contact to council's Roads Department for further details for the roads openings permit, road bond and construction consent. This approach is consistent with other developments in the area under LP TRAN4.

The applicant intends to connect to existing public water supply and foul drainage infrastructure. Scottish Water has not raised any concerns relating to the proposal. A SuDS system will need to be provided to relieve the boggy area in the north of the site, which is required as part of the conditions recommended below.

The submitted drawings and Design Statement provide some planting details but this will be firmed up at the detailed design stage for each unit as per a planning condition below.

It is recommended that the application is approved subject to the conditions and reasons set out below.

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<b>(Q)</b>	<b>Is the proposal consistent with the Development Plan:</b>	<b>Yes</b>
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<b>(R)</b>	<b>Reasons why planning permission or a Planning Permission in Principle should be granted</b>
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1. The proposal is within a housing allocation H-AL5/4 within the Oban settlement zone and it accords with this allocation.
2. The density of housing is generally consistent with the form and layout of the existing units at Hayfield and the proposal will provide a mix of housing requirements including 4 affordable flats.
3. The proposal conforms to the relevant development plan policies and that there are no other material considerations, including issues raised by third parties, which would warrant anything other than the application being determined in accordance with the provisions of the development plan.

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**(S) Reasoned justification for a departure to the provisions of the Development Plan**

N/A

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**(T) Need for notification to Scottish Ministers or Historic Scotland: No**

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**Author of Report: David Love**

**Date: 3/2/12**

**Reviewing Officer: Stephen Fair**

SF

**Date: 01/05/12**

**Angus Gilmour  
Head of Planning**

**CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 11/02514/PPP**

1. That the permission is granted in terms of Section 59 of the undernoted Act and Regulation 10 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 on the basis of an application (or applications) for planning permission in principle that further approval of Argyll and Bute Council or of Scottish Minister on appeal shall be required, such application must be made before whichever is the later of the following:-

- a) the expiration of a period of 3 years from the date of this permission.
- b) the expiration of a period of 6 months from the date on which an earlier application for the requisite approval was refused.
- c) the expiration of a period of 6 months from the date on which an appeal against such refusal is dismissed.

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

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

2. No development shall commence on site until the following information has been submitted by way of an application(s) for approval of matters subject to condition and approval has been given in writing by the Planning Authority.

- a) A detailed site layout plan at a scale of 1:500 showing the proposed dwellinghouses/flats and their respective residential curtilages and any communal garden ground along with details of the provisions for ongoing maintenance and aftercare of such areas.
- b) Full details of the water supply, access, landscaping, surface and foul drainage arrangements.
- c) Plans and elevations of the proposed dwellinghouses/flats which shall incorporate the following elements:
  - i) The dwellings/flats shall be no more than two storey in height.
  - ii) The window openings shall have a strong vertical emphasis.
  - iii) The walls shall be predominantly finished in a white wet dash render / smooth coursed cement render / natural stone or a mix of these materials.
  - iv) The roof shall be symmetrically pitched between 37 and 42 degrees and be finished in natural slate or a good quality substitute slate.
  - v) The buildings shall be of a general rectangular footprint with gable ends;
  - vi) Any porches or dormers shall have traditional "pitched" roofs.
  - vii) Details of the proposed finished floor level of the dwellings relative to an identifiable fixed datum located outwith the application site.
  - viii) Boundary treatment details consistent with adjacent developments.

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

3. No development shall commence or is hereby authorised until the existing single track Glenshellach Road is upgraded to the Councils adoptive standards, including widening to 6 metres wide with a 2 metre wide footway and a 2 metre wide verge between the existing access junction into Hayfield for a distance of 300 metres to the north-east where it can link in with the widened public road

approved under planning permission 09/01166/PP, enabling access connections via the adjacent housing developments at McKelvie Road.

Reason: In the interests of road safety, to accord with policy LP TRAN 4, on the advice of the Area Roads Engineer and to integrate with the wider road improvement and investments being made in conjunction with incremental housing development in the area.

4. No development shall commence until details of the internal means of vehicular access and parking turning provision to serve the development have been submitted to and approved by the Planning Authority. Unless otherwise agreed in writing by the Planning Authority, such details shall show:

- Access at junction of the existing Hayfield Road to be a continuation of the existing road construction and type at Hayfield, and for the extended road and footpath connection between the development site and Glenshellach Road to be a “road” over which the public has a right of access under the provisions of the Roads (Scotland) Act 1984.
- No walls, hedges, fences etc will be permitted within 2m from the channel line of the public road.
- Visibility splays measuring 53m x 2.4m to be cleared and maintained.
- Road width within the site edged red to match the existing road.
- Footways of 2m on both sides to be provided.
- A system of surface water drainage is required to prevent water from passing onto public road.

Thereafter the required access, footpath, parking and turning arrangements shall be fully implemented in accordance with the duly approved details prior to the occupation of the fifth residential unit hereby approved.

Reason: In the interests of road safety and to ensure commensurate provision of a suitable standard road to serve the development.

5. No development shall commence on the site until full details of the means of affordable housing provision (as defined below) have been submitted to and approved in writing by the Planning Authority. The scheme shall be in accordance with the Councils adopted policies on affordable housing and shall:

- Provide that a minimum of 25% of the units are affordable homes;
- Establish the arrangements to ensure the affordability of the affordable homes for both initial and subsequent occupiers (including any discount rate applicable)
- The timing of provision of the affordable housing units, which must be completed prior to the initial occupation of the seventh market unit within the site.

The development shall be implemented and occupied thereafter in perpetuity in accordance with the duly approved scheme for affordable housing provision at the site, or for such other period of time as is approved by the Planning Authority as acceptable as details pursuant to this condition, and in accordance with current planning policy for affordable housing provision within the Council area.

Reason: To ensure that this development will make timeous affordable housing provision not otherwise supplied by the market in accordance with the provisions of Policy LP HOU 2 and to augment the submissions made to date to demonstrate conclusively that affordable housing provision will be made in accordance with the Council's adopted development plan policies.

6. As details pursuant to condition 2 above, full details of any proposed landscape and boundary treatment, including details of location, height and materials of any

walls/fences/gates, and all proposed tree planting shall be submitted to the Planning Authority. Such details as may be approved shall be fully implemented within each respective plot to the satisfaction of the Planning Authority no later than the first planting and seeding season following the initial occupation of the residential unit on the respective plot and thereafter shall be maintained to the satisfaction of the Planning Authority for a period of five years. Any losses of plant species to be included in the landscaping scheme, through disease, weather exposure, neglect or damage, shall be replaced with equivalent species within one growing season.

Reason: In the interest of visual amenity, in order to integrate the proposed development with its surroundings.

7. As details pursuant to condition 2 above, full details of the proposed means of surface water drainage shall be submitted to the Planning Authority. Such measures shall show the provision of a surface water drainage regime compliant with a SuDS (Sustainable Urban Drainage System) in line with Planning Advice Note 61 (PAN61) "Planning and Sustainable Urban Drainage Systems" and Section 3 of the Domestic Technical Handbook which shall be separate to the foul drainage system which shall be compliant with the other Building Warrant Standards/SEPA's requirements as appropriate. Such details as are approved shall be fully implemented prior to the occupation of the first residential unit hereby approved.

Reason: To ensure that surface water drainage is adequately managed.

8. As details pursuant to condition 2 above, a minimum of six site cross sections showing existing ground levels, proposed ground levels, and proposed finished ground floor levels of the residential units hereby approved, all relative to a fixed datum point outwith the site and including the levels of existing housing development at phase 1 of Hayfield, shall be submitted to the Planning Authority. The development shall thereafter be completed in strict accordance with such details as are approved.

Reason: To ensure that the development integrates with its landscape setting and is not overly dominant or detrimental to the setting if existing or proposed housing development on adjacent land.

9. The development shall be implemented in accordance with the details specified on the application form dated 15/12/11 and the approved drawing reference numbers:

Plan 1 of 3 (Location Plan at scale of 1:5000)  
Plan 2 of 3 (Site Plan at scale of 1:1250)  
Plan 3 of 3 (Proposed Drainage Layout at scale of 1:500)

unless the prior written approval of the planning authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997 (as amended).

Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.

#### **NOTE TO APPLICANT**

- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.

- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 (as amended) it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.
- The Area Roads Manager has advised that a Roads Opening Permit (S56) is required for the proposed development, please contact him direct on 01631 569160 to discuss the matter further.
- Please note the advice contained within the attached letter from Scottish Water. Please contact them direct to discuss any of the issues raised.
- **The length of this planning permission in principle:** The application(s) required under conditions above must be submitted within three years from the date of this decision notice, otherwise this permission shall lapse in accordance with section 59(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).

**APPENDIX TO DECISION APPROVAL NOTICE**

Appendix relative to application **11/02514/PPP**

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- (A)** Has the application required an obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended).

**No**

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- (B)** Has the application been the subject of any “non-material” amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing.

**No**

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- (C)** The reason why planning permission has been approved.

1. The proposal is within a housing allocation H-AL5/4 within the Oban settlement zone and it accords with this allocation.
2. The density of housing is generally consistent with the form and layout of the existing units at Hayfield and the proposal will provide a mix of housing requirements including 4 affordable flats.
3. The proposal conforms to the relevant development plan policies and that there are no other material considerations, including issues raised by third parties, which would warrant anything other than the application being determined in accordance with the provisions of the development plan.